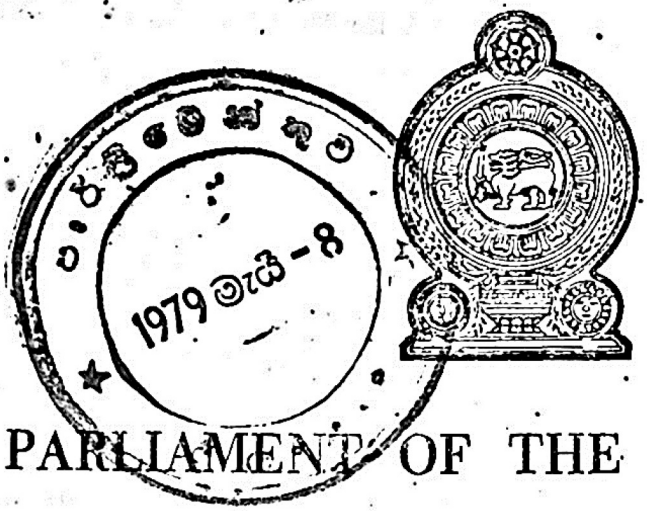




PARLIAMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

CODE OF CRIMINAL PROCEDURE ACT, No. 15 OF 1979

[Certified on 8th March, 1979]

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L.D.—O. 65/78

AN ACT TO REGULATE THE PROCEDURE OF THE CRIMINAL COURTS, TO REPEAL CHAPTERS II AND IV OF THE ADMINISTRATION OF JUSTICE LAW, No. 44 OF 1973, AND TO PROVIDE FOR CONNECTED MATTERS

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

Short title and date of operation.

1. This Act may be cited as the Code of Criminal Procedure Act, No. 15 of 1979, (hereinafter referred to as "the Code") and shall come into operation on such date (hereinafter referred to as the "appointed date") as the Minister by Order published in the *Gazette* may appoint.

PART I

CHAPTER I

PRELIMINARY

Inter-pretation.

2. In this Code unless the context otherwise requires—

"Attorney-General" means the Attorney-General of the Republic of Sri Lanka and includes an acting Attorney-General; "Attorney-General."

"bailable offence" means an offence shown as bailable in the First Schedule or which is made bailable by any other law for the time being in force, and "non-bailable offence" means any other offence: "Bailable offence."

"Chapter" means a Chapter of this Code, and "Chapter." "Schedule." "Section."

"Schedule" means a schedule annexed to this Code, and

"section" means a section of this Code;

"Chief Justice" means the Chief Justice of the Republic of Sri Lanka and includes an acting Chief Justice; "Chief Justice."

"cognizable offence" means an offence for which and "cognizable case" means a case in which a peace officer may in accordance with the First Schedule arrest without warrant; "Cognizable offence."

"complaint" means the allegation made orally or in writing to a Magistrate with a view to his taking action under this Code that some person, whether known or unknown, has committed an offence; "Complaint."

"Corporation." "corporation" includes any corporation, board or other body established by or under any written law with capital wholly or partly provided by the Government by way of grant, loan or other form;

"Court of Appeal." "Court of Appeal" and "court" when applicable to the Court of Appeal mean the Court of Appeal of the Republic of Sri Lanka for the time being or the President of the Court of Appeal or any Judge or acting Judge thereof;

"Discharges." "discharge", with its grammatical variations and cognate expressions means the discontinuance of criminal proceedings against an accused but does not include an acquittal;

"Enactment." "enactment" includes an Ordinance, Act or Law of Sri Lanka;

"Explosives." "explosives" has the same meaning as in the Explosives Act;

"Fine." "fine" includes any fine, pecuniary forfeiture, or compensation adjudged upon any conviction for any crime or offence or for the breach of any enactment by any court;

"Fiscal." "Fiscal" means the Fiscal of a court and includes any person authorized either generally or specially by a Judge to exercise, perform or discharge any power, duty or function of the Fiscal under this Code;

"Government Agent." "Government Agent" or "Government Agent of the district" means the Government Agent of the Administrative District and includes an Additional or an Assistant Government Agent of such district;

"Government Analyst." "Government Analyst" includes any person appointed to be or to act as Government Analyst or Deputy or Assistant Government Analyst;

"Government Examiner of Questioned Documents." 'Government Examiner of Questioned Documents" includes any person appointed to be or to act as Government Examiner of Questioned Documents or Assistant Government Examiner of Questioned Documents;

"Government medical officer." "Government medical officer" includes any officer of the Department of Forensic Medicine of any Faculty of Medicine of the University of Ceylon;

"High Court" and "court" when applicable to the High Court mean the High Court of the Republic of Sri Lanka for the time being or a Judge of the High Court or an acting Judge of the High Court; — "High Court."

"indictable offence" means an offence triable only by the High Court whether with or without a jury or by the High Court at Bar without a jury; — "Indictable offence."

"Information Book" includes a crime pad or file maintained by the Criminal Investigation Department and any bureau of investigation for the purpose of recording statements; — "Information Book."

"inquirer" means a person appointed by the Minister under Chapter XI; — "Inquirer"

"inquiry" includes every inquiry conducted under this Code before a Magistrate's Court or by an inquirer; — "Inquiry."

"island" means the Island of Sri Lanka; — "Island"

"Judge" means the presiding officer of a court and includes a Judge of the Supreme Court, Court of Appeal, High Court, District Court and Magistrate's Court as the context may require and includes an acting Judge of such court; — "Judge."

"judicial proceeding" means any proceeding in the course of which evidence is or may be legally taken; — "Judicial proceeding."

"Magistrate" means a Magistrate appointed to a Magistrate's Court and includes a Municipal Magistrate, a Magistrate of a Juvenile Court and an acting or additional Magistrate of any such court; — "Magistrate."

"non-cognizable offence" means an offence for which and "non-cognizable case" means a case in which a peace officer may not arrest without warrant; — "Non-cognizable offence."

"offence" means any act or omission made punishable by any law for the time being in force in Sri Lanka; — "Offence."

"offensive weapon" has the same meaning as in the Offensive Weapons Act, No. 18 of 1966; — "Offensive weapon."

"Officer in charge of a police station" — "officer in charge of a police station" includes if the context so requires an officer in charge of a branch of a police station and when the officer in charge of a police station or of a branch of a police station is absent therefrom or unable from illness to perform his duties, the police officer present at the police station or at the branch who is next in rank to such officer ;

"Peace officer." — "peace officer" includes police officers and Grama Seva Niladharis appointed by a Government Agent in writing to perform police duties ;

"Penal Code." — "Penal Code" means the Penal Code together with every statutory modification or amendment thereof ;

"Person." — "person" includes a body of persons, whether incorporate or not ;

"Pleader." — "pleader" used with reference to any proceeding in any court means an attorney-at-law ;

"Police officer." — "police officer" means a member of an established police force and includes police reservists ;

"Police station." — "police station" means any post declared generally or specially by the Minister in charge of the subject of Defence to be a police station, and includes a mobile police post, the Criminal Investigation Department and any bureau of investigation ;

"Prescribed." — "prescribed" means prescribed by this Code or by any rules made thereunder ;

"Registrar." — "Registrar" means the Registrar of any court as the context may require ;

"Registrar of Finger Prints." — "Registrar of Finger Prints" means the officer for the time being holding the office of the Registrar of the Finger Prints Identification Office ;

"Solicitor-General." — "Solicitor-General" means the Solicitor-General of Sri Lanka and includes an Additional Solicitor-General and a Deputy Solicitor-General ;

"State Counsel." — "State Counsel" includes a Senior State Counsel and an acting State Counsel ;

"Summary offence." — "summary offence" means an offence triable by a Magistrate's Court ;

"Supreme Court" and "court" when applicable to the Supreme Court mean the Supreme Court of the Republic of Sri Lanka for the time being or the Chief Justice or any Judge thereof; "Supreme Court."

"suspended sentence" means a sentence in respect of which an order under section 303 is made; "Suspended sentence."

"writing" and "written" include printing, lithography, photography, engraving, and every other mode in which words or figures can be expressed on paper or on any substance. "Writing." "Written."

3. (1) Words which refer to acts done extend to illegal omissions. Words referring to acts include illegal omissions.

(2) All words and expressions used herein and defined in the Penal Code and not herein before defined shall be deemed to have the meanings respectively attributed to them by that Code. Words to have same meaning as in the Penal Code.

(3) Whenever by or for the purposes of this Code any person is directed or required to sign a document the signature must be written with a pen or other like instrument and must not be affixed or impressed by a stamp or other like means. Signatures to be in handwriting.

4. Where a power, jurisdiction or right is conferred, or a duty is imposed, on the Attorney-General, Solicitor-General, Inspector-General of Police, Government Analyst, Government Examiner of Questioned Documents, Registrar of Finger Prints, or the Registrar of a court, then, such power, jurisdiction or right may be exercised and the duty performed by the holder for the time being of the office or the acting holder of such office or the additional or the deputy or the assistant officer. Such additional, deputy or assistant officer shall include any person appointed to act in such office. Powers, jurisdiction, rights and duties of certain officers.

5. All offences— Trial of offences under Penal Code and other laws.

(*a*) under the Penal Code,

(*b*) under any other law unless otherwise specially provided for in that law or any other law,

shall be investigated, inquired into, tried and otherwise dealt with according to the provisions of this Code.

Saving of powers of Supreme Court, Court of Appeal & Attorney-General.

6. Anything in this Code shall not be construed as derogating from or limiting the powers or jurisdiction of the Supreme Court or of the Court of Appeal or of the Judges thereof or of the Attorney-General.

Cases not povided for.

7. As regards matters of criminal procedure for which special provisions may not have been made by this Code or by any other law for the time being in force such procedure as the justice of the case may require and as is not inconsistent with this Code may be followed.

PART II

CHAPTER II

POWERS OF CRIMINAL COURTS

A—POWERS GENERALLY

Power of Supreme Court, and Court of Appeal, to inspect courts of first instance.

8. In addition to other powers vested in the Supreme Court and the Court of Appeal, such courts in the exercise of their powers of superintendence may inspect all courts of first instance and give directions as to the keeping of the records thereof.

Criminal summary jurisdiction of Magistrates' Courts.

9. Subject to and in accordance with the provisions of this Code every Magistrate's Court shall have—

(*a*) power and authority and is hereby required to hear, try, determine, and dispose of in a summary way all suits or prosecutions for offences committed wholly or in part within its local jurisdiction, which offences by this Code or any other law in force are made cognizable by a Magistrate's Court or a District Court;

Jurisdiction to inquire into the commission of offences.

(*b*) jurisdiction—

(i) to inquire into all offences committed or alleged to have been committed wholly or in part within its local jurisdiction or in relation to which jurisdiction is by this Code given to such court to inquire into, to summon and examine all witnesses touching such offences, and to issue warrants and other processes to apprehend and summon all criminals and offenders and deal with them according to law; and

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

To issue search warrants and to require sureties for the peace.

(iii) to inquire into all cases in which any person shall die in any prison or mental or leprosy hospital or shall come to his death by violence or accident, or when death shall have occurred suddenly, or when the body of any person shall be found dead without its being known how such person came by his death.

To inquire into cases of sudden or accidental death.

10. Subject to the other provisions of this Code any offence under the Penal Code whether committed before or after the appointed date may be tried save as otherwise specially provided for in any law—

Offences under Penal Code.

(*a*) by the High Court ; or

(*b*) by a Magistrate's Court where that offence is shown in the eighth column of the First Schedule to be triable by a Magistrate's Court.

11. Any offence under any law other than the Penal Code whether committed before or after the appointed date shall be tried save as otherwise specially provided for in any law—

Offences under other laws.

(*a*) where a court is mentioned in that behalf in that law—

(i) by the High Court where the court mentioned is the High Court or in relation to an offence punishable with imprisonment for a term exceeding two years or with a fine exceeding one thousand five hundred rupees, the court mentioned is the District Court ;

(ii) by a Magistrate's Court where the court mentioned is the Magistrate's Court or in relation to an offence punishable with imprisonment for a term not exceeding two years or with a fine not exceeding one thousand five hundred rupees, the court mentioned is the District Court ;

(*b*) where a court is not mentioned in that behalf in that law—

(i) by the High Court ; or

(ii) by a Magistrate's Court where the offence is punishable with imprisonment not exceeding two years or with a fine not exceeding one thousand five hundred rupees.

High Court to try cases only upon indictment.

12. Subject to the provisions of this Code and of any other written law the High Court shall not take cognizance of any offence unless the accused person has been indicted before it for trial by or at the instance of the Attorney-General.

Sentence which High Court may impose.

13. The High Court may impose any sentence or other penalty prescribed by written law.

Sentence which a Magistrate's Court may impose.

14. A Magistrate's Court may impose any of the following sentences :—

(*a*) imprisonment of either description for a term not exceeding two years ;

(*b*) fine not exceeding one thousand five hundred rupees ;

(*c*) whipping ;

(*d*) any lawful sentence combining any two of the sentences aforesaid :

Provided that anything in this section shall not be deemed to repeal the provisions of any enactment in force whereby special powers of punishment are given.

No sentence of imprisonment for a term of less than seven days.

15. (1) Notwithstanding anything in this Code, the Penal Code, or any other written law to the contrary, any court shall not sentence any person to imprisonment, whether in default of payment of a fine or not, for a term which is less than seven days.

Sentence of detention in precincts of court in lieu of imprisonment.

(2) Any court may, in any circumstances in which it is empowered by any written or other law to sentence an offender to imprisonment, whether in default of payment of a fine or not, in lieu of imposing a sentence of imprisonment order that the offender be detained in the precincts of the court until such hour on the day on which the order is made, not being later than 8 p.m., as the court may specify in the order.

(3) Any court may impose such term of imprisonment in default of payment of a fine as is authorized by law in case of such default, provided that the term imposed is not in excess of the court's powers under this Code.

Power of courts to sentence to imprisonment in default of payment of fine.

(4) The imprisonment imposed under subsection (3) may be in addition to a substantive sentence of imprisonment for the maximum term that may be imposed by the court under sections 13 and 14.

16. (1) When a person is convicted at one trial of any two or more distinct offences the court may subject to section 301 sentence him for such offences to the several punishments prescribed therefor which such court is competent to inflict; such punishments when consisting of imprisonment to commence, unless the court orders them or any of them to run concurrently, the one after the expiration of the other in such order as the court may direct, even where the aggregate punishment for the several offences is in excess of the punishment which the court is competent to inflict on conviction of one single offence:

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

Provided that if the case is tried by a Magistrate's Court the aggregate punishment shall not exceed twice the amount of punishment which such court in the exercise of its ordinary jurisdiction is competent to inflict.

Maximum term of punishment.

(2) For the purpose of appeal aggregate sentences imposed under subsection (1) in case of convictions for several offences at one trial shall be deemed to be a single sentence.

B—PAYMENTS OF COSTS AND COMPENSATION

17. (1) Whenever a court acquits or discharges the accused and declares that the complaint was frivolous or vexatious, it shall be lawful for such court to order the complainant to pay State costs in a sum determined by the court. The court may, in addition, at the same time, order the complainant to pay to the accused or to each of the accused when there are more than one, such compensation as it shall think fit.

Payment of costs and compensation upon acquittal.

(2) Whenever any person causes a police officer to arrest another person, if it appears to the court taking cognizance of the case that there was no sufficient ground for causing such arrest, the court may award such compensation as it thinks fit to be paid by the person so causing the arrest to the person so arrested for his loss of time and income and for his expenses in the matter. If more persons than one are arrested, the court may in like manner award to each

of them such compensation as the court shall think fit. The payment of such compensation shall not be a bar to an action for false imprisonment.

(3) Before making any order under the preceding subsections the court shall record and consider any objection which the complainant may urge against the making of the order, and, if the court makes such order, it shall record its reasons for making the same.

Payment of compensation upon conviction.

(4) Whenever any person is convicted of any offence or where the court holds the charge to be proved but proceeds to deal with the offender without convicting him, the court may order the person convicted or against whom the court holds the charge to be proved to pay within such time or in such instalments as the court may direct, such sum by way of compensation to any person affected by the offence as to the court shall seem fit.

(5) If the offender referred to in subsection (4) is under the age of sixteen years the court may, if it deems fit, order the payment to be made by his parent or guardian.

(6) Any sum awarded under this section whether by way of costs or compensation shall be recoverable as if it were a fine imposed by the court.

Compensation not to exceed five hundred rupees.

(7) When the compensation ordered is by a Magistrate's Court such compensation shall not exceed five hundred rupees to each aggrieved party.

Fine may be applied to defray expenses of prosecution.

(8) Whenever a court imposes a fine or a sentence of which a fine forms a part, the court may order the whole or any part of the fine recovered to be applied—

(*a*) in defraying the expenses properly incurred in the prosecution ; or

(*b*) in compensation for the injury caused by the offence committed.

(9) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the court shall take into account any sum paid or recovered as compensation under this section.

C—COMMUNITY SERVICE ORDERS

Community service orders.

18. (1) The court may in lieu of imposing a sentence of imprisonment on conviction of an accused person or in lieu of imposing a sentence of imprisonment on an accused person in default of payment of a fine enter an order hereinafter referred to as a "community service

order", directing the accused person to perform stipulated service at a named place in a State or State-sponsored project, if regulations have been made by the Miniser for carrying out such an order.

(2) The duration of the community service order shall not be more than one year when the order is entered by a Magistrate and three years when the order is entered by the High Court.

(3) If the convicted person in respect of whom a community service order has been entered, fails to attend at the place of work named, or having attended fails to do the stipulated service or is irregular in attendance or not punctual in attendance or does not work to the satisfaction of the management of the project or otherwise fails to comply with such community service order, then it shall be lawful for the court which entered the order to revoke it and impose such sentence of imprisonment as it thinks fit.

(4) Throughout the duration of the community service order, the manager or a supervising officer of the project shall forward, every month to the court which passed the community service order, a report on the attendance and work of the convicted person and stating whether the community service order is being or has been complied with and such report shall be final and conclusive on such questions.

PART III

General Provisions

CHAPTER III

Of Aid and Information to the Magistrates and Police and Persons making Arrests

Public when to assist Magistrates and peace officers.

19. Every person is bound to assist a Magistrate or a peace officer reasonably demanding his aid—

(*a*) in the taking of any other person whom such Magistrate or peace officer is authorized to arrest;

(*b*) in the prevention of a breach of the peace or of any injury attempted to be committed to any public property;

(*c*) in the suppression of a riot or any affray.

Aid to person other than peace officer executing warrant.

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

Public to give information of certain offences.

21. Every person aware—

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

(*b*) of any sudden or unnatural death or death by violence, or of any death under suspicions circumstances, or of the body of any person being found dead without it being known how such person came by death,

shall in the absence of reasonable excuse—the burden of proving which shall lie upon the person so aware—forthwith give information to the nearest Magistrate's Court or to the officer in charge of the nearest police station or to a peace officer or to the Grama Seva Niladhari of the nearest village of such commission or intention or of such sudden unnatural or violent death or death under suspicious circumstances or of the finding of such dead body.

Peace officer bound to report certain matters.

22. Every peace officer shall forthwith communicate to the nearest Magistrate or inquirer having jurisdiction or to his own immediate superior officer any information which he may have or obtain respecting—

(*a*) the commission of or the attempt to commit any offence within the local jurisdiction in which he is empowered to act ;

(*b*) the occurence therein of any sudden or unnatural death or of any death by violence or under suspicious circumstances ;

(*c*) the finding of the dead body of any person without it being known how such person came by death.

CHAPTER IV

OF ARREST, ESCAPE, AND RETAKING

A.—ARREST GENERALLY

Arrest how made.

23. (1) In making an arrest the person making the same shall actually touch or confine the body of the person to be arrested unless there be a submission to the custody by word or action and shall inform the person to be arrested of the nature of the charge or allegation upon which he is arrested.

Explanation.—Keeping a person in confinement or restraint without formally arresting him or under the colourable pretension that an arrest has not been made when to all intents and purposes such person is in custody shall be deemed to be an arrest of such person.

Resisting endeavour to arrest.

(2) If such person forcibly resists the endeavour to arrest him or attempts to evade the arrest, the person making the arrest may use such means as are reasonably necessary to effect the arrest.

(3) Anything in this section shall not give a right to cause the death of a person who is not accused of an offence punishable with death.

Search of place entered by person sought to be arrested.

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

Procedure where ingress not obtainable.

25. If ingress to such place cannot be obtained under section 24 it shall be lawful in any case for a person acting under a warrant, or in any case in which a warrant may issue but cannot be obtained without affording the person to be arrested an opportunity of escape, for a peace officer to enter such place and search therein, and in order to effect an entrance into such place to break open any outer or inner door or window of any place whether that of the person to be arrested or of any other person, if after notification of his authority and purpose and demand of admittance duly made he cannot otherwise obtain admittance.

Search of person in place searched under warrant.

26. Whenever a search for anything is or is about to be lawfully made in any house or place in respect of any offence all persons found therein may be lawfully detained in such house or place until the search is completed, and

subject to section 30 they may, if the thing sought be in its nature capable of being concealed on the person, be searched for it by or in the presence of a Magistrate or inquirer or police officer not under the rank of inspector.

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

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

No. unnecessary restraint.

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

Search of persons arrested.

29. Whenever a person—

(*a*) is arrested by a peace officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail ; or

(*b*) is arrested without warrant or by a private person under a warrant and cannot legally be admitted to bail or is unable to furnish bail,

the peace officer making the arrest, or when the arrest is made by a private person the peace officer to whom he hands over the person arrested, may subject to section 30 search such person and place in safe custody all articles other than necessary wearing apparel found upon him, and any of such articles which there is reason to believe were the instruments or the fruits or other evidence of the crime may be detained until his discharge or acquittal.

Mode of searching women.

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

Power to seize offensive weapons.

31. The person making any arrest under this Code may take from the person arrested any offensive weapons or any instrument capable of being used for committing an offence which he has about his person and shall deliver all weapons and instruments so taken to the court or officer before which or whom the person making the arrest is required by law to produce the person arrested.

B.—ARREST WITHOUT A WARRANT

When peace officers may arrest without warrant.

32. (1) Any peace officer may without an order from a Magistrate and without a warrant arrest any person—

(*a*) who in his presence commits any breach of the peace ;

(*b*) who has been concerned in any cognizable offence or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been so concerned ;

(*c*) having in his possession without lawful excuse (the burden of proving which excuse shall lie on such person) any implement of house-breaking ;

(*d*) who has been proclaimed as an offender ;

(*e*) in whose possession anything is found which may reasonably be suspected to be property stolen or fraudulently obtained and who may reasonably be suspected of having committed an offence with reference to such thing ;

(*f*) who obstructs a peace officer while in the execution of his duty or who has escaped or attempts to escape from lawful custody ;

(*g*) reasonably suspected of being a deserter from the Sri Lanka Army, Navy or Air Force ;

(*h*) found taking precautions to conceal his presence under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence ;

(*i*) who has been concerned in or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in any act committed at any place out of Sri Lanka, which if committed in Sri Lanka would have been punishable as an offence and for which he is under any law for the time being in force relating to extradition or to fugitive persons or otherwise liable to be apprehended or detained in custody in Sri Lanka.

(2) Anything in this section shall not be held to interfere with or modify the operation of any enactment empowering a peace officer to arrest without a warrant.

Powers of arrest in an non cognizable cases.

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

(2) When any person is accused of committing a non-cognizable offence and a peace officer has reason to believe that such person has no permanent residence in Sri Lanka and that he is about to leave Sri Lanka, he may be arrested by such peace officer and shall be taken forthwith to the nearest Magistrate who may either require him to execute a bond with or without a surety for his appearance before a Magistrate's Court or may order him to be detained in custody until he can be tried.

Pursuit of offenders into other jurisdiction.

34. For the purpose of arresting any person whom he has power to arrest without a warrant a peace officer may pursue any such person into any part of Sri Lanka.

Arrest by private persons, procedure on such arrest.

35. Any private person may arrest any person who in his presence commits a cognizable offence or who has been proclaimed as an offender, or who is running away and whom he reasonably suspects of having committed a cognizable offence, and shall without unnecessary delay make over the person so arrested to the nearest peace officer or in the absence of a peace officer take such person to the nearest police station. If there is reason to believe that such person comes under the provisions of section 32 a peace officer shall re-arrest him. If there is reason to believe he has committed a non-cognizable offence and he refuses on the demand of a police officer to give his name and residence or gives a name or residence which such officer has reason to believe to be false or is a person whom such officer has reason to believe is about to leave Sri Lanka, he shall be dealt with under the provisions of section 33. If there is no reason to believe that he has committed any offence he shall be at once discharged.

How person arrested is to be dealt with.

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

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

37. Any peace officer shall not detain in custody or otherwise confine a person arrested without a warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate.

Police to report arrests.

38. Officers in charge of police stations shall report to the Magistrates' Courts of their respective districts the cases of all persons arrested without warrant by any police officer attached to their stations or brought before them and whether such persons have been admitted to bail or otherwise.

Discharge of person arrested.

39. Any person who has been arrested without a warrant by a peace officer shall not be discharged except on his own bond or on bail or under the special order in writing of a Magistrate.

Offence committed in the presence of Magistrate.

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

Arrest by or in presence of Magistrate.

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

Power to pursue and retake a person escaping from lawful custody.

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

Provisions of sections 24, 25 and 27 to apply to arrests under section 42.

43. The provisions of sections 24, 25 and 27 shall apply to arrest under section 42 although the person making the arrest is not acting under a warrant and is not a peace officer having authority to arrest.

CHAPTER V

OF PROCESS TO COMPEL APPEARANCE

A—SUMMONS

Requisites of summons.

44. (1) Every summons issued by a court under this Code shall be in writing in duplicate and signed by the Registrar issuing the summons or such other officer as such court may appoint and shall be in the prescribed form.

(2) If the person summoned is a person who is believed not to be able to read the language of the court one of such duplicates shall have annexed thereto a translation in a language which such person is believed to be able to read.

(3) There shall be attached to every summons issued to an accused person a copy of the complaint or report or other document upon which proceedings against him have been instituted together with a list specifying the names and addresses of the witnesses for the prosecution, if any.

Summons how served.

45. (1) The summons shall ordinarily be served by the Fiscal or by a fiscal's officer :

Provided that —

(*a*) where the proceedings have been instituted by a police officer or where the case is before the High Court or where the summons cannot otherwise be served, such summons shall be served by a police officer ; or

(*b*) where the circumstances require it, the summons may be directed by the court to be served by a Grama Seva Niladhari or by registered post.

(2) The summons shall if practicable be served personally on the person summoned by delivering or tendering to him one of the duplicates of the summons which in the case of a person who is believed not to be able to read the language of the court shall have annexed thereto the translation in the language which such person is believed to be able to read.

(3) In the case of a company or corporation or incorporated association of persons the summons may be served on the managing director, secretary or other like officer or the person in charge of the principal place of business of such company, corporation or association.

(4) In the case of an unincorporated association of persons the summons may be served by delivering it to the president, secretary or other like officer of such association.

(5) Where the summons cannot be served under subsecion (3) or (4) on a company, corporation or association of persons whether incorporated or not, such summons may be served by delivering it by registered post at the registered office, or, if there is no registered office, at the principal place of business of such company, corporation or association.

Service when person summoned cannot be found.

46. When the person to be summoned cannot by the exercise of due diligence be found the summons may be served by leaving one of the duplicates and the translation where necessary for him with some adult member of his family or with his servant residing with him.

Procedure when personal service cannot be effected.

47. If the service prescribed in sections 45 and 46 cannot by the exercise of due diligence be effected the serving officer shall affix one of the duplicates and the translation where necessary of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides, and in such case the summons, if the court either before or after such affixing so directs, shall be deemed to have been duly served.

Service on employees of the State, local authorities or corporations.

48. (1) Where the person summoned is an employee of the State or of a local authority or of a corporation the court issuing the summons shall ordinarily send it in duplicate and a translation where necessary to the head of the department or office in which such person is employed; and such head shall thereupon cause one of the duplicates with the translation where necessary to be served personally on the employee and shall return the other to the court with an endorsement of service.

(2) In this section, " head of department or office " shall mean—

(*a*) when used with reference to a member of any unit of the Sri Lanka Army, Navy or Air Force, the Commanding Officer of that unit;

(*b*) when used with reference to a person employed in a local authority, if the local authority is a Municipal Council, the Municipal Commissioner of that Council; if the local authority is an Urban or Town Council, the Secretary of the Council; and if the local authority is a Village Council, the Chairman of that Council;

(*c*) when used with reference to any other employee of the State or of a corporation, the head of the department of Government or of the corporation as the case may be in which such person is employed.

Proof of service.

49. (1) When a summons issued by a court is served an affidavit of such service purporting to be made before an officer duly authorized to administer an oath, or affirmation, or a report of such service purporting to be made by a peace officer, or an advice of delivery issued by the Post Office under the Post Office Rules or in the case mentioned in section 48 the endorsement therein mentioned, as the case may be, shall be admissible in evidence and the statements made therein shall be deemed to be correct unless and until the contrary is proved.

(2) Every person making such report or endorsement as in this section mentioned shall be legally bound to state the truth in such statement or endorsement.

(3) Any person appointed by the Minister in that behalf is hereby authorized to administer the oath or affirmation which is requisite to the making of the affidavit mentioned in subsection (1).

B.—WARRANT OF ARREST

Form of warrant of arrest.

50. (1) Every warrant of arrest issued by a court under this Code shall be in writing, signed by a Judge of that court and shall be in the prescribed form.

Continuance of warrant of arrest.

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

Court may direct security to be taken.

51. (1) A Magistrate's Court issuing a warant for the arrest of any person may in the case of any non-bailable offence and shall in the case of a bailable offence direct by endorsement on the warrant that if such person executes a bond with sufficient sureties for his attendance before the court at a specified time and thereafter until otherwise directed by the court, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

(2) The endorsement shall state—

(*a*) the number of sureties ;

(*b*) the amount in which they and the person for whose arrest the warrant is issued are to be respectively bound ;

(*c*) the day and the hour at which he is to attend before the court.

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

Warrants to whom directed.

52. (1) A warrant of arrest issued by a court shall ordinarily be directed to the Fiscal of that court and may be executed by all Fiscals, fiscals officers, and peace officers within the limits of their several and respective jurisdictions or in any part of Sri Lanka by any police officer.

(2) The court issuing the warrant may direct it to any other person or persons by name or office and such person or persons or any police officer may execute the same.

(3) When the warrant is directed to a peace officer by name it shall not be executed by another peace officer unless endorsed to him by name.

(4) When the warrant is directed to more persons than one it may be executed by all or any one or more of them.

Notification of substance of warrant.

53. The person executing a warrant of arrest shall notify the substance thereof to the person arrested, and if so required by the person arrested shall show him the warrant or a copy thereof signed by the person issuing the same.

Person arrested to be brought before court without delay.

54. The person executing a warrant of arrest shall (subject to the provisions of section 51 as to security) without unnecessary delay bring the person arrested before the court before which he is required by law to produce such person, and he shall endorse on the warrant the time when and the place where the arrest was made.

Where warrant may be executed.

55. A warrant of arrest may be executed at any place in Sri Lanka.

Warrants for execution outside jurisdiction.

56. (1) When a warrant of arrest is to be executed outside the local limits of the jurisdiction of the court issuing it, the court shall ordinarily forward it by post or otherwise to the Magistrate's Court within the local limits of the jurisdiction of which it is to be executed.

(2) A Magistrate of the Magistrate's Court to which the warrant is so forwarded shall endorse his name thereon and if practicable cause it to be executed within the local limits of his jurisdiction.

(3) Whenever there is reason to believe that the delay or publicity occasioned by obtaining the endorsement of the Magistrate within the local limits of whose jurisdiction a warrant is to be executed will prevent such execution, the court issuing the warrant may direct the warrant specially to any person ; and a warrant so specially directed shall have effect and may lawfully be executed by such person without such endorsement as aforesaid anywhere within Sri Lanka :

Provided always that upon the execution of such warrant the provisions of section 58 shall apply.

Warrant directed to Fiscal for execution outside jurisdiction.

57. When a warrant directed to a Fiscal is to be executed outside the jurisdiction of the court to which he is appointed he shall endorse it to the Fiscal of the court within the local limits of whose jurisdiction, the warrant is to be executed and shall thereupon forward the same by post or otherwise to such Fiscal, who upon receipt thereof shall cause such warrant to be executed in the same way as if it had been originally directed to him.

Procedure on arrest of person against whom warrant is issued.

58. (1) When a warrant of arrest is executed outside the local limits of the jurisdiction of the court by which it was issued the person arrested shall, unless the court which issued the warrant is within twenty miles of the place of arrest or is nearer than the Magistrate's Court within the local limits of the jurisdiction of which the arrest was made or unless security be taken under section 51, be brought before such last-mentioned Magistrate's Court.

(2) The Magistrate's Court before which the person arrested is brought shall, if the person arrested appears to be the person intended by the court which issued the warrant, direct his removal in custody to such last-mentioned court :

Provided that if the offence be bailable and the person arrested be ready and willing to give bail to the satisfaction of the court before which he shall have been brought, or a direction has been endorsed under section 51 on the warrant and such person is ready and willing to give the security required by such direction, such last-mentioned court shall take such bail or security as the case may be and forward the bond to the court which issued the warrant.

(3) Anything in this section shall not be deemed to prevent a peace officer from taking security under section 51.

Arrest possible though warrant is not in hand.

59. Where a police officer has reasonable grounds to believe that a person is one for whose arrest a warrant of arrest has been issued, he may notwithstanding anything to the contrary in this Chapter arrest that person in execution of the warrant although the warrant is not in his possession for the time being.

C.—PROCLAMATION AND ATTACHMENT

Proclamation for person absconding.

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

(2) The proclamation shall be published as follows :—

(*a*) the proclamation drawn in Sinhala and Tamil shall be publicly read in both these languages in some conspicuous place of the town or village in which such person ordinarily resides ;

(*b*) copies in Sinhala and Tamil of the proclamation shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village ; and

(*c*) copies in Sinhala and Tamil of the proclamation shall be affixed to some conspicuous part of the court-house.

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

Attachment of property of person absconding.

61. (1) The court may after issuing a proclamation under section 60 order the attachment of any property, movable or immovable or both, belonging to the proclaimed person.

(2) Such order shall authorize the attachment of any property belonging to such person within the local jurisdiction of the court by which it is made, and it shall

authorize the attachment of any property belonging to such person situated outside the jurisdiction of that court when endorsed by a Magistrate within whose jurisdiction such property is situate.

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

(*a*) by seizure ; or

(*b*) by the appointment of a receiver ; or

(*c*) by an order in writing prohibiting the delivery of such property to the proclaimed person or to anyone on his behalf ; or

(*d*) by all or any two of such methods as the court thinks fit.

(4) If the property ordered to be attached be immovable, the attachment under this section shall be made through the Government Agent or Assistant Government Agent of the district in which such property is situate—

(*a*) by taking possession ; or

(*b*) by the appointment of a receiver ; or

(*c*) by an order in writing prohibiting the payment of rent or delivery of property to the proclaimed person or to anyone on his behalf ; or

(*d*) by all or any two of such methods as the court thinks fit.

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

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

(7) Notice of every such order of attachment of immovable property shall be forthwith given by the court making the same to the Registrar of Lands for the district in which

such property is situate, who shall forthwith register the same, and no such order shall take effect until the same is registered under the provisions of the Registration of Documents Ordinance.

(8) In the case of the sale of immovable property the conveyance to the purchaser shall be executed by the Government Agent or the Assistant Government Agent of the district in which such property is situate, and a conveyance so executed shall vest such property in the purchaser in like manner as if such conveyance had been executed by the proclaimed person.

Restoration of attached property.

62. If within one year from the date of the attachment any person whose property is or has been at the disposal of the Minister under section 61 appears voluntarily or is apprehended and brought before the court by whose order the property was attached and proves to the satisfaction of such court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, such property, or if the same has been sold the net proceeds of the sale or if part only thereof has been sold the net proceeds of the sale and the residue of the property, shall after satisfying thereout all costs incurred in consequence of the attachment be delivered to him.

D.—OTHER RULES REGARDING PROCESSES

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

63. (1) A court may in any case in which it is empowered by this Code to issue a summons for the appearance of any person other than a juror issue, after recording its reasons in writing, a warrant for his arrest—

(*a*) if either before the issue of summons or after the issue of the same but before the time fixed for his appearance the court sees reason to believe that he has absconded or will not obey the summons; or

(*b*) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

Court may require deposit to meet expenses of executing warrant.

(2) The court may make it a condition of the issue of a warrant under subsection (1) that the person applying for it shall deposit such sum as the court may deem reasonable for the purpose of defraying any expenditure that may be incurred in executing the warrant.

Power to take bond for appearance.

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

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

Summons to run in any part of Sri Lanka.

65. (1) All summonses to appear may be served in any part of Sri Lanka, provided that such summons shall not be served outside the local limits of the jurisdiction of the court issuing the same unless the same be endorsed by such court with the words "For Service out of the jurisdiction".

(2) Such summons shall not be endorsed with the words "For service out of the jurisdiction" unless the court is satisfied that there are grounds for allowing such service.

(3) The provisions of this Chapter as to the direction and execution of warrants shall apply as near as may be to summonses.

CHAPTER VI

OF PROCESS TO COMPEL THE PRODUCTION OF DOCUMENTS AND OTHER MOVABLE PROPERTY AND FOR THE DISCOVERY OF PERSONS WRONGFULLY CONFINED

A—SUMMONS TO PRODUCE

Summons to produce document or other thing.

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

(2) Any person required under this section merely to produce a document or other thing shall be deemd to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.

(3) Anything in this section shall not be deemed to affect the provisions of sections 123 and 130 of the Evidence Ordinance.

Procedure as to letters, telegrams, &c.,

67. (1) If any book, letter, post card, telegram or other document in the custody of the Department of Posts and Telecommunications is in the opinion of any court wanted for the purpose of any investigation or proceeding under this Code such court may require the Postal or Telecommunication authorities as the case may be to deliver such document to such person as the court directs.

(2) If any such document is in the opinion of the Attorney-General or in the opinion of a police officer not below the rank of Superintendent of Police wanted for any investigation or proceedings under this Code he may require the Postal or Telecommunication authorities as the case may be to cause search to be made for and to deliver such document to him or to any other person duly authorized by him.

B.—SEARCH WARRANTS

When search warrant may be issued.

68. (1) (*a*) Where any court has reason to believe that a person to whom a summons under section 66 or a requisition under section 67 has been or might be addressed will not or would not produce or deliver the document or other thing as required by such summons or requisition ; or

(*b*) where such document or other thing is not known to the court to be in the possession of any person ; or

(*c*) where the court considers that the purposes of any investigation or proceeding under this Code will be served by a general search or inspection,

the court may subject to subsection (3) issue a search warrant in the prescribed form and the person to whom such warrant is directed may search or inspect in accordance therewith and the provisions hereafter contained.

(2) Every such warrant shall remain in force for a resonable number of days to be specified in such warrant.

(3) A warrant to search for a document in the custody of the Postal or Telecommunication authorities shall be granted only by the High Court.

Power to restrict warrant.

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

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

70. If a Magistrate's Court upon information and after such inquiry as it thinks necessary has reason to believe—

(*a*) that any place is used for the deposit or sale of stolen property or of property unlawfully obtained ; or

(*b*) that any place is used for the deposit or sale or manufacture of forged documents, false seals, or counterfeit stamps or coin, or instruments or materials for counterfeiting coin or stamps or for forging ; or

(*c*) that any stolen property or property unlawfully obtained, forged documents, false seals, or counterfeit stamps or coin, or instruments or materials used for counterfeiting coin or stamps or for forging, are concealed, kept, or deposited in any place,

it may by warrant authorize the person to whom such warrant is directed—

(i) to enter with such assistance as may be required such place ; and

(ii) to search the same in manner specified in the warrant ; and

(iii) to take possession of any property, documents, seals, stamps, or coins therein found which he reasonably suspects to be stolen, unlawfully obtained, forged, false, or counterfeit and also of any such instruments and materials as aforesaid ; and

(iv) to convey such property, documents, seals, stamps, coins, instruments, or materials before a Magistrate's Court or to guard the same on the spot until the offender is taken before a Magistrate's Court or otherwise to dispose thereof in some place of safety ; and

(v) to take into custody and bring before a Magistrate's Court every person found in such place who appears to have been privy to the deposit, sale, or manufacture, or keeping of any such property, documents, seals, stamps, coins, instruments or materials, knowing or having reasonable cause to suspect the said poperty to have beeen stolen or otherwise unlawfully obtained or the said documents, seals, stamps, coins, instruments or materials to have been forged, falsified, or counterfeited or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or stamps or for forging.

Disposal of things found in search beyond jurisdiction.

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

C.—DISCOVERY OF PERSONS WRONGFULLY CONFINED

Search for persons wrongfully confined.

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

D.—GENERAL PROVISION RELATING TO SEARCHES

Direction, &c., of search warrants.

73. The provisions of sections 20, 50, 52, 56 and 57 shall so far as may be apply to all search warrants issued under this Chapter.

Persons in charge of closed place to allow search.

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

(2) If ingress into such place cannot be so obtained the person executing the warrant may proceed in manner provided by section 25.

Officer to make list of things seized.

75. The person executing the search warrant shall make a list of all things seized in the course of the search and of the places in which they are respectively found and shall sign such list.

Occupant of place searched may attend.

76. The occupant of the place searched or some person on his behalf shall in every instance be permitted to attend during the search and a copy of the list prepared under section 75, signed by the person executing the warrant, shall be delivered to such occupant or person.

E.—MISCELLANEOUS

Court may impound things produced.

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

Search warrants may be endorsed by peace officer.

78. (1) A search warrant directed or endorsed to a peace officer may, if he is not able to proceed in person, be executed by any other peace officer.

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

Powers of Magistrate when present at search.

79. (1) The Magistrate by whom a search warrant is issued may attend personally for the purpose of seeing that the warrant is duly executed.

(2) Any Magistrate may orally direct a search to be made in his presence of any place for the search of which he is competent to issue a search warrant.

PART IV

PREVENTION OF OFFENCES

CHAPTER VII

OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR

A.—SECURITY FOR KEEPING THE PEACE ON CONVICTION

Security for keeping the peace on conviction.

80. (1) Whenever any person is convicted of any offence which involves a breach of the peace or of committing criminal intimidation by threatening injury to person or property, or of being a member of an unlawful assembly, and the court before which such person is convicted is of opinion that it is proper to require such person to execute a bond for keeping the peace, such court may at the time of passing sentence on such person order him to execute a bond for a sum proportionate to his means with or without sureties for keeping the peace during such period in each instance as it thinks fit to fix, not exceeding two years if the sentence or order be by a Magistrate's Court or three years if the sentence or order be by the High Court.

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

B.—SECURITY FOR KEEPING THE PEACE IN OTHER CASES AND SECURITY FOR GOOD BEHAVIOUR

Security for keeping the peace in other cases.

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

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

82. Whenever a Magistrate receives information—

(*a*) that any person is taking precautions to conceal his presence within the local limits of the jurisdiction of the court of such Magistrate and that there is reason to believe that such person is taking such precautions with a view to committing an offence; or

(b) that there is within such limits a person who has no ostensible means of subsistence or who cannot give a satisfactory account of himself,

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

Security for good behaviour from habitual offenders.

83. Whenever a Magistrate receives information that any person within the local limits of the jurisdiction of the court of such Magistrate is an habitual robber, housebreaker, or thief or an habitual receiver of stolen property knowing the same to have been stolen or that he habitually commits extortion or in order to the committing of extortion habitually puts or attempts to put persons in fear of injury or that he is an habitual protector or harbourer of thieves or that he is an habitual aider in the concealment or disposal of stolen property or that he is a notorious bad liver or is a dangerous character, such Magistrate may in manner hereinafter provided require such person to show cause why he should not be ordered to execute a bond with sureties for his good behaviour for such period not exceeding two years as the Magistrate thinks fit to fix.

Summons or warrant in case of person not so present.

84. When a Magistrate acting under section 81 or section 82 or section 83 deems it necessary to require any person to show cause under such section he shall if such person is not present in court issue a summons requiring him to appear, or when such person is in custody but not present in court a warrant directing the officer in whose custody he is to bring before the court:

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

Form of summons or warrant.

85. Every summons or warrant issued under section 84 shall contain a brief statement of the substance of the information on which such summons or warrant is issued.

Inquiry as to the truth of information.

86. (1) When any person appears or is brought before a Magisrate in compliance with or in execution of a summons or warrant issued under section 84 the Magistrate shall proceed to inquire into the truth of the information upon which he has acted and to take such further evidence as may appear necessary.

(2) Such inquiry shall be held as nearly as may be practicable in the manner hereinafter prescribed for conducting trials in summary cases before Magistrates' Courts.

(3) For the purpose of this section the fact that a person is an habitual offender or is such a person as is mentioned in section 83 may be proved by evidence of general repute or otherwise.

(4) Before commencing the inquiry the Magistrate may for reasons to be recorded by him, order such person to execute a bond for keeping the peace or for maintaining good behaviour pending the termination of the inquiry. An appeal shall not lie against any order made under this subsection.

Order to give security.

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

Provided—

(*a*) that the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive ;

(*b*) that when the person in respect of whom the inquiry is made is a minor the bond shall be executed only by his sureties.

Discharge of person informed against.

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

C—PROVISIONS APPLICABLE TO ALL ORDERS TO FURNISH SECURITY

Imposition of term of imprisonment in default of security.

89. (1) At the time of making an order requiring security under the preceding sections of this Chapter, the court shall direct that in default of giving the security the person in respect of whom the order is made shall be imprisoned for such term as the court may think fit, not exceeding two years where the court is the High Court, or one year where the court is a Magistrate's Court :

Allowance of time to give security.

Provided that the court may, if it thinks fit so to do, allow time not exceeding one month for furnishing the security :

Provided further that where the court is of opinion that time should not be allowed it shall record the reasons for refusal of time.

(2) The provisions of the provisos to subsection (1) shall not apply to an order made in respect of a person who is, at the time the order is made, sentenced to or undergoing a sentence of imprisonment.

Commencement of period for which security is required.

90. The period for which security is required by an order made under the preceding sections of this Chapter shall commence—

(*a*) where time has not been allowed under section 89, on the date of such order ;

(*b*) where time has been allowed under that section, on the date on which the time so allowed expires ;

(*c*) where the order is in respect of a person who is, at the time the order is made, sentenced to or undergoing a sentence of imprisonment, on the date on which such sentence expires.

Contents of bond.

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

Power to reject sureties.

(2) A court may refuse to accept any surety offered on the ground that for reasons to be recorded by the court such surety is an unfit person.

Commitment to prison for default in giving security.

92. (1) If any person ordered to give security under the preceding sections of this Chapter does not give such security on or before the date on which the period for which such security is to be given commences, he shall be committed to prison to undergo the term of imprisonment

imposed under section 89, or, if he is already in prison, be detained in prison until such term expires, or until, before the expiration of such term, he gives the security to the court which made the order requiring it, or to the superintendent or jailer of the prison in which he is detained.

Simple imprisonment for failure to give security for the peace.

(2) Imprisonment for failure to give security for keeping the peace shall be simple.

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

(3) Imprisonment for failure to give security for good behaviour may be rigorous or simple as the court in each case directs.

Power to release person imprisoned for failing to give security.

93. (1) Whenever a court is of opinion that any person imprisoned for failing to give security under this Chapter may be released without hazard to the community or to any other person the court may order such person to be discharged.

(2) A court other than the Supreme Court or Court of Appeal shall not exercise this power except in cases where the imprisonment is under its own order.

D.—DISCHARGE OF SURETIES

Discharge of sureties.

94. (1) Any surety for the peaceable conduct or good behaviour of another person under the foregoing or any other provision of this Code or for the due attendance of any person before a court or for the due performance of any stipulations by any person, may at any time apply to the court which directed the execution of the bond to cancel it.

(2) On such application being made the Court may issue summons or warrant as it thinks fit requiring the person for whom such surety is bound, to appear or to be brought before it.

(3) When such person appears or is brought before the court such court may cancel the bond and in that event shall order such person to give for the unexpired portion of the term or unfulfilled stipulations of such bond, fresh security of the same description as the original security. Every such order shall have the same effect as the original order ;

(4) The provisions of subsection (5) of section 408 shall also apply to any application by a surety for the peaceable conduct of good behaviour of another person to have the bond cancelled.

CHAPTER VIII

UNLAWFUL ASSEMBLY

Dispersal of unlawful assembly.

95. (1) Any Magistrate or police officer not below the rank of Inspector of Police may command any unlawful assembly or any assembly of five or more persons likely to cause a disturbance of the public peace to disperse, and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

Use of civil force to disperse assembly.

(2) If upon being so commanded any such assembly does not disperse or if without being so commanded it conducts itself in such a manner as to show a determination not to disperse, the Magistrate or the police officer may proceed to disperse such assembly by the use of such force as is reasonably necessary to disperse the assembly and may require the assistance of any person (not being a member of the Army, Navy or Air Force, whether of Sri Lanka or of any other country, acting as such) for the purpose of dispersing such assembly and if necessary arresting and confining the persons who form part of it in order to disperse such assembly or that they may be punished according to law.

Use of military force to disperse assembly.

(3) If any such assembly cannot be otherwise dispersed and it is necessary for the public security that it should be dispersed, a Magistrate or the Government Agent of the District or any police officer not below the rank of Superintendent of Police may cause it to be dispersed by requiring any commissioned or non-commissioned officer in command of any personnel of the Sri Lanka Army,

Navy or Air Force, to disperse such assembly by military force and to arrest and confine such persons as form part of it as may be necessary in order to disperse the assembly or to have them punished according to law. Every such commissioned or non-commissioned officer shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force and do as little injury to person and property as may be consistent with dispersing the assembly and arresting and detaining such persons.

Power of commissioned military officers to disperse assembly.

96. When the public security is mainfestly endangered by any such assembly and when a Magistrate, the Government Agent or a police officer not below the rank of Superintendent of Police cannot be communicated with, any commissioned officer of the Sri Lanka Army, Navy or Air Force may disperse such assembly by military force and may arrest and confine any persons forming part of it in order to disperse such assembly or that they may be punished according to law; but if while he is acting under this section it becomes practicable for him to communicate with the Magistrate or Government Agent or a police officer not below the rank of Superintendent of Police he shall do so and shall thereafter obey the instructions of such Magistrate or Government Agent or police officer as to whether he shall or shall not continue such action.

Protection for acts done under this Chapter.

97. (1) A prosecution shall not be instituted against any Magistrate, Government Agent, police officer or personnel of the Sri Lanka Army, Navy or Air Force or any person assisting a police officer in the dispersal of an assembly under this Chapter, for any act purporting to be done under this Chapter in any court except with the sanction of the Attorney-General.

(2) (*a*) A Magistrate, Government Agent, police officer or member of the Sri Lanka Army, Navy or Air Force or any other person acting under this Chapter in good faith; and

(b) a member of the Sri Lanka Army, Navy or Air Force doing any act in obedience to any order which under military law he was bound to obey,

shall not be liable in civil or criminal proceedings for any act purported to be done under this Chapter.

CHAPTER IX

PUBLIC NUISANCES

A—ORDERS FOR REMOVAL OR ABATEMENT IN CASES OF NUISANCE

Conditional order for removal of nuisance.

98. (1) Whenever a Magistrate considers on receiving a report or other information and on taking such evidence (if any) as he thinks fit—

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

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

(c) that the construction of any building or the disposal of any substance should as being likely to occasion conflagration or explosion be prevented or stopped ; or

(d) that any building or 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 its removal, repair, or support is necessary ; or

(e) that any tank, well, or excavation adjacent to any such way or public place should be fenced in such a manner as to prevent danger arising to the public,

such Magistrate may make a conditional order requiring that the person causing such obstruction or nuisance or carrying on such trade or occupation or keeping any such goods or

merchandise or owning, possessing, or controlling such building, substance, tree, tank, well or exacavation shall within a time to be fixed by such order—

(i) remove such obstruction or nuisance ; or

(ii) suppress or remove such trade or occupation ; or

(iii) remove such goods or merchandise ; or

(iv) prevent or stop the construction of such building ; or

(v) remove, repair, or support it ; or

(vi) alter the disposal of such substance ; or

(vii) remove such tree ; or

(viii) fence such tank, well, or excavation as the case may be.

(2) Any person against whom a conditional order has been made under subsection (1) may appear before the Magistrate making that order or any other Magistrate of that court before the expiration of the time fixed by that order and move to have the order set aside or modified in manner hereinafter provided.

(3) Any order duly made under this section shall not be called in question in any civil court.

(4) For the purpose of this section a " public place " includes also property belonging to the State or a corporation or vested in any public officer or department of State for public purposes and ground left unoccupied for sanitary or recreative purposes.

Service or notification of order.

99. (1) The order and any other order or notice made or given under this Chapter shall if practicable be served on the person against whom it is made or to whom it is to be given in manner herein provided for service of a summons.

(2) If such order cannot be so served a copy thereof shall be posted up at such place or places as the court may consider fittest for conveying the information to such person.

Person to whom order is addressed to obey or show cause.

100. (1) The person against whom such order is made shall within the time specified therein—

(*a*) perform the act directed thereby ; or

(*b*) act under subsection (2) of section 98.

Consequence of failing to do so.

(2) If such person does not perform such act or appear and move to have the order set aside or modified as required by subsection (1) he shall be liable to the penalty prescribed in that behalf in section 185 of the Penal Code and the order shall be made absolute :

Provided that if such person be a corporate body every director thereof shall be liable to the penalty herein before prescribed unless such director proves that such default was not occasioned by any act of his or by any omission on his part.

Procedure in case of appearance.

101. (1) If such person appears and moves to have the order set aside or modified the Magistrate shall take evidence in the matter.

(2) If the Magistrate is satisfied that the order is not reasonable and proper it shall either rescinded the same or modify it in accordance with the requirements of the case, and in the latter case the order as modified shall be made absolute.

(3) If the Magistrate is not so satisfied the order shall be made absolute.

Procedure on order being made absolute.

102. When an order has been made absolute under section 100 or section 101 the Magistrate shall give notice of the same to the person against whom the order was made and shall further require him to perform the act directed by the order within a time specified in the notice and inform him that in case of disobedience he will be liable to the penalties provided by subsection (2) of section 100.

Consequence of disobedience to order.

103. (1) If such act is not performed within the time specified in the notice issued under section 102 the Magistrate may cause it to be performed and may recover the costs of performing it either by the sale of any building, goods, or other property removed by his order or by the distress and sale of any other movable property of such person within or without the local limits of the jurisdiction of his court. If such other property is without such limits the order shall authorize its attachment and sale when endorsed by a Magistrate within the local limits of whose jurisdiction the property be attached is found.

(2) A suit shall not lie in respect of anything done in good faith under this section.

Injunction pending inquiry.

104. (1) If the Magistrate making an order under section 98 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public he may issue such an injunction to the person against whom the order was made as is required to obviate or prevent such danger or injury.

(2) In default of such person forthwith obeying such injunction the Magistrate may use or cause to be used such means as he thinks fit to obviate such danger or to prevent such injury.

(3) A suit shall not lie in respect of anything done in good faith by a Magistrate under this section.

Magistrate may prohibit continuance of public nuisances.

105. A Magistrate may order any person not to repeat or continue a public nuisance as defined in the Penal Code or any special or local law.

B—TEMPORARY ORDERS IN URGENT CASES OF NUISANCE

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

106. (1) In cases where in the opinion of a Magistrate immediate prevention or speedy remedy is desirable the Magistrate may by a written order stating the material facts of the case and served in manner provided by section 99 direct any person to abstain from a certain act or to take certain order with certain property in his possession or under his management, if the Magistrate considers that such direction is likely to prevent or tends to prevent obstruction, annoyance, or injury, or risk of obstruction, annoyance, or injury to any persons lawfully employed, or danger to human life, health or safety, or a riot or an affray.

(2) An order under subsection (1) may in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the persons against whom the order is directed be made *ex parte*.

(3) An order under subsection (1) may be directed to a particular person or to the public generally when frequenting or visiting a particular place, and in the latter case a copy of the order shall be posted up as provided by subsection (2) of section 99.

(4) Any Magistrate may rescind or alter any order made under subsection (1) by himself or by his predecessor in office.

(5) An order under this section shall not remain in force for more than fourteen days from the making thereof unless, in cases of danger to human life, health, or safety, or a likelihood of a riot or an affray, the Minister by notification in the *Gazette* otherwise directs.

CHAPTER X

PREVENTIVE ACTION OF PEACE OFFICERS

Peace officers to prevent cognizable offence.

107. (1) Every peace officer may interpose for the purpose of preventing and shall to the best of his ability prevent the commission of any congnizable offence.

Information of attempt to commit such offence.

(2) Every peace officer receiving information of an attempt to commit any cognizable offence shall communicate such information to the officer to whom he is immediately subordinate or to some other officer whose duty it is to prevent or take cognizance of the commission of any such offence.

Peace officers may arrest without order or warrant to prevent such offence.

(3) A peace officer knowing of an attempt to commit any cognizable offence may arrest without orders from a Magistrate and without a warrant the person so attempting if it appears to such officer that the commission of the offence cannot be otherwise prevented.

Prevention of injury to public property.

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

Assistance to inspectors of weigths and measures.

(5) It shall be the duty of every peace officer to give immediate information to an inspector of weights and measures of any breach of any provision of any enactment for the time being in force relating to weights and measures and at the request of any such inspector to assist him in carrying out the provisions of any such enactment.

PART V

INVESTIGATION OF OFFENCES

CHAPTER XI

INFORMATION TO POLICE OFFICERS AND INQUIRERS AND THEIR POWERS TO INVESTIGATE

Appointment of inquirers.

108. The Minister may appoint any person by name or office to be an inquirer for any area the limits of which shall be specified in such appointment.

Information of an offence.

109. (1) Every information relating to the commission of an offence may be given orally or in writing to a police officer or inquirer.

(2) If such information is given orally to a police officer or to an inquirer, it shall be reduced to writing by him in the language in which it is given and be read over to the informant :

Provided that if it is not possible for the officer or inquirer to record the information in the language in which it is given the officer or inquirer shall request that the information be given in writing. If the informant is unable to give it in writing, the officer or inquirer shall record the information in one of the national languages after recording the reasons for doing so and shall read over the record to the informant or interpret it in the language he understands.

(3) Every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it and such information or a copy thereof as is feasible shall be entered without delay by such police officer or inquirer in a book hereinafter referred to as " the Information Book " to be kept by the officer in charge of the police station at his police station or by the inquirer as the case may be. Such Information Book shall be in such form as the Minister may provide by regulations made in that behalf :

Provided that until the Minister by regulations provides the form of the Information Book, the form or forms in use on the day immediately preceding the appointed date shall continue to be valid for use.

(4) If the police officer who receives the information is not himself the officer in charge of the police station, then such police officer shall forthwith report the facts of such information to the officer in charge of the police station.

Procedure where cognizable offence is suspected or breach of the peace apprehended

(5) If from information received or otherwise an officer in charge of a police station or inquirer has reason to suspect the commission of a cognizable offence or to apprehend a breach of the peace he shall forthwith send a report of the same to the Magistrate's Court having jurisdiction in respect of such offence, or, in the case of an officer in charge of police station, to his own immediate superior, and shall proceed in person to the spot to

investigate the facts and circumstances of the case and to take such measures as may be necessary for the discovery and arrest of the offender:

Provided that an officer in charge of a police station may depute one of his subordinate officers to proceed to the spot to make such investigation and take such measures as may be necessary for the discovery and arrest of the offender, or if it appears to him that there is no sufficient ground for entering on an invesitgation he shall not be bound to investigate the case.

Power to police officer or inquirer to require attendance of persons able to give information.

(6) Any police officer or inquirer making an investigation under this Chapter may by order in writing require the attendance before himself of any person being within the limits of the station of such police officer or any adjoining station or within the local limits of the jurisdiction of such inquirer who, from the informtaion given or otherwise, appears to be acquainted with the circumstances of the case, and such person shall attend as so required.

If any person when required to attend by an inquirer refuses or fails to doso, the inquirer may thereupon in his discretion issue a warrant to secure the attendance of such person as required by such order as aforesaid.

Examination of witnesses by police or inquirer.

110. (1) Any police officer or inquirer making an investigation under this Chapter may examine orally any person supposed to be acquainted with the facts and circumstances of the case, and shall reduce into writing any statement made by the person so examined, but any oath or affirmation shall not be administered to any such person. The whole of such statement shall be recorded in full in the manner set out in section 109 (2). If the police officer or inquirer asks any question in clarification such question and the answer given thereto shall be recorded in form of question and answer. Such record shall be shown or read to such person or if he does not understand the language in which it is written, it shall be interpreted to him in a language he understands and he shall be at liberty to explain or add to his statement. The person making the statement shall then sign that statement immediately at the place where the statement is concluded. The police officer or inquirer recording the statement shall append below each statement recorded by him the following certificate :—

"I .....hereby declare that I have faithfully and accurately recorded the statement of the abovenamed ....."

If such statement is not recorded in the Information Book, a true copy thereof shall as soon as may be convenient be entered by such police officer or inquirer in the Information Book. Any alterations in such statement shall be initialled by the person making it and any portion of the statement that requires to be deleted as a result of the alteration shall be scored off in such a manner as would not make that portion illegible.

Statements to police officer or inquirer to be used in accordance with Evidence Ordinance.

(2) Such person shall be bound to answer truly all questions relating to such case put to him by such officer or inquirer other than questions which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(3) A statement made by any person to a police officer in the course of any investigation may be used in accordance with the provisions of the Evidence Ordinance except for the purpose of corroborating the testimony of such person in court:

Provided that a statement made by an accused person in the course of any investigation shall only be used to prove that he made a different statement at a different time.

Anything in this subsection shall not be deemed to apply to any statement falling within the provisions of section 27 of the Evidence Ordinance or to prevent any statement made by a person in the course of any investigation being used as evidence in a charge under section 180 of the Penal Code.

(4) Any criminal court may send for the statements recorded in a case under inquiry or trial in such court and may use such statements or information, not as evidence in the case, but to aid it in such inquiry or trial. Save as otherwise provided for in section 444 neither the accused not his agents shall be entitled to call for such statements, nor shall he or they be entitled to see them merely because they are refered to by the court but if they are used by the police officer or inquirer or witness who made them to refresh his memory, or if the court uses them for the purpose of contradicting such police officer or inquirer or witness the provisions of the Evidence Ordinance, section 161 or section 145, as the case may be, shall apply :

Provided that where a preliminary inquiry under Chpater XV is being held in respect of any offence, such statements of witnesses as have up to then becn recorded shall, on the application of the accused, be made available to him for his perusal in open court during the inquiry.

Inducement not to be offered.

111. Any inquirer or police officer shall not offer or make or cause to be offered or made any inducement, threat, or promise to any person charged with an offence to induce such person to make any statement with reference to the charge against such person. But any inquirer or police officer shall not prevent or discourage by any caution or otherwise any person from making in the course of any investigation under this Chapter any statement which he may be disposed to make of his own free will.

Search by police officer or inquirer.

112. (1) Whenever any officer in charge of a police station or an inquirer making an investigation in a cognizable case considers that the production of any document or thing is necessary to the conduct of the investigation, and there is reason to believe that a person to whom summons or order under section 66 has been or might be issued will not produce such document or other thing as directed in the summons or order, or when such document or other thing is not known to be in the possession of any person, such officer or inquirer may search or cause search to be made for the same in any place.

(2) Such officer or inquirer shall if practicable conduct the search in person.

(3) If he is unable to conduct the search in person and there is no other person competent to make the search present at the time, he may require any Grama Seva Niladhari to make the search and he shall deliver to such Grama Seva Niladhari an order in writing specifying the document or other thing for which search is to be made and the place to be searched, and such Grama Seva Niladhari may thereupon search for such thing in such place.

(4) The provisions of this Code as to search warrants and searches thereupon shall so far as may be apply to a search made under this section.

Duty of subordinate officer to report to officer in charge of station.

113. When any subordinate police officer has made any investigation under this Chapter, he shall report the result of such investigation to the officer in charge of the police station.

Release of accused if evidence deficient.

114. If upon an investigation under this Chapter it appears to the officer in charge of the police station or the inquirer that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate's Court, such officer or inquirer shall if such person is in custody release him on his executing a bond with or without sureties as such officer or inquirer may direct to appear if and when so required before a Magistrate's Court having jurisdiction to try or inquire into the offence.

Procedure when investigation cannot be completed in twenty-four hours.

115. (1) Whenever an investigation under this Chapter cannot be completed within the period of twenty-four hours fixed by section 37, and there are grounds for believing that further investigation is necessary the officer in charge of the police station or the inquirer shall forthwith transmit to the Magistrate having jurisdiction in the case a report of the case, together with a summary of the statements, if any, made by each of the witnesses examined in the course of such investigation relating to the case, and shall at the same time forward the suspect to such Magistrate.

(2) The Magistrate before whom a suspect is forwarded under this section, if he is satisfied that it is expedient to detain the suspect in custody pending further investigation, may after recording his reasons, by warrant addressed to the superintendent of any prison authorize the detention of the suspect for a total period of fifteen days and no more. The provisions of section 264 shall apply to every such warrant. If at the end of the said period of fifteen days pro-

ceedings are not instituted the Magistrate may subject to subsection (3) either discharge the suspect or require him to execute a bond to appear if and when so required.

(3) Subject to the provisions of the Criminal Procedure (Special Provisions) Law, No. 15 of 1978, for so long as that Law is in force, a Magistrate shall not release on bail or otherwise any person who has—

(*a*) surrendered himself to court, or

(*b*) been arrested,

consequent on an allegation that he has committed or has been concerned in committing or is suspected to have committed or to have been concerned in committing an offence punishable under sections 114. 191 and 296 of the Penal Code :

Provided however that such person shall be released on bail if proceedings are not instituted against him in a Magistrate's Court or the High Court before the expiraton of a period of three months from the date he surrenders to court or is arrested unless the High Court on application made by the Attorney-General directs otherwise :

Provided further that the High Court may in special circumstances release such person on bail before or after the expiration of the period of three months referred to in the preceding provisions of this subsection.

(4) During the period that a suspect is in the lawful custody of a superintendent of prison, a court may upon an application in that behalf made by the police officer in charge of a police station authorize such or any other police officer to have access during reasonable hours to such suspect for the purpose of the investigation. The court may on an application in that behalf being made by an officer in charge of a police station authorize him or any other named police officer to take the suspect in the company of an officer

of the Prisons Department from place to place (other than to a police station) if in the opinion of such court such action is considered necessary for the purpose of the investigation :

Provided that during the period a police officer has access to a suspect or takes him from place to place under the provisions of this subsection, the suspect shall be deemed to be an accused person in the custody of such police officer for the purpose of the application of subsection (1) of section 27 of the Evidence Ordinance.

Duty of officer or inquirer to forward case to a Magistrate's Court if sufficient information is well founded or if further investigation is necessary.

116. (1) If upon an investigation under this Chapter it appears to the officer in charge of the police station or the inquirer that the information is well founded or that further investigation is necessary such officer or inquirer shall forward the suspect under custody before the Magistrate's Court having jurisdiction in the case, or if the offence is bailable and the suspect is able to give security, shall take security from him for his appearance before such court.

(2) When the officer in charge of a police station or an inquirer forwards a suspect before a Magistrate's Court or takes security for his appearance, he shall send to such court any weapon or other article or document or specimen or sample which it may be necessary to produce before such court, and shall require the complainant (if any) and so many of the persons who appear to such an officer or inquirer to be acquainted with the circumstances of the case as he may think necessary to execute a bond to appear before the Magistrate's Court therein named and give evidence in the matter of the charge against the suspect.

(3) The Magistrate may on application made by a police officer or inquirer forward any such weapon or other article or document or specimen or sample to the Government Analyst, Government Examiner of Questioned Documents, Registrar of Finger Prints or Government medical officer as the case may be for analysis and report to the court.

(4) The officer or inquirer in whose presence the bond referred to in subsection (1) or subsection (2) is executed shall send such bond to the Magitrate's Court.

(5) If any complainant or witness refuses to execute such bond, such officer or inquirer shall report the same to the Magistrate's Court having jurisdiction which may thereupon in its discretion issue a warrant or summons to secure the

attendance of such complainant or witness before itself to give evidence in the matter of the charge against the suspect.

Additional powers of inquirers.

117. Every inquirer shall, in addition to the powers herein before mentioned within the local limits of his jurisdiction, have the following powers :—

(*a*) power to arrest or direct the arrest in his presence of any offender ;

(*b*) power to issue a warrant or to order the removal of an accused person arrested under a warrant.

Powers of police officers and inquirers in non-cognizable cases.

118. (1) Every inquirer and police officer shall have power, upon receiving an order from a Magistrate, to investigate a non-cognizable offence and to exercise all the powers conferred upon them by this Chapter in respect of such investigation.

(2) Subject to the provisions of section 37, every inquirer and officer in charge of a station shall have power to authorize the detention of a person during an investigation.

Magistrate may withdraw case from inquirer.

119. Any Magistrate having jurisdiction to hold an inquiry into any offence which is being investigated by an inquirer may at any stage withdraw the case from such inquirer and himself inquire into and try such case or commit the same for trial.

Investigation to be completed without delay.

120. (1) Every investigation under this Chapter shall be completed without unnecessary delay. Where such investigation cannot be completed within fifteen days the officer in charge of the police station or the inquirer shall transmit to the Magistrate's Court having jurisdiction in the case, a report of the facts and the progress of the investigation at the end of the fifteen days and thereafter at the end of every period of fifteen days until completion of the investigation.

(2) The detention ordered under subsection (3) of section 115 shall be for periods of fifteen days at a time.

(3) As soon as the investigation is completed the officer in charge of the police station shall forward to such court a report in the prescribed form. If in the report there is no allegation that the suspect has committed or been concerned in the committing of any offence the Magistrate shall discharge him. If the report alleges that the suspect has committed or been concerned in committing an offence he shall be prosecuted in accordance with the provisions of this Code.

Powers of this chapter to be cumulative.

121. Anything in this Chapter contained shall not be construed to restrict the powers or duties vested in or imposed on police officers by this Code or any other enactment.

Examination by medical practitioner.

122. (1) Where any officer in charge of a police station considers that the examination of any person by a medical practitioner is necessary for the conduct of an investigation he may, with the consent of such person, cause such person to be examined by a Government medical officer. The Government medical officer shall report to the police officer setting out the result of the examination.

(2) Where the person referred to in subsection (1) does not consent to being so examined, the police officer may apply to a Magistrate within whose jurisdiction the investigation is being made for an order authorizing a Government medical officer named therein to examine such person and report thereon. Where such an order is made such person shall submit to an examination by such Government medical officer who shall report to the Magistrate setting out the result of the examination.

Taking of finger impressions, specimens of hair &c. of suspect person.

123. (1) Where any officer in charge of a police station is of opinion that it is necessary to do so for the purpose of an investigation, he may cause any finger, palm or foot impression or impression of any part of the body of any person suspected of the offence under investigation or any specimen of saliva, urine, hair or finger nail or any scraping from a finger nail of such person to be taken with his consent.

(2) Where the person referred to in subsection (1) does not consent to such impression, specimen or scraping being taken, such police officer may apply to the Magistrate's Court within whose jurisdiction the investigation is being made for an order authorizing a police officer to take such impression, specimen or scraping and such person shall comply with such order.

(3) Any officer in charge of a police station may, where it is necessary for the purpose of the investigation to compare any handwriting, cause a specimen of the handwriting of any person to be taken with his consent.

(4) Where such person refuses to give a specimen of his handwriting the officer in charge of the police station may apply to the Magistrate's Court within whose jurisdiction the investigation is being made for an order requiring such person to give a specimen of his handwriting, and such person shall comply with such order.

Magistrate to assist investigation.

124. Every Magistrate to whom application is made in that behalf shall assist the conduct of an investigation by making and issuing appropriate orders and processes of court, and may, in particular hold, or authorize the holding of, an identification parade for the purpose of ascertaining the identity of the offender, and for such purpose require a suspect or any other person to participate in such parade, and make or cause to be made a record of the proceedings of such parade.

Senior police officer may take over investigation.

125. Anything to the contrary in this or any other law notwithstanding it shall be lawful for any police officer not below the rank of Assistant Superintendent of Police to take over at any stage any investigation under this Chapter for any offence and to conduct and direct such investigation and for such purpose to cause the investigation or any part of it to be conducted by any police officer of his choice or by a team of specially selected police officers drawn from any part of the island.

CHAPTER XII

STATEMENTS TO MAGISTRATES OR PEACE OFFICERS

No inducement to be offered.

126. Except as provided in Chapter XXI any peace officer or person in authority shall not offer or make or cause to be offered or made any inducement, threat, or promise to any person charged with an offence to induce such person to make any statement having reference to the charge against such person. But any peace officer or other person shall not prevent or discourage by any caution or otherwise any person from making any statement which he may be disposed to make of his own free will.

Power to record statements and confessions.

127. (1) Any Magistrate may record any statement made to him at any time before the commencement of any inquiry or trial.

(2) Such statement shall be recorded and signed in the manner provided in section 277 and dated, and shall then be forwarded to the Magistrate's Court by which the case is to be inquired into or tried.

(3) A Magistrate shall not record any such statement being a confession unless upon questioning the person making it he has reason to believe that it was made voluntarily, and when he records any such statement he shall make a memorandum at the foot of such record to the following effect :—

I believe that this statement was voluntarily made. It was taken in my presence and hearing and was read over by me to the person making it and admitted by him to be correct, and it contains accurately the whole of the statement made by him.

(Signed) A. B.
Magistrate of the Magistrate's Court

PART VI

PROCEEDINGS IN PROSECUTIONS

CHAPTER XIII

OF THE JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS

A—PLACE OF INQUIRY OR TRIAL

Ordinary place of Inquiry and trial.

128. (1) Every offence shall ordinarily be inquired into and tried by a court within the local limits of whose jurisdiction it was committed.

Any Magistrate's Court to have jurisdiction over offences committed on territorial waters.

(2) Any Magistrate's Court within the local limits of the jurisdiction of which an accused may be or be found shall have jurisdiction respectively in all cases of offences otherwise within their respective jurisdictions which have been committed on the territorial waters of Sri Lanka.

(3) An offence committed on the territorial waters of Sri Lanka to which subsection (2) is not applicable or an offence committed on the high seas, or on board any ship or upon any aircraft may be tried or inquired into by the Magistrate's Court of Colombo if it otherwise has jurisdiction or on indictment by the High Court.

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

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

Illustrations

(a) A is wounded within the local limits of the jurisdiction of the Magistrate's Court of X and dies within those of the Magistrate's Court of Z; the offence of culpable homicide of A may be inquired into by the Magistrate's Court of either X or Z.

(b) A is wounded within the local limits of the jurisdiction of the Magistrate's Court of X and is during ten days within the local limits of the jurisdiction of Magistrate's Court Y, and during ten days more within the local jurisdiction of Magistrate's Court Z, unable in the local limits of the jurisdiction of Magistrate's Court Y or Z to follow his ordinary pursuits; the offence of unlawfully causing grievous hurt to A may be tried by the Magistrate's Court of either X, Y, or Z.

(c) A is put in fear of injury within the local limits of the jurisdiction of the Magistrate's Court of X and is thereby induced within the local limits of the jurisdiction of the Magistrate's Court of Y to deliver property to the person who put him in fear; the offence of extortion committed on A may be tried by the Magistrate's Court of either X or Y.

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

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

Illustrations

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

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

(c) A charge of wrongfully concealing a person known to have been kidnapped may be tried by the Magistrate's Court within the local limits of whose jurisdiction the wrongful concealing or by the Magistrate's Court within the local limits of whose jurisdiction the kidnapping took place.

Escape from custody.

131. (1) The offence of having escaped from custody may be tried either by the court within the local limits of whose jurisdiction the person charged is or by the court within the local limits of whose jurisdiction the offence was committed.

Criminal misappropriation and criminal breach of trust.

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

Stealing.

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

Place of inquiry or trial in various cases.

132. (1) (*a*) When it is uncertain in which of several local areas an offence was committed; or

(*b*) where an offence is committed partly in one local area and partly in another; or

(*c*) where an offence is a continuing one and continues to be committed in more local areas than one; or

(*d*) where an offence consists of several acts done in different local areas; or

(*e*) where in the course of the same transaction different offences are committed in different local areas.

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

Offences committed on a journey.

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

Offences against provisions of any law relating to railways, telecommunications, post office, arms and ammunition.

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

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

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

Sentence not to be set aside because inquiry held by wrong Magistrate's Court.

134. Any sentence or order of any criminal court in the trial of an offence shall not be liable to be set aside merely on the ground that the inquiry into the commission of the offence to which the sentence or order relates was made by a Magistrate's Court not empowered under this Chapter so to do.

B.—CONDITIONS NECESSARY FOR INITIATING PROCEEDINGS.

The conditions necessary for the initiation or posecutions for certain offences.

135. (1) Any court shall not take cognizance of—

(*a*) any offence punishable under sections 170 to 185 (both inclusive) of the Penal Code except with the previous sanction of the Attorney-General or on the complaint of the public servant concerned or of some public servant to whom he is subordinate ;

(*b*) any offence punishable under sections 158, 159, 160, 161, 210, 211 and 212 of the Penal Code except with the previous sanction of the Attorney-General ;

(*c*) any offence punishable under sections 190, 191, 192, 193, 196, 197, 202, 203, 204, 205, 206, 207 and 223 of the Penal Code when such offence is committed in or in relation to any proceeding in any court except with the previous sanction of the Attorney-General or on the complaint of such court ;

(*d*) any offence described in section 452 or punishable under sections 459, 463 and 464 of the Penal Code when such offence has been committed by a party to any proceeding in any court in respect of a document given in evidence in such proceeding except with the previous sanction of the Attorney-General or on the complaint of such court ;

(*e*) any offence punishable under Chapter VI of the Penal Code or punishable under section 290A or section 291B of the same Code unless upon complaint made by the Attorney-General or by some other person with the previous sanction of the Attorney-General ;

(*f*) any offence falling under Chapter XIX of the Penal Code unless upon complaint made with the previous sanction of the Attorney-General by some person aggrieved by such offence or by some other person with the like sanction ;

(*g*) any offence punishable under section 291A of the Penal Code, unless upon complaint made with the previous sanction of the Attorney-General by some person aggrieved by such offence or by some other person with the like sanction.

(2) The complaint of a court shall be in writing under the hand of the Registrar of the court.

(3) Where complaint is made by a court such court may cause the accused to be arrested and sent in custody before the Magistrate's Court having jurisdiction.

(4) When sanction is given in respect of any offence referred to in this section the court taking cognizance of the case may frame a charge of any other offence so referred to which is disclosed by the facts, but such sanction shall not remain in force for more than six months from the date on which it was given.

CHAPTER XIV

OF THE COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES' COURTS

Proceedings in Magistrate's Court how instituted.

136. (1) Proceedings in a Magistrate's Court shall be instituted in one of the following ways :—

(*a*) on a complaint being made orally or in writing to a Magistrate of such court that an offence has been committed which such court has jurisdiction either to inquire into or try :

Provided that such a complaint if in writing shall be drawn and countersigned by a pleader and signed by the complainant ; or

(*b*) on a written report to the like effect being made to a Magistrate of such court by an inquirer appointed under Chapter XI or by a peace officer or a public servant or a servant of a Municipal Council or of an Urban Council or of a Town Council ; or

(*c*) upon the knowledge or suspicion of a Magistrate of such court to the like effect :

Provided that when proceedings are instituted under this paragraph the accused or when there are several persons accused any one of them, shall be entitled to require that the case shall not be tried by the Magistrate upon whose knowledge or suspicion the proceedings were instituted, but shall either be tried by another Magistrate or committed for trial ; or

(*d*) on any person being brought before a Magistrate of such court in custody without process, accused of having committed an offence which such court has jurisdiction either to inquire into or try ; or

(*e*) upon a warrant under the hand of the Attorney-General requiring a Magistrate of such court to hold an inquiry in respect of an offence which such court has jurisdiction to inquire into ; or

(*f*) on a written complaint made by a court under section 135.

(2) The written report under paragraph (*b*), the warrant of the Attorney-General under paragraph (*e*), and the written complaint under paragraph (*f*) of subsection (1) may be forwarded by post or by messenger to the Magistrate's Court or delivered by hand to a Magistrate of such court and shall form part of the proceedings.

(3) Except as herein provided any written complaint shall not be entertained by a Magistrate.

Medical examination of complainant and accused in case of rape &c.

137. In cases where the offence complained of is one of rape, carnal intercourse with a young girl, unnatural offence, or hurt of a serious nature or hurt whether serious or not alleged to have been caused by an instrument for stabbing or cutting, the Magistrate shall cause the person who is alleged to have been the subject of such rape, carnal intercourse, unnatural offence, or hurt, and the person accused of such rape, carnal intercourse or unnatural offence to be forthwith examined by a Government medical officer if he has not already been so examined.

Procedure in certain cases where accused is unknown.

138. (1) Where the offence alleged in any proceedings instituted under section 136 (1) (*a*) or section 136 (1) (*b*) is not one triable summarily by him, the Magistrate may, although no person by name is accused of having committed such offence, examine on oath the complainant or informant and any other person who may appear to the Magistrate to be able to speak to the facts of the case. Such examination may if the Magistrate thinks fit be held in private.

(2) Every examination held by the Magistrate under subsection (1) shall be reduced into writing and after being read over and if need be interpreted to the person examined shall be signed by him and also by the Magistrate and dated.

(3) If, after such examination, there is in the opinion of the Magistrate sufficient ground for proceeding against any person, he shall issue process against such person in the manner provided by section 139.

Issue of process.

139. (1) Where proceedings have been instituted under paragraph (*a*) or paragraph (*b*) or paragraph (*c*) of section 136 (1) and the Magistrate is of opinion that there is sufficient ground for proceeding against some person who is not in custody—

(*a*) if the case appears to be one in which according to the fourth column of the First Schedule a summons should issue in the first instance, he shall, subject to the provisions of section 63, issue a summons for the attendance of such person ;

(*b*) if the case appears to be one in which according to that column a warrant should issue in the first instance, he shall issue a warrant for causing such person to be brought or to appear before the court at a certain time :

Provided that—

(i) the Magistrate may in any case, if he thinks fit, issue a summons in the first instance instead of a warrant ;

(ii) in any case under paragraph (*a*) or paragraph (*b*) of section 136 (1), the Magistrate shall, before issuing a warrant, and may, before issuing a summons, examine on oath the complainant or some material witness or witnesses ; and

(iii) in any case under paragraph (*c*) of section 136 (1), the Magistrate shall, before issuing process, record a brief statement of the facts which constitute his means of knowledge or of the grounds of his suspicion, as the case may be.

(2) Where proceedings have been instituted under paragraph (*d*) of section 136 (1), the Magistrate shall forthwith examine on oath or affirmation the person who has brought the accused before the court and any other person who may be present in court able to speak to the facts of the case ;

Provided that such examination shall not be necessary where the Magistrate has before him a report of the facts of the case or a complaint in writing has been filed.

(3) Where proceedings have been instituted under paragraph (*e*) or paragraph (*f*) of section 136 (1), the Magistrate shall issue a summons for the attendance of the person named in the warrant or complaint, or a warrant for causing such person to be brought or to appear before the court at a certain time, according as the fourth column of the First Schedule provides that the case is one in which a summons or a warrant should issue in the first instance.

Contents of summons or warrant.

140. Every summons or warrant issued under section 139 shall contain a statement of the particulars of the offence charged and in the case of a summons shall require the accused to appear at a time and place therein specified to answer the charge therein set forth.

Examination under section 139 to be recorded.

141. Every examination held by the Magistrate under section 139 shall be recorded in the manner provided in section 138 (2).

Such examination may if the Magistrate thinks fit be held in private.

Procedure to be adopted when case proceeds.

142. (1) Where the offence or any one of them where there is more than one, falls within the list of offences set out in the Second Schedule to the Judicature Act, No. 2 of 1978, the Magistrate shall follow the procedure laid down in Chapter XV.

(2) Where the offence appears to be one triable summarily in a Magistrate's Court the Magistrate shall follow the procedure laid down in Chapter XVII :

Provided that if the Magistrate is of opinion that the offence cannot be adequately punished by a Magistrate's Court he shall forthwith stop further proceedings and forward the record of the case to the Attorney-General. and thereafter abide the instructions of the Attorney-General :

Provided further that in any case where any of the offences do not fall within those set out in the Second Schedule to the Judicature Act, No. 2 of 1978, the Attorney-General may in accordance with section 145 (*b*) direct the Magistrate to follow the procedure laid down in Chapter XV and the Magistrate shall then follow such procedure.

In case of homicide Magistrate to hold inquiry on spot.

143. If in a proceeding instituted under section 136 the case appears to be one of culpable homicide the Magistrate shall, unless for reasons to be recorded by him he thinks it inexpedient, go to the spot where such offence appears to have been committed and if the accused be present before him shall proceed to hold such part of the inquiry directed by Chapter XV as may be necessary, and if the accused be not present shall hold an examination of such persons as may seem to him to be able to give material evidence.

Such examination shall be recorded in the manner provided in section 138 (2).

In summons case personal attendance of the accused may be dispensed with.

144. Whenever a Magistrate issues a summons he may in his discretion dispense with the personal attendance of the accused and permit him to appear by a pleader :

Provided always that the Magistrate may in his discretion at any stage of the proceedings direct the personal attendance of the accused and enforce his attendance in manner herein before provided.

CHAPTER XV

OF THE INQUIRY INTO CASES WHICH APPEAR NOT TO BE TRIABLE SUMMARILY BY MAGISTRATE'S COURT BUT TRIABLE BY THE HIGH COURT.

Preliminary inquiry.

145. When the accused appears or is brought before the Magistrate's Court, the Magistrate shall in a case—

(*a*) where the offence or any one of them where there is more than one, falls within the list of offences set out in the Second Schedule to the Judicature Act, No. 2 of 1978 ; or

(*b*) where the Attorney-General being of opinion that evidence recorded at a preliminary inquiry will be necessary for preparing an indictment, within three months of the date of the commission of the offence so directs,

hold a preliminary inquiry according to the provisions hereinafter mentioned.

Accused to be informed of charge.

146. A Magistrate conducting a preliminary inquiry shall at the commencement of such inquiry read over to the accused the charge or charges in respect of which the inquiry is being held, but upon such reading over the accused shall not be required to make any reply thereto ; if any such reply is made, it shall not be recorded by the Magistrate ; nor shall any such reply be admissible in evidence against the accused.

Information Book. Entries to be tendered.

147. The officer in charge of the police station where the relevant Information Book is kept shall at the commencement of the inquiry furnish to the Magistrate two certified copies of the notes of investigation and of all statements recorded in the course of the investigation.

Depositions.

148. (1) The Magistrate shall then take, in the presence of the accused and in the manner hereinafter provided, the statements on oath or affirmation of those who know the facts and circumstances of the case, and put them in writing (called the depositions) :

Provided that the Magistrate shall not except where the Attorney-General otherwise directs summon and record the evidence of any expert witness but shall only cause such witness's report to be produced and filed of record.

(2) Subject to the proviso to subsection (1) the accused may put questions to each witness produced against him and the answer of the witness thereto shall be part of his deposition.

(3) If the accused is not represented by an attorney-at-law the Magistrate shall, at the close of the examination of each witness for the prosecution, ask the accused whether he wishes to put any questions to the witness.

Depositions where the accused is absconding or abroad.

(4) (*a*) Where the accused—

(i) is absconding or has left the island ; or

(ii) is unable to attend or remain in court by reason of illness and either has consented to the commencement or continuance of the inquiry in his absence or such inquiry may commence or continue without any prejudice to him ; or

(iii) by reason of his conduct in court is obstructing or impeding the progress of the inquiry,

the Magistrate may, if satisfied of these facts, commence and proceed or continue with the inquiry in the absence of the accused.

(*b*) An attorney-at-law may appear for such absent accused.

(*c*) The inquiry shall proceed as far as is practicable in accordance with the provisions of this Chapter and section 416 shall apply to the depositions recorded where there is a trial on indictment in the High Court whether the accused is present in the High Court or not.

Variance between charge and evidence.

149. (1) Any variance between facts stated in the charge read over to the accused under section 146 and the evidence adduced in support thereof as to the time or place at which the offence or act is alleged to have been committed shall not be deemed material if it be proved, in the case of the time, that the charge was in fact laid within the time limited by law for laying the same and, in the case of the place, that the jurisdiction of the court is not ousted hereby.

(2) Any variance in any other respect between the facts stated in the charge and the evidence adduced in support thereof shall not be material :

Provided that the accused shall not be convicted of any offence other than that with which he has been charged unless such other offence is one of which he may be lawfully convicted under the provisions of this Code upon the trial of the offence with which he is charged.

(3) Where any variance as is mentioned in this section appears to the Magistrate to be such that the accused has been thereby deceived or misled, the Magistrate may upon such terms as he shall think fit adjourn the inquiry to some further day.

(4) Upon any such variance appearing the Magistrate may make such amendment of the charge as he deems fit and may permit any witness to be recalled and further questioned upon any matters relevant to the variance or amended charge.

Charges to be read to accused after close of prosecution case.

150. After the examination of the witnesses called on behalf of the prosecution and provided that the Magistrate does not consider that the case should be dealt with in accordance with the provisions of section 153, the Magistrate shall read the charge to the accused and explain the nature thereof in ordinary language and inform him that he has the right to call witnesses and, if he so desires, to give evidence on his own behalf.

Provisions as to taking statement of accused.

151. (1) The Magistrate shall then address to the accused the following words or words to the like effect :—

"Do you wish to say anything in answer to the charge? You are not obliged to say anything unless you desire to do so, but whatever you say will be taken down in writing and put in evidence at your trial".

(2) Before the accused makes any statement in answer to the charge, the Magistrate shall state to him and give him clearly to understand that he has nothing to hope from any promise of favour and nothing to fear from any threat which may be held out to him to induce him to make any admission or confession of his guilt, but that whatsoever he then says will be given in evidence at his trial, notwithstanding the promise or threat.

(3) Any statement the accused makes in answer to the charge shall be recorded in the manner provided by section 277.

Evidence for the defence.

152. (1) Immediately after complying with the requirements of section 151 relating to the statement of the accused, and whether the accused has or has not made a statement, the Magistrate shall ask the accused whether he desires to give evidence on his own behalf and whether he desires to call witnesses.

(2) If the accused in answer to the question states that he wishes to give evidence but not to call witnesses, the Magistrate shall proceed to take forthwith the evidence of the accused, and after the conclusion of the evidence of the accused, his attorney-at-law (if the accused is represented) shall be heard on his behalf, if he so desires.

(3) If the accused in answer to the question states that he desires to give evidence on his own behalf and to call witnesses, or to call witnesses only, the Magistrate shall proceed to take either forthwith, or, if a speech is to be made by an attorney-at-law on behalf of the accused, after the conclusion of the speech, the evidence of the accused, if he desires to give evidence himself, and of any witness called by him who knows anything relating to the facts and circumstances of the case or anything tending to prove the innocence of the accused.

(4) If the accused states that he has witnesses to call, but that they are not present in court, and the Magistrate is satisfied that the absence of such witnesses is not due to any fault or neglect of the accused, and that there is a likelihood that they could, if present, give material evidence on behalf of the accused, the Magistrate may adjourn the inquiry and issue process or take other steps to compel the attendance of such witnesses.

(5) Evidence given by the accused or any such witness as aforesaid shall be taken down in writing and the provisions of section 148 shall apply in the case of witnesses for the defence as they apply in the case of witnesses for the prosecution, except that the Magistrate shall not bind over to attend the trial any witness who is a witness merely to the character of the accused.

Discharge.

153. (1) If the Magistrate considers that the evidence against the accused is not sufficient to put him on his trial, the Magistrate shall forthwith for reasons to be recorded by him order him to be discharged as to the particular charge under inquiry ; but such discharge shall not be a bar to any subsequent charge in respect of the same facts :

Provided that nothing contained in this section shall prevent the Magistrate from either forthwith or after such adjournment of the inquiry as may seem expedient in the interests of justice, proceeding to investigate any other charge upon which the accused may have been summoned or otherwise brought before him, or which, in the course of the charge so dismissed as aforesaid, it may appear that the accused has committed.

(2) Anything in this section shall not be deemed to prevent the Magistrate from discharging the accused at any stage of the case if for reasons (to be recorded by him) he considers the complaint to be groundless.

Commitment for trial

154. If the Magistrate considers the evidence sufficient to put the accused on his trial, the Magistrate shall commit him for trial before the High Court.

Accused's witnesses.

155. (1) The Magistrate shall at the time of committing the accused for trial require the accused to state orally there and then the names of persons (if any) whom he wishes to be required to give evidence at his trial, dis-

tinguishing between those whom he proposes to call to speak to facts and those who are merely to speak to character.

(2) The Magistrate shall prepare a list of such of the witnesses named by the accused under subsection (1) as have not already given evidence before him and shall direct the Fiscal to issue a notice on each such witness requiring him to appear before the court of trial on the date specified in the notice :

Provide, however, that the Magistrate may exclude from such list the name of any witness if he is of opinion that the evidence of such witness is not material.

(3) Where any witness on whom a notice under subsection (2) has been served fails to appear in the court of trial as directed by such notice, that notice shall, for the purpose of the application of sections 63 and 64, be deemed to be a summons which the court of trial is empowered to issue and the provisions of those sections shall apply accordingly.

(4) Service of any notice under this section shall be effected in the manner provided for the service of summons in sections 45 and 46 and the provisions of section 49 shall apply accordingly for the purpose of proving such service :

Provided that if service cannot be effected in such manner by the exercise of due diligence, the notice shall be affixed to some conspicuous part of the house or homestead in which the witness ordinarily resides, and in such case the notice shall be deemed to have been duly served.

Material witnesses to be bound over to appear.

156. (1) When the Magistrate commits the accused for trial he shall require every material witnesses for the prosecution or defence who has appeared before him and given evidence and who has not already been bound over, to execute a bond with or without sureties for his appearance to give evidence at the trial and,if required, at any further

examination concerning the charge against the accused which may be held by the direction of the Attorney-General; and for the like purpose it shall be lawful for any Magistrate who examines any witness on commission under the provisions hereinafter contained to require such witness so examined to execute a bond with or without sureties as such Magistrate may determine.

(2) The Magistrate may at any stage of the inquiry require any witness to execute such bond as in the last subsection mentioned for appearance at any further stage of the proceedings either in that court or in the High Court, in case the accused be committed for trial. It shall not be necessary to specify the sessions of the High Court in the bond, but the obligor shall be bound on receiving reasonable notice to attend at the trial in whatever sessions of the High Court the accused may be tried.

(3) If a witness refuses or neglects to execute such bond the Magistrate may commit him to prison until such bond is duly executed or until the trial, when he shall be sent in custody to the court of trial.

(4) The Magistrate shall endorse on the warrant of committal the names of all persons who have been bound over under this section or who having refused to be bound over have been committed to prison.

(5) Every person who executes such bond shall give to the Magistrate an address at which all notices respecting the further proceedings in the case may be left for him, and any notice left at such address for him shall (until the contrary be proved) be deemed to have been received by him.

Magistrate to certify record.

157. The Magistrate shall if the accused is committed for trial record whether the accused is on bail or in custody and certify under his hand the record of the inquiry.

Accused entitled to copy of evidence and statements to the police.

158. When the accused has been committed for trial he shall, if he demands it at a reasonable time before the trial, be furnished on payment therefor at the rate of twenty-five cents for a hundred words—

(*a*) with a certified copy of the record or any part thereof by the officer in charge of the record; and

(*b*) with a certified copy of the statements to the police of the witnesses who have testified before the Magistrate and of the statements (if any) to the police of the accused, by the officer in charge of the police station where the relevant books are kept.

Record to be forwarded to court of trial, and certified copy of record to Attorney-General.

159. (1) When the Magistrate commits the accused for trial he shall, subject to the provisions of this Code regarding the taking of bail by warrant addressed to the Superintendent of any prison, commit the accused to the custody of the said superintendent until and during the trial.

(2) The Magistrate shall forthwith transmit—

(*a*) to the High Court—

(i) the record of the inquiry together with all documents and things produced in evidence; and

(ii) a copy certified under his hand of such record and of such documents; and

(iii) one of the certified copies of the notes of investigation and of statements furnished by the officer in charge of the police station;

(*b*) to the Attorney-General—

(i) a copy certified under his hand of the record of inquiry and of all the documents produced in evidence together with as many of such certified copies as there are accused; and

(ii) one of the certified copies of the notes of investigation and of statements furnished by the officer in-charge of the police station,

(3) The provisions of section 264 shall apply to every warrant issued under this section.

Presentation and service of indictment.

160. (1) If after the receipt by him of the certified copy of the record of an inquiry, the Attoreny-General is of opinion that the case is one which should be tried upon indictment before the High Court, an indictment shall be drawn up and when signed in accordance with the provisions of section 162 (3) shall forwarded to and filed in the High Court.

(2) The fact that the indictment has been so signed, forwarded, and filed shall be equivalent to a statement that all conditions required by law to constitute the offence charged and to give such court jurisdiction have been fulfilled in the particular case.

(3) The Attorney-General may, subject to the provisions of this Code relating to the joinder of charges, substitute or include in the indictment any charge in respect of any offence which is disclosed by the evidence taken by the Magistrate, notwithstanding that such charge was not read to the accused by the Magistrate.

When trial shall be by jury and when not.

161. Subject to the provisions of this Code and any other written law in every case where at least one of the offences falls within the list of offences set out in the Second Schedule to the Judicature Act, No. 2 of 1978, or in any case where the Attorney-General having regard to the nature and circumstances of the offence determines that the trial should be held in the High Court by a jury, trial shall be on indictment in the High Court by a jury. In every other case and whether there was a preliminary inquiry under this Chapter or not, trial shall be on indictment in the High Court without a jury.

Contents of indictment.

162. (1) Every indictment for trial in the High Court whether with or without a jury shall contain a list of witnesses whom the prosecution intends to call and another list of documents and things intended to be produced at the trial which documents and things shall be called "productions".

But anything in this subsection shall not be deemed or construed to debar the prosecution after notice to the accused, from calling any witness or producing any document or thing not specified in the indictment.

(2) To every indictment shall be attached the following documents:—

(*a*) where there was a preliminary inquiry under this Chapter a certified copy of the record of inquiry and of the documents and of the inquest proceedings if there had been an inquest;

(*b*) whether there was a preliminary inquiry under this Chapter or not, copies of—

(i) the statements to the police of the accused; and

(ii) every statement to the police of all the witnesses listed in the indictment;

(*c*) copies of all reports and sketches listed in the indictment;

(*d*) copies of the notes of any identification parades that may have been held during the investigation of the case;

(*e*) copies of any statements made to the Magistrate under section 127 by—

(i) the accused; and

(ii) any witness listed in the indictment; and

(*f*) copies of such portion of the notes, containing the observations of the scene of offence, made during the investigation of the offence by a police officer.

(3) The indictment shall be in the prescribed form and shall be brought in the name of the Attorney-General and shall be signed by the Attorney-General or the Solicitor-General or a State Counsel.

(4) The proceedings shall not abate or determine by reason of the death or removal from office of the Attorney-General.

Inquiry to be concluded in a month.

163. Every inquiry held under this Chapter shall be concluded within one month of the commencement of the proceedings unless the Magistrate, of reasons to be recorded by him, finds it necessary to prolong the inquiry beyond the period of one month.

CHAPTER XVI

OF THE CHARGE

Charge to state offence.

164. (1) Every charge under this Code shall state the offence with which the accused is charged.

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

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

(4) The law and section of the law under which the offence said to have been committed is punishable shall be mentioned in the charge.

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

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

Illustrations

(*a*) A is charged with the murder of B. This is equivalent to a statement that A's act fell within the definition of murder given in sections 293 and 294 of the Penal Code; that it did not fall within any of the general exceptions of the same Code and that it did not fall within any of the five exceptions to section 294, or that if it did fall within exception 1, one or other of the three provisos to that exception applied to it.

(*b*) A is chagred under section 317 of the Penal Code with voluntarily causing grievous hurt to B by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 326 of the Penal Code and that the general exception did not apply to it.

(*c*) A is accused of murder, cheating, theft, extortion, criminal intimidation or using a false property-mark. The charge may state that A committed murder or cheating or theft or extortion or criminal intimidation, or that he used a false property-mark without reference to the definitions of those crimes contained in the Penal Code.

(*d*) A is charged under section 182 of the Penal Code with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in these words.

Particulars as to time, place and person.

165. (1) The charge shall contain such particulars as to the time and place of the alleged offence and as to the person (if any) against whom and as to the thing (if any) in respect of which it was committed as are reasonably sufficient to give the accused notice of the matter with which he is charged and to show that the offence is not prescribed.

(2) When the accused is charged with criminal breach of trust or dishonest misappropriation of movable property, it shall be sufficient to sepecify the gross sum or, as the case may be, the gross quantity in respect of which the offence is alleged to have been committed, and the dates between which the offence is alleged to have been committed without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 174 :

Provided that the time included between the first and last of such dates shall not exceed one year.

When manner of committing offence must be stated.

(3) When the nature of the case is such that the particulars mentioned in section 164 and the preceding subsections of this section do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

Illustrations

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

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

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

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

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

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

What sense to be attached to words used in.

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

Effect of errors.

166. Any error in stating either the offence or the particulars required to be stated in the charge and any omission to state the offence or these particulars shall not be regarded at any stage of the case as material, unless the accused was misled by such error or omission.

Illustrations

(a) A is charged under section 237 of the Penal Code with "having been in possession of counterfeit coin having known at the time when he became possessed thereof that such coin was counterfeit", the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission the error shall not be regarded as material.

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

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

Court may alter charge.

167. (1) Any court may alter any indictment or charge at any time before judgment is pronounced or, in the case of trials before the High Court by a jury, before the verdict of the jury is returned.

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

(3) The substitution of one charge for another in an indictment or the addition of a new charge to an indictment and in a Magistrate's Court the substitution of one charge for another or the addition of a new charge shall be deemed to be an alteration of such indictment or charge within the meaning of this section.

When trial may proceed on altered charge immediately.

168. If the alteration made under section 167 is such that proceeding immediately with the trial is not likely in the opinion of the court to prejudice the accused in his defence or the prosecutor in the conduct of the case, the court may in its discretion after such alteration has been made, proceed with the trial as if the altered indictment or charge had been the original indictment or charge.

When new trial may be directed or trial adjourned.

169. If the alteration made under section 167 is such that proceeding immediately with the trial is likely in the opinion of the court to prejudice the accused or the prosecutor as aforesaid, the court may either direct a new trial or adjourn the trial for such period as may be necessary.

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

170. If the indictment or charge as altered under section 167 alleges an offence for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained unless sanction has been already obtained for a prosecution on the same facts as those on which the altered indictment or charge is founded.

Recall of witnesses when altered.

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

Effect of material error.

172. (1) If the Supreme Court or the Court of Appeal in the exercise of its powers of appeal or revision is of opinion that any person convicted of an offence was misled in his defence by an error in the indictment or charge, it shall direct a new trial to be had upon a charge or indictment framed in whatever manner it thinks fit or make such other order as the justice of the case may require.

(2) If such Court is of opinion that the facts of the case are such that any valid charge cannot be preferred against the accused in respect of the facts proved or where the circumstances so warrant, it shall quash the conviction.

Illustration

A is convicted of an offence under section 193 of the Penal Code upon a charge which omits to state that he knew the evidence which he corruptly used or attempted to use as true or genuine was false or fabricated. If the Court thinks it probable that A had such knowledge and that he was misled in his defence by the omission from the charge of the statement that he had it, it shall direct a new trial upon an amended charge; but if it appears probable from the proceedings that A had no such knowledge it shall quash the conviction.

JOINDER OF CHARGES.

Separate charge for separate offence.

173. For every distinct offence of which any person is accused there shall be a separate charge and every such charge shall be tried separately except in the cases mentioned in sections 174, 175, 176 and 180 which said sections may be applied either severally or in combination.

Illustration

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

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

174. (1) When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences he may be charged with and tried at one trial for any number of them not exceeding three, and in trials before the High Court such charges may be included in one and the same indictment.

(2) Offence are of the same kind when they are punishable with the same amount of punishment under the same section of the Penal Code or of any special or local law.

Trial for more than one offence.

175. (1) If in one series of acts so connected together as to form the same transaction more offences than one are committed by the same person he may be charged with and tried at one trial for every such offence, and in trials before the High Court such charges may be included in one and the same indictment.

Offence falling within two definitions.

(2) If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished the person accused of them may be charged with and tried at one trial for each of such offences, and in trials before the High Court such charges maybe included in one and the same indictment.

Acts constituting one offence but constituting another offence when combined.

(3) If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence the person accused of them may be charged with and tried at one trial for the offence constituted by such acts when combined and for any offence constituted by any one or more of such acts and in trials before the High Court such charges may be included in one and the same indictment.

(4) Anything contained in this section shall not affect section 67 of the Penal Code.

Illustrations

To subsection (1) :

(*a*) A rescues B, a person in lawful cutsody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be charged with and tried for offences under sections 220 and 324 of the Penal Code.

(b) A has in his possession several seals knowing them to be counterfeit and intending to use them for the purpose of committing several forgeries punishable under section 455 of the Penal Code. A may be separately charged with and convicted of the possession of each seal under section 461 of the Penal Code.

(c) A with intent to cause injury to B institutes a criminal proceeding against him knowing that there is no just or lawful ground for such proceeding and also falsely accuses B of having committed an offence knowing that there is no just or lawful ground for such accusation. A may be separately cahrged with and convicted of two offences under section 208 of the Penal Code.

(d) A with intent to cause injury to B falsely accuses him of having committed an offence knowing that there is no just or lawful ground for such accusation. On the trial A gives false evidence against B intending thereby to cause B to be convicted of a capital offence. A may be separately charged with and convicted of offence under section 208 and 191 of the Penal Code.

(e) A with six others commits the offences of rioting, grievous hurt, and assaulting a public servant endeavouring in the discharge of his duty as such to suppress the riot. A may be separately charged with and convicted of offences under sections 144, 316 and 149 of the Penal Code.

(f) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with and convicted of each of the three offences under section 486 of the Penal Code.

To subsection (2) :

(g) A wrongfully strikes B with a cane, A may be separately charged with and convicted of offences under sections 343 and 314 of the Penal Code,

(h) Several stolen sacks of corn are made over to A and B, who know they are stolen property, for the purpose of concealing them. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged with and convicted of offences under section 394 and 396 of the Penal Code.

(i) A exposes her child with the knowledge that she is thereby likely to cause its death. The child dies in consequence of such exposure. A may be separately charged with and convicted of offences under sections 308 and 297 of the Penal Code.

(j) A dishonestly uses a forged document as genuine evidence in order to convict B, a public servant, of an offence under section 163 of the Penal Code. A may be separately charged with and convicted of offences under sections 450 (read with 455) and 193 of the same Code.

To subsection (3) :

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

The separate charges referred to in illustrations (a) to (k) respectively may be tried at one trial and included in one and the same indictment.

Where it is doubtful what offence has been committed.

176. If a single act or series of cts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with all or any one or more of such offences and any number of such charges may be tried at one trial and in a trial before the High Court may be included in one and the same indictment; or may be charged with having committed one of the said offences without specifying which one.

Illustration

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

When a person charged with one offence may be convicted of a different offence.

177. If in the case mentioned in section 176 the accused is charged with one offence and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed although he was not charged with it.

Illustration

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

When offence proved included in offence charged.

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

(2) When a person is charged with an offence and facts are proved which reduce it to a minor offence he may be convicted of the minor offence although he was not charged with it and although jurisdiction to try such minor offence is exclusively vested in some other court.

(3) Anything in this section shall not be deemed to authorize a conviction for any offence referred to in section 135 when a complaint has not been made as required by that section.

Illustrations

(*a*) A is charged under section 390 of the Penal Code with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under section 389 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 389.

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

Conviction of an attempt to commit an offence though attempt is not separately charged.

179. When a person is charged with an offence and it is proved that he attempted to commit that offence and that in such attempt he did an act towards the commission of that offence he may be convicted of an attempt to commit that offence although he was not charged with such attempt :

Provided that anything in this section shall not be deemed to authorize the conviction of any person for an attempt to commit an offence unless an attempt to commit that offence is made punishable by any written law for the time being in force in Sri Lanka.

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

180. When more persons than one are accused of jointly committing the same offence or of different offences committed in the same transaction or when one person is accused of committing any offence and another or abetment of or attempt to commit such offence, they may be charged and tried together or separately as the court thinks fit ; and the provisions contained in the former part of this Chapter shall apply to all such charges.

Illustrations

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

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

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

(*d*) A and B are accused of being members of opposing factions in a riot. They should be indicted and tried separately.

(*e*) A and B are accused of giving false evidence in the same proceeding. They should be indicted and tried separately.

When conviction on one charge remaining charges may be withdrawn.

181. (1) When more charges than one are made against the same person and when a conviction has been had on one or more of them the officer conducting the prosecution may with the consent of the court withdraw the remaining charge or charges or the court of its own accord may stay the inquiry into or trial of such charge or charges.

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

CHAPTER XVII

THE TRIAL OF CASES WHERE A MAGISTRATE'S COURT HAS POWER TO TRY SUMMARILY

Particulars of case to be stated to accused.

182. (1) Where the accused is brought or appears before the court the Magistrate shall if there is sufficient ground for proceeding against the accused, frame a charge against the accused.

(2) The Magistrate shall read such charge to the accused and ask him if he has any cause to show why he should not be convicted.

Admission of offence by accused.

183. (1) If the accused upon being asked if he has any cause to show why he should not be convicted makes a statement which amounts to an unqualified admission that he is guilty of the offence of which he is accused, his statement shall be recorded as nearly as possible in the words used by him; and the Magistrate shall record a verdict of guilty and pass sentence upon him according to law and shall record such sentence:

Provided that the accused may with the leave of the Magistrate withdraw his plea of guilt at any time before sentence is passed upon him, and in that event the Magistrate shall proceed to trial as if a conviction has not been entered.

(2) If the accused does not make a statement or makes a statement which does not amount to an unqualified admission of guilt the Magistrate shall ask him if he is ready for trial and—

(*a*) if the accused replies that he is ready for trial shall proceed to try the case in manner hereinafter provided, but

(*b*) if the accused replies that he is not ready for trial by reason of the absence of witnesses or otherwise the Magistrate shall, subject to the provisions of subsection (3) of section 263, either postpone the trial to a day to be then fixed or proceed forthwith to try the case in manner hereinafter provided.

But anything herein contained shall not prevent the Magistrate from taking in manner hereinafter provided the evidence of the prosecution and of such of the witnesses for the defence as may be present, and then, subject to the pro-

visions of subsection (3) of section 263 for reasons to be recorded by him in writting adjourning the trial for a day to be fixed by him.

Procedure on trial.

184. (1) When the Magistrate proceeds to try the accused he shall take all such evidence as may be produced for the prosecution or defence respectively.

(2) The accused shall be permitted to cross-examine all witnesses called for the prosecution and called or recalled by the Magistrate.

(3) The complainant and accused or their pleaders shall be entitled to open their respective cases, but the complainant or his pleader shall not be entitled to make any observations in reply upon the evidence given by or on behalf of the accused.

Verdict.

185. If the Magistrate after taking the evidence for the prosecution and defence and such further evidence (if any) as he may of his own motion cause to be produced finds the accused not guilty, he shall forthwith record a verdict of acquittal. If he finds the accused guilty he shall forthwith record a verdict of guilty and pass sentence upon him according to law and shall record such sentence.

Power of Magistrate to discharge accused at any time.

186. Anything herein before contained shall not be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case, but he shall record his reasons for doing so:

Provided that, if the Magistrate is satisfied, for reasons to be recorded by him, that further proceedings in the case will not result in the conviction of the accused, he shall acquit the accused.

What to be done when different offence disclosed in course of proceedings.

187. (1) If from the facts admitted or proved it appears that the accused has committed an offence within the jurisdiction of the Magistrate to try other than that specified in the charge, the Magistrate may convict the accused of such offence, but before he so convicts he shall frame a charge and shall read and explain it to the accused, and such of the provisions of Chapter XVI as relate to altered charges shall apply to the charge framed under this section.

(2) If from the facts admitted or proved it appears that the accused has committed an offence—

(*a*) falling within the list of offences set out in the Second Schedule to the Judicature Act, No. 2 of 1978, the

Magistrate shall not convict but shall stay proceedings under this Chapter and commence the proceedings afresh under Chapter XV ; or

(*b*) not falling within the list of offences in that Schedule but still not triable summarily by him, the Magistrate shall not convict but shall stay proceedings and report the case to the Attorney-General and then abide his instructions.

Accused may be acquitted in the absence of complainant.

188. (1) If the summons has been issued on a complaint under section 136 (1) (*a*) upon the day and hour appointed for the appearance of the accused or at any time to which the hearing may be adjourned the complainant does not appear the Magistrate shall notwithstanding anything herein before contained acquit the accused unless for some reason he thinks proper to adjourn the hearing of the case to some other hour or day, and may in addition make an order for payment by the complainant of State costs as hereinafter provided :

Provided that if the complainant appears in reasonable time and satisfies the Magistrate that his absence was due to sickness, accident or some other cause over which he had no control, then the Magistrate shall cancel any order made under this subsection.

(2) If the summons has been issued on a complainant under section 136 (1) (*b*) or (*c*) as the case may be, and on the day fixed for trial the prosecution is not ready the court may discharge the accused unless for some reason the court thinks proper to adjourn the hearing of the case to some other hour or day.

(3) If the order of discharge referred to in subsection (2) has been made for the second time in respect of the same offence, such order of discharge shall amount to an acquittal.

Withdrawal of charge by complainant.

189. If a complainant at any time before judgment is given in any case under this Chapter satisfies the Magistrate that there are sufficient grounds for permitting him to withdraw the case the Magistrate may permit him to withdraw the same and shall thereupon acquit the accused, but he shall record his reasons for doing so :

Provided, however, that anything herein contained shall not be taken to extend the powers of a Magistrate to allow the compounding of offences under the provisions of section 266.

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

190. In any case tried under this Chapter otherwise than upon a complaint under section 136 (1), paragraphs (*a*), (*c*) and (*d*), the Magistrate may with the previous sanction of the Attorney-General, for reasons to be recorded by the Magistrate, stop the proceedings at any stage without pronouncing any judgment either of acquittal or conviction and may thereupon discharge the accused.

By whom prosecution under this Chapter may be conducted.

191. (1) Subject to subsection (2) the Attorney-General, the Solicitor-General, a State Counsel or a pleader generally or specially authorized by the Attorney-General shall be entitled to appear and conduct the prosecution in any case tried under this Chapter, but in the absence of the Attorney-General, the Solicitor-General, a State Counsel and any pleader as aforesaid the complainant or any officer of any Government Department or any officer of any Municipality, Urban Council or Town Council may appear in person or by pleader to prosecute in any case in which such complainant or Government Department or Municipality or Urban Council or Town Council is interested:

Provided that in the absence of the Attorney-General, the Solicitor-General, a State Counsel or a pleader generally or specially authorized by the Attorney-General the Magistrate may, where an attorney-at-law does not appear for the complainant, permit any attorney-at-law to appear and conduct the prosecution on behalf of the person against whom or in respect of whom the accused is alleged to have committed the offence.

(2) If the complaint is one filed under paragraph (*a*) of subsection (1) of section 136, the Attorney-General, Solicitor-General, a State Counsel or pleader specially or generally authorized by the Attorney-General shall except where such complaint has been filed against an officer or employee of the State in respect of a matter connected with or relating to the discharge of the official duties of such officer or employee, not have a right to appear for the complainant without his consent.

Trial may proceed in absence of accused.

192. (1) Where the accused—

(*a*) is absconding or has left the island; or

(*b*) is unable to attend or remain in court by reason of illness and either had consented to the commencement or continuance of the trial in his absence or such trial may commence and proceed or continue in his absence without prejudice to him; or

(*c*) by reason of his conduct in court is obstructing or impeding the progress of the trial,

the Magistrate may, if satisfied of these facts, commence and proceed with the trial in the absence of the accused.

(2) Where in the course of or within a reasonable time of the conclusion of the trial of an accused person under paragraph (*a*) of subsection (1) the accused person appears in court and satisfies the court that his absence from the whole or part of the trial was bona fide, then.—

(*a*) where the trial has not been concluded, the evidence led against the accused up to the time of his appearance before court shall be read to him and an opportunity afforded to him to cross-examine the witnesses who gave such evidence; and

(*b*) where the trial has been concluded, the court shall set aside the conviction and sentence, if any, and order that the accused be tried *de novo*.

(3) The provisions of subsection (2) shall not apply if the accused person had been defended by an attorney-at-law at the trial during his absence.

CHAPTER XVIII

TRIALS BY HIGH COURT

A—GENERAL

By whom trials before High Court to be conducted.

193. In every trial before the High Court the prosecution shall be conducted by the Attorney-General or the Solicitor-General or a State Counsel or by some pleader generally or specially authorized by the Attorney-General in that behalf.

Attorney-General may withdraw prosecution.

194. (1) At any stage of a trial before the High Court under this Code before the return of the verdict the Attorney-General may, if he thinks fit, inform the court that he will not further prosecute the accused upon the indictment or any charge therein, and thereupon all proceedings on such indictment or charge as the case may be against the accused shall be stayed and he shall be discharged of and from the same.

(2) The information under this section may either be oral or in writing under the hand of the Attorney-General.

(3) The prosecuting counsel may with the consent of the presiding Judge at any stage of the trial before the return of the verdict withdraw the indictment or any charge therein and thereupon all proceedings on such indictment or charge as the case may be against the accused shall be stayed and he shall be discharged of and from the same.

Duty of Judge upon receipt of indictment.

195. Upon the indictment being received in the High Court, the Judge of the High Court presiding at the sessions of the High Court holden in the judicial zone whereat the trial is to be held shall—

(*a*) cause the accused to appear or to be brought before him;

(*b*) cause a copy of the indictment with its annexes to be served on each of the accused who will be tried upon that indictment;

(*c*) inform the accused of the date of trial;

(*d*) subject to the provisions of section 403 direct the accused to execute a bond to appear in court for his trial or by warrant addressed to the superintendent of any prison authorize the detention of the accused pending his trial;

(*e*) cause the accused to be finger-printed and forward the prints to the Registrar of Finger Prints for examination and report to the prosecuting State Counsel;

(*f*) where trial is to be by a jury direct the accused to elect from which of the respective panels of jurors the jury shall be taken for his trial and inform him that he shall be bound by and may be tried according to the election so made;

(*g*) where the accused on being asked by court so requests, assign an attorney-at-law for his defence.

B—Trial By Judge Of The High Court Without A Jury

Commencement Of Trial

Arraignment of accused.

196. When the court is ready to commence the trial the accused shall appear or be brought before it and the indictment shall be read and explained to him and he shall be asked whether he is guilty or not guilty of the offence charged.

Plea of guilty.

197. If the accused pleads guilty and it appears to the satisfaction of the Judge that he rightly comprehends the effect of his plea, the plea shall be recorded on the indictment and he may be convicted thereon.

Refusal to plead or plea of not guilty.

198. If the accused does not plead or if he pleads not guilty, he shall be tried.

Counsel to open his case and call witnesses.

199. (1) The trial shall commence by the prosecuting counsel stating his case to the court.

(2) The witnesses for the prosecution shall then be examined.

(3) All statements of the accused recorded in the course of the inquiry in the Magistrate's Court, if there had been one, shall be put in and read in evidence before the close of the case for the prosecution.

(4) It shall be lawful for the court to call any witnesses not called by the prosecution if the interests of justice so require but such witnesses should be tendered for cross-examination by the prosecuting counsel and by the accused.

(5) The accused shall be permitted to cross-examine all witnesses called for the prosecution.

Court may acquit without calling for defence, or call for defence.

200. (1) When the case for the prosecution is closed, if the Judge wholly discredits the evidence on the part of the prosecution or is of opinion that such evidence fails to establish the commission of the offence charged against the accused in the indictment or of any other offence of which he might be convicted on such indictment, he shall record a verdict of acquittal ; if however the Judge considers that there are grounds for proceeding with the trial he shall call upon the accused for his defence.

(2) If the accused or his pleader announces his intention not to adduce evidence, the prosecuting counsel may address the court a second time in support of his case for the purpose of summing up the evidence against the accused.

Accused may make his defence.

201. (1) If the accused or his pleader announces his intention to adduce evidence, the accused or his pleader may enter upon his defence and may examine his witnesses (if any) and the accused person or his pleader may then sum up his case.

(2) The prosecuting counsel will be entitled to cross-examine all the witnesses called by the defence to testify on oath or affirmation.

When prosecuting counsel entitled to call witnesses in rebuttal.

202. If any evidence is adduced on behalf of the accused the prosecuting counsel may with the leave of the Judge call witnesses in rebuttal.

Judge to pass judgment.

203. When the cases for the prosecution and defence are concluded, the Judge shall forthwith or within ten days of the conclusion of the trial record a verdict of acquittal or conviction giving his reasons therefor and if the verdict is one of conviction pass sentence on the accused according to law.

C—TRIAL BY JURY

Commencement Of Trial

Arraignment of accused.

204. When the court is ready to commence the trial the accused shall appear or be brought before it and the indictment shall be read and explained to him and he shall be asked whether he is guilty or not guilty of the offence charged.

Plea of guilty may be recorded and accused convicted thereon.

205. If the accused pleads guilty and it appears to the satisfaction of the Judge that he rightly comprehends the effect of his plea, the plea shall be recorded on the indictment and he may be convicted thereon:

Provided that when the indictment so pleaded to is one of murder the Judge may refuse to receive the plea and cause the trial to proceed in like manner as if the accused person had pleaded not guilty.

Refusal to plead.

206. If the accused does not plead or if he pleads not guilty or if in the circumstances set out in the proviso to section 205, the Judge refuses to receive the plea jurors shall be chosen to try the case as hereinafter provided.

When accused pleads not guilty or is willing to plead guilty to a lesser offence.

207. If the accused pleads not guilty but states that he is willing to plead guilty to a lesser offence for which he might have been convicted on that indictment and the prosecuting counsel is willing to accept such plea, the Judge may if he thinks that the interests of justice will be satisfied by so doing order such plea of guilty to be recorded and may pass judgment thereon accordingly, and thereupon the accused shall be discharged of the offence laid in the indictment and such discharge shall amount to an acquittal.

Special jury may be summoned.

208. (1) The prosecuting counsel or the accused may apply to the High Court at the sessions where the trial is pending for an order requiring a special jury to be summoned to try any case; and the Judge before whom such application comes up, shall if he considers such application just and reasonable make an order accordingly.

(2) Such application except when made by the Attorney-General, Solicitor-General, or State Counsel, shall be supported by affidavit.

Choosing a Jury

Number of jury and quorum for verdict.

209. (1) The jury shall consist of seven persons.

(2) The verdict returned shall be unanimous or by a majority of not less than five to two.

Empanelling of jury.

210. (1) The jury shall be taken from the panel elected by the accused unless the court otherwise directs.

(2) The jury shall be chosen by lot from the panel.

(3) As each juror is chosen his name shall be called and upon his appearance the accused shall be asked by the Registrar if he objects to be tried by such juror.

(4) Objections without grounds stated shall be allowed to the number of two on behalf of the person or all the persons charged.

(5) On the suggestion of the prosecuting counsel without grounds of objection stated any number of jurors called may be ordered by the Judge to stand by until the names of all the jurors summoned and then available for service on the jury have been gone through.

(6) If such names have been gone through without a jury having been made up the names of each of those so ordered to stand by shall be called again and the prosecuting counsel shall be called upon to state the ground of objection (if any) under section 211.

(7) If there shall not be a sufficient number of jurors present unchallenged the trial shall be adjourned to enable a new panel of jurors to be summoned.

Grounds of objection.

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

(*a*) some presumed or actual partiality in the juror ;

(*b*) some personal ground such as deficiency in the qualification required by any law or rule having the force of law for the time being in force ;

(*c*) his executing any duties of police or being entrusted with police duties ;

(*d*) his having been convicted of any offence which in the opinion of the Judge renders him unfit to serve on the jury ;

(*e*) his inability to understand the language of the panel from which the jury is drawn ;

(*f*) any other circumstance which in the opinion of the Judge renders him improper as a juror.

Decision of objection.

212. (1) Every objection taken to a juror shall be decided by the Judge and such decision shall be recorded and be final.

(2) If the objection is allowed the place of such juror shall be substituted by any other juror chosen in manner provided in this Chapter.

Foreman of jury.

213. (1) When the jurors have been chosen the Registrar shall address them in the following words : "Gentlemen of the jury, choose your foreman", and they shall thereupon proceed to do so.

(2) If a majority of the jury do not within such time as the Judge thinks reasonable agree in the appointment of a foreman he shall be appointed by the Judge.

(3) When the foreman has been appointed the jurors shall be sworn or affirmed.

Duties of foreman.

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

Procedure where juror ceases to attend &c.

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

Discharge of jury in case of sickness of prisoner.

216. The Judge may also discharge the jury whenever the prisoner becomes incapable of remaining at the bar and whenever in the opinion of the Judge the interests of justice so require.

TRIAL TO CLOSE OF CASE FOR PROSECUTION AND DEFENCE

Registrar to read indictment to jury.

217. As soon as the jury have been sworn the Registrar shall in the hearing of the accused read the indictment to the jury and the Judge shall inform them that it is their duty to listen to the evidence and upon that evidence to find by their verdict whether or not the accused is guilty of the charge, or any of the charges if more than one, laid against him, in the indictment and may also direct them briefly on the presumption of innocence, the burden of proof and such other principles of law as may be relevant to the case.

Opening of case for prosecution.

218. The prosecuting counsel shall then open his case by stating shortly the nature of the offence charged and the evidence by which he proposes to prove the guilt of the accused and shall examine his witnesses who may then be cross-examined by the accused or his pleader.

Statements by prisoner to be put in.

219. All statements of the accused recorded in the course of the inquiry if any in the Magistrate's Court shall be put in and read in evidence before the close of the case for the prosecution.

Procedure after examination of witnesses for the prosecution.

220. (1) When the case for the prosecution is closed, if the Judge considers that there is no evidence that the accused committed the offence he shall direct the jury to return a verdict of "not guilty".

(2) If the Judge considers that there is evidence that the accused committed the offence he shall ask him or his pleader if he means to adduce evidence.

(3) If the accused or his pleader announces his intention not to adduce evidence the prosecuting counsel may address the jury a second time in support of his case for the purpose of summing up the evidence against the accused.

Defence.

221. (1) The accused or his pleader may then open his case stating the facts or law on which he intends to rely and making such comments as he thinks necessary on the evidence for the prosecution. He may then call his witnesses and after they have given evidence may sum up his case.

(2) The prosecuting counsel will be entitled to cross-examine all the witnesses called by the defence to testify on oath or affirmation.

Right of accused as to examination and summoning of witnesses.

222. The accused shall be allowed to examine any witness not previously named by him if such witness is in attendance.

Witnesses in rebuttal

223. The prosecuting counsel may by leave of the Judge call witnesses in rebuttal.

View by jury of place where offence committed.

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

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

When juror may be examined.

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

Jury to attend on adjourned sitting.

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

When jury may be kept together.

227. (1) It shall not be necessary in any case to keep the jury together during any adjournment previous to the close of the Judge's summing up, but it shall be lawful for the Judge if it should appear to him to be advisable in the interests of justice in any trial to require the jury to be kept together during any adjournment.

(2) Where the jury is allowed to separate during the course of any trial the jurors may be first sworn or affirmed not to hold communication with any person other than a fellow juror upon the subject of the trial during such separation.

(3) If any such juror shall hold any such communication with any person other than a fellow juror or if any person other than a fellow juror shall hold any such communication with any such juror, such juror or person as the case may be shall be deemed to be guilty of a contempt of court and shall be punishable accordingly.

Judge may allow jurors refreshment

228. The Judge may if he thinks fit order reasonable refreshment to be procured for the jury by the Registrar at the public expense at any time during which they may be kept together either before or after the Judge has summed up.

CONCLUSION OF TRIAL

Charge to jury.

229. When the case for the defence and the prosecuting counsel's reply (if any) are concluded the Judge shall charge the jury summing up the evidence and laying down the law by which the jury are to be guided.

Duty of Judge.

230. It is the duty of the Judge—

(*a*) to decide all questions of law arising in the course of the trial and especially all questions as to the relevancy of facts which it is proposed to prove and the admissibility of evidence or the propriety of questions asked by or on behalf of the parties, and in his discretion to prevent the production of inadmissible evidence whether it is or is not objected to by the parties;

(*b*) to decide upon the meaning and construction of all documents given in evidence at the trial;

(*c*) to decide upon all matters of fact which it may be necessary to prove in order to enable evidence of particular matters to be given;

(*d*) to decide whether any question which arises is for himself or for the jury.

Judge may comment on question of fact or upon question of mixed law and fact.

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

Illustrations

(*a*) It is proposed to prove a statement made by a person not being a witness in the case on the ground that circumstances are proved which tender evidence of such statement admissible. It is for the Judge and not for the jury to decide whether the existence of those circumstances has been proved.

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

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

Duty of jury.

232. It is the duty of the jury—

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

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

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

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

Illustrations

(*a*) A is tried for the murder of B. It is the duty of the Judge to explain to the jury the distinction between murder and culpable homicide not amounting to murder and to tell them under what view of the facts A ought to be convicted of murder or of culpable homicide not amounting to murder or to be acquitted.

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

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

Each of these is a question for the jury.

Jury may retire to consider verdict.

233. (1) After the summing up the jury may retire to consider their verdict.

(2) If the jury retire they shall be committed to the charge of an officer of the court who shall first take an oath or affirmation in the prescribed form.

(3) Except with the leave of the Judge any person other than a member of the jury shall not speak to or hold any communication with any member of such jury.

When jury ready to give verdict.

234. (1) When the jury are ready to give their verdict and are all present the Registrar shall ask the foreman if they are unanimous.

(2) If the jury are not unanimous the Judge may require them to retire for further consideration.

(3) After such further consideration as the Judge considers reasonable or if either in the first instance the foreman says that they are unanimous or the Judge has not required them to retire, the Registrar shall say (the jurors being all present) : " Do you find the accused person (naming him) guilty or not guilty of the offence (naming it) with which he is charged ? ".

(4) On this the foreman shall state what is the verdict of the jury.

Verdict to be given on each charge.

235. (1) Unless otherwise ordered by the Judge the jury shall return a verdict on all the charges on which the accused is tried and the Judge may ask them such questions as are necessary to ascertain what their verdict is.

(2) If the Judge does not approve of the verdict returned by the jury he may direct them to reconsider their verdict, and the verdict given after such reconsideration shall be deemed to be the true verdict.

Entry and signing of verdict.

236. (1) The Registrar shall make an entry of the verdict on the indictment and shall then say to the jury the words folowing or words to the like effect :

" Gentlemen of the jury : attend whilst your foreman signs your verdict. The finding of you (or of so many of you as the case may be) is that the prisoner A.B. is guilty " (or " not guilty ").

(2) The foreman shall sign the verdict so entered and the verdict when so entered and signed, but not before, shall be final.

(3) When by accident or mistake a wrong verdict is delivered the jury may before it is signed or immediately thereafter amend the verdict.

Discharge of jury when they cannot agree.

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

Judgment in case of conviction.

238. If the accused is convicted the Judge shall either forthwith pass judgment on him according to law:

Provided always that if it appears to the Judge expedient the Judge instead of pronouncing judgment may direct that the accused be released on his entering into a bond, with or without sureties and during such period as the Judge may direct, to appear and receive judgment if and when called upon and in the meantime to keep the peace and be of good behaviour.

D—RE-TRIAL OF ACCUSED AFTER DISCHARGE OF JURY

Re-trial of accused.

239. (1) Whenever the jury is discharged the accused shall subject to the provisions of section 403 be detained in custody or released on bail, as the Judge may think fit. and tried by another jury.

(2) Every person detained in custody under this section shall be so detained by warrant addressed to the superintendent of any prison and the provisions of section 264 shall apply to every such warrant.

E—PROCEDURE IN CASE OF PREVIOUS CONVICTION

Procedure in case of previous conviction.

240. (1) In the case of a trial where the accused is charged with an offence committed after a previous conviction for any offence the procedure herein before laid down shall be modified as follows:—

(*a*) if the accused pleads guilty to or is convicted of the offence with which he is charged he shall then be asked whether he admits the previous conviction;

(*b*) if he admits the previous conviction the Judge may proceed to pass judgment on him accordingly; but if he denies that he has been so previously convicted or refuses to or does not answer such question the jury or Judge as the case may be shall then inquire concerning such previous conviction and in such case it shall not be necessary to swear the jurors again.

(2) Notwithstanding anything in this section contained evidence of the previous conviction may be given at the trial for the subsequent offence, if the fact of the previous conviction is relevant under any law for the time being in force in Sri Lanka.

PART—TRIALS IN THE HIGH COURT IN THE ABSENCE OF THE ACCUSED

Trial may be held in the absence of accused.

241. (1) Anything to the contrary in this Code notwithstanding the trial of any person on indictment with or without a jury may commence and proceed or continue in his absence if the court is satisfied—

(*a*) that the indictment has been served on such person and that—

(i) he is absconding or has left the island ; or

(ii) he is unable to attend or remain in court by reason of illness and has consented to the commencement or continuance of the trial in his absence ; or

(iii) he is unable to attend or remain in court by reason of illness and in the opinion of the Judge prejudice will not be caused to him by the commencement or continuance of the trial in his absence ; or

(iv) by reason of his conduct in court, he is obstructing or impeding the progress of the trial ; or

(*b*) that such person is absconding or has left the island and it has not been possible to serve indictment on him.

(2) The commencement or continuance of a trial under this section, shall not be deemed or construed to affect or prejudice the right of such person to be defended by an attorney-at-law at such trial.

(3) Where in the course of or after the conclusion of the trial of an accused person under sub-paragraph (i) of paragraph (*a*) of subsection (1) or under paragraph (*b*) of that subsection he appears before court and satisfies the court that his absence from the whole or part of the trial was bona fide then—

(*a*) where the trial has not been concluded, the evidence led against the accused up to the time of his appearance before court shall be read to him and an opportunity afforded to him to cross-examine the witnesses who gave such evidence ; and

(*b*) where the trial has been concluded, the court shall set aside the conviction and sentence, if any, and order that the accused be tried *de novo*.

(4) The provisions of subsection (3) shall not apply if the accused person had been defended by an attorney-at-law at the trial during his absence.

Procedure where trial is held in the absence of the accused.

242. Trials in the High Court in the absence of the accused shall proceed as nearly as may be according to the provisions of this Chapter relating to trials with a jury or without a jury as the case may be.

CHAPTER XIX

OF EXPENSES OF WITNESSES AND OF JURORS

Power to make regulations.

243. (1) The Minister may with the concurrence of the Minister in charge of the subject of Finance make regulations providing—

(*a*) for the payment out of the Consolidated Fund of the expenses of persons attending to give evidence for the prosecution or defence or called to give evidence at the instance of the court for the expense, trouble, or loss of time properly incurred in, or incidental to, the attendance and giving of evidence in any trial before the High Court or on the inquiry preliminary to any such trial and the conditions on which such payments may be allowed ;

(*b*) for the payment out of the Consolidated Fund of the expenses of persons summoned to serve as jurors in any trial before the High Court ;

(*c*) for the persons by whom, and the manner in which, the amounts of such expenses shall be ascertained and payments made.

(2) Until regulations are made under subsection (1) the regulations relating to the matters set out in that subsection and in force on the appointed date shall continue to be applicable and in force.

CHAPTER XX

OF JURORS

Liability to serve as a juror.

244. Subject to the provisions contained in sections 245 and 246, every person residing within Sri Lanka who has attained the age of twenty-one years and has obtained a pass at the General Certificate of Education (Ordinary Level) Examination or at an equivalent examination in six subjects including Sinhala or Tamil Language, and is in receipt of an income of not less than three hundred rupees per month.

shall be qualified and liable to serve as a juror, and every such person who is also a graduate of a recognized university or holds an equivalent professional qualification shall, in addition, be qualified and liable to serve as a special juror.

Persons who shall not serve as jurors.

245. The following persons shall not serve as jurors :—

(a) the President of the Republic of Sri Lanka ;

(b) Judges of Courts established under the law in force ;

(c) Members of Parliament ;

(d) Representatives of Foreign Governments ;

(e) Officers and other employees of Parliament and of Courts and of the Ministry of Justice ;

(f) inquirers appointed under this Code ;

(g) attorneys-at-law ;

(h) police and customs officers ;

(i) priests ;

(j) persons employed in the departments of the Attorney-General, Commissioner of Prisons and Commissioner of Probation and Child Care Services ;

(k) persons who have suffered imprisonment for a term of one month or more ;

(l) persons who labour under such bodily or mental incapacity or profess such religious tenets as render them unfit to discharge the duty of a juror.

Persons who shall not serve as jurors except with their own consent.

246. The following persons shall not serve as jurors except with their own consent :—

(a) persons serving in the Sri Lanka Army, Navy or Air Force on full pay or active employment ;

(b) persons registered under the law for the time being in force as medical practitioners ;

(c) persons duly qualified as dispensers of drugs and actually employed as such ;

(d) Registrars and Deputy Registrars of Births and Deaths ;

(e) persons over the age of sixty years.

Exemption and excuse from service on jury.

247. (1) Any person who has been summoned to serve on a jury shall be entitled to be exempted from service if he has served as a juror within twelve months from the date for which he is summoned :

Provided—

(*a*) that the claim for exemption is made by letter addressed to the Registrar immediately after such person has been summoned to attend ; and

(*b*) the court is of opinion that the exemption can be allowed without unduly reducing the panel.

(2) Any person whose name is included in any list may apply in writing to the Registrar asking to be excused from attendance as a juror for a particular period and stating the grounds on which the application is made, and the Judge may make such order thereon as he may think fit.

(3) The Judge may for reasonable cause excuse any juror from attendance on any particular day or days or time of the day and either unconditionally or on condition of his serving on some other day or time to be fixed by the Judge.

Preparation of lists of persons liable to serve as jurors.

248. (1) Every Government Agent shall, with respect to each judicial zone within his jurisdiction, prepare and maintain lists of the persons, who are qualified and liable to act as jurors or special jurors as the case may be, setting forth the names in full, occupation and places of residence of such jurors and special jurors. Any person refusing or neglecting to give any information when called upon to do so by the Government Agent for the purpose of preparing or maintaining such lists, or wilfully giving false information, shall be guilty of an offence and shall be liable on conviction by a Magistrate to a fine not exceeding one hundred rupees.

(2) It shall be competent for the Minister to direct the consolidation of the lists of two or more judical zones.

(3) The Government Agent shall, in the month of July in every year, forward the list to the Registrar of the High Court.

Panels of jurors to be prepared from each list.

249. (1) Panels of jurors shall at least two weeks before the commencement of sessions and thereafter, from time to time, be prepared by each High Court Judge nominated to preside at the sessions at which such jurors are expected to attend in accordance with such procedure as shall be

prescribed by rules. Until rules are prescribed under this section, the rules relating to the procedure in force on the day immediately preceding the appointed date shall continue to be in force.

(2) Unless it be unavoidable not more than one person belonging to or employed in any Government Department, any Corporation or any mercantile or business establishment or on any plantation or estate shall be included in the same panel.

Summons on jurors.

250. (1) Every summons to a juror shall be served on such person at least ten days before the day on which his attendance is required, and may be served by the Fiscal or by registered post or in such other manner as the Judge may direct.

(2) The summons may state that such juror need not attend on a particular day, but that he must hold himself in readiness to attend on any day of which he may receive special notice.

Juror not bound to serve more than a fortnight.

251. A juror shall not be compellable to serve more than a fortnight unless at the expiration of the fortnight a trial in which he is engaged as a juror is pending and then only until the end of such trial.

Juror absenting himself without leave liable to fine.

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

Provided that it shall be lawful for the Judge if he thinks fit to remit any fine so imposed.

(2) When any person is so fined in his absence the Registrar shall forthwith send him a written notice requiring him to pay the fine or to show cause before the court within seven days for not paying the same.

No proceeding to be invalid by reason of defect or error in jury list or panel.

253. Any judgment, sentence, order, verdict, or other proceeding by, of, at, or before the High Court and anything done in pursuance of the same shall not be held invalid or illegal or be in any way called in question by reason of any defect or error in or about the qualification of any juror.

Special jury panel.

254. Whenever an order shall be made requiring a special jury to be summoned a panel shall be prepared of such number as the order shall specify from the list of special jurors, and thereupon the Registrar shall summon the persons on such panel and the provisions of this Chapter shall *mutatis mutandis* so far as the same may be applicable apply to the preparation of such panel and to the summoning and service of the special jury.

CHAPTER XXI

General Provisions as to Inquiries and Trials

Power to compel attendance of witnesses.

255. (1) If for the purpose of any inquiry or trial in a Magistrate's Court the prosecutor or the accused applies to the Magistrate to issue process to compel the attendance of any witness or the production of any document or other thing the Magistrate shall issue such process unless for reasons to be recorded by him he deems it unnecessary so to do.

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

Tender of pardon to accomplice.

256. (1) In the case of any offence triable exclusively by the High Court the Magistrate inquiring into the offence may, after having obtained the Attorney-General's authority so to do, or the Attorney-General himself may, with the view of obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence under inquiry, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to such offence and to every other person concerned whether as principal or abettor in the commission thereof.

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

(3) Such person if not on bail shall be detained in custody until the termination of the trial.

Power of Attorney-General to direct tender of pardon by Magistrate.

257. The Attorney-General at any stage after commitment but before judgment is pronounced may, with the view of obtaining on the trial the evidence of any person supposed to have been directly or indirectly concerned in or privy to any such offence, tender or authorize the Magistrate to tender a pardon on the same condition to such person.

Not complying with condition on which pardon has been tendered.

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

Statement of person pardoned may be given in evidence against him at his trial.

259. (1) The statement made by a person who has accepted a tender of pardon may be given in evidence against him when he is tried as stated in section 258.

(2) A prosecution for the offence of giving false evidence in respect of such statement shall not be entertained without the sanction of the Attorney-General.

Right of accused to be defended.

260. Subject to the provisions of this Code and any written law every person accused before any criminal court may of right be defended by an attorney-at-law, and every aggrieved party shall have the right to be represented in court by an attorney-at-law.

Appearance for a corporation in court.

261. (1) At any trial in any court in which a corporation is the accused, the corporation may be represented by the managing director, the secretary, or a like officer of the corporation or by a person appointed in writing as the representative of the corporation by the managing director.

(2) Where a corporation is represented by any person appointed in accordance with the provisions of subsection (1)—

(*a*) such person may answer to the charge against the accused and may, where the consent of the accused is required for any purpose, give or refuse such consent, and may exercise on behalf of the accused all or any of the rights of the accused, and

(*b*) any requirement of this Code that anything shall be done in the presence of, or shall be read or said to, the accused shall be construed as a requirement that such thing shall be done in the presence of, or read or said to, such person.

(3) Where a corporation is not represented by any person appointed in accordance with the provisions of subsection (1), the court shall, if the court is satisfied that summons has been served on the corporation, have the power to proceed with and conclude the trial notwithstanding the fact that the corporation is not represented at the trial.

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

262. If the accused though not insane cannot be made to understand the proceedings the Magistrate's Court or the High Court as the case may be, may proceed with the inquiry or trial, and if such inquiry results in a commitment or if such trial results in a conviction the proceedings shall be forwarded to the Court of Appeal with a report of the circumstances of the case and the Court of Appeal shall pass thereon such order as it thinks fit.

Power to postpone or adjourn proceedings.

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

(2) Where the accused has attended the court on summons he shall be enlarged on his own recognizance or on his simple undertaking to appear, unless for reasons to be recorded court orders otherwise.

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

(3) An inquiry or trial in a Magistrate's Court shall not be postponed or adjourned on the ground of the absence of a witness unless the Magistrate has first satisfied himself that the evidence of such witness is material to the inquiry or trial and that reasonable efforts have been made to secure his attendance, and has recorded the name of such witness and the nature of the evidence which he is expected to give.

(4) Every person remanded or committed to custody under this section shall be so remanded or committed by warrant addressed to the superintendent of a prison and the provisions of section 264 shall apply to every such warrant.

Procedure on issue of warrants of commitment &c.

264. (1) Every warrant of detention, commitment or remand issued under section 115 section 159 section 239 or section 263 shall be in the prescribed form and shall be signed by the Judge and such warrant shall be delivered to an officer of the Prisons Department. Such officer shall upon receipt thereof take charge of the person named therein and deliver him into the custody of the superintendent of the prison named therein, and the said warrant shall be full authority to the said officer of the Prisons Department for so doing and for detaining the said person for the purpose.

(2) The said superintendent shall, upon delivery to him as aforesaid of the person named in the warrant, detain him and keep him safely in custody on behalf of the court making the detention, commitment or remand for such time as may be specified by the warrant, and shall otherwise comply with the terms of the warrant and also with any order lawfully issued to him by any court with respect of such person.

Warrant shall be full authority to superintendent of prison.

265. (1) The warrant referred to in section 264 shall be full authority to the superintendent of the prison for the detention and custody of such person.

(2) A copy of the warrant under the hand of the Judge shall be filed of record in the case.

Compounding offences.

266. (1) The offences described in the first and second columns of the table following may, when a prosecution for such offence is not pending in the Magistrate's Court, be compounded by the person mentioned in the corresponding entries in the third column of that table and when a prosecution is pending in a Magistrate's Court be compounded by that person with the consent of the Magistrate of that court.

TABLE

Offence	*Sections of Penal Code applicable*	*Persons by whom offences may be compounded*
Affray	157	The persons involved in the affray
Voluntarily causing hurt ..	314,315,325	The person to whom hurt is caused.
Voluntarily causing grievous hurt or grievous hurt on provocation ..	316,326	
Causing hurt by an act which endangers life ..	328	
Causing grievous hurt by an act which endangers life or the personal safety of others	329	
Wrongfully restraining or confining any person	332,333 ..	The person restrained or confined
Assault or use of criminal force	343,346,348,349 ..	The person assaulted or on whom criminal force is used.
Dishonest misappropriation of property where the loss is to a private person	386 ..	The person to whom the loss has been caused
Mischief, when the only loss or damage caused is to a private person	409,410	The person to whom the loss is caused.
Mischief by killing or maiming any animal of the value of ten rupees where the loss is to a private person	411	
Mischief by killing or maiming cattle etc. where the loss is to a private person	412	
Criminal trespass ..	433	The person in possession of the property.
House trespass ..	434	
Defamation ..	480	The person defamed.
Painting or engraving matter knowing it to be defamatory	481	
Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter	482	
Insult intended to provoke breach of the peace	484 ..	The person insulted
Criminal intimidation ..	486 ..	The person intimidated

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

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

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

(5) Any offence not described in this section shall not be compounded.

Change of Magistrate during hearing or inquiry.

267. Whenever any Magistrate after having heard and recorded the whole or any part of the evidence in an inquiry or a trial ceases to exercise jurisdiction therein and is succeeded by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor or partly recorded by his predecessor and partly recorded by himself or he may re-summon the witnesses and re-commence the inquiry or trial :

Provided that in any trial the accused may when the second Magistrate commences his proceedings demand that the witnesses or any of them be re-summoned and re-heard.

Supreme Court or Court of Appeal may set aside conviction where material prejudice is caused

268. The Supreme Court or the Court of Appeal may, whether there be an appeal or not, set aside any conviction had on evidence not wholly recorded by the Magistrate before whom the conviction was had, if such court is of opinion that the accused has been materially prejudiced thereby, and may order a new trial.

Detention of offenders attending court.

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

(2) When the detention takes place in the course of an inquiry under Chapter XV or after a trial has been begun the proceedings in respect of such person shall be commenced afresh and the witnesses re-heard.

Proceedings may be had on Sundays and public holidays.

270. Any proceeding of any criminal court and any inquiry shall not be invalid by reason only of its being held on a Sunday or public holiday.

Case for prosecution to be explained by court to accused, if he is not represented by a pleader.

271. (1) At every trial if and when the court calls upon the accused for his defence it shall, if he is not represented by a pleader, inform him of his right to give evidence on his own behalf and if he elects to give evidence on his own behalf shall call his attention to the principal points in the evidence for the prosecution which tell against him in order that he may have an opportunity of explaining them.

(2) At every trial whether evidence is called by the accused or not, the accused shall have the right of reply.

(3) The failure at any trial of any accused, or the husband or wife as the case may be of any accused, to give evidence shall not be made the subject of adverse criticism by the prosecution.

CHAPTER XXII

Of the Mode of Taking and Recording Evidence in Inquiries and Trials

Evidence to be taken in presence of accused.

272. Except as otherwise expressly provided all evidence taken at inquiries or trials under this Code shall be taken in the presence of the accused or when his personal attendance is dispensed with in the presence of his pleader.

How evidence to be taken down.

273. (1) In the High Court and Magistrates' Courts, the evidence of each witness shall be taken down in writing by the Judge or in his presnce and hearing and under his personal direction and superintendence and shall be signed and dated by the Judge and where the evidence is taken at an inquiry shall also be signed by the interpreter if any shall have been employed.

(2) The evidence shall not ordinarily be taken down in the form of question and answer but in the form of a narrative, but the Judge may in his discretion take down any particular question and answer :

Provided however that in the High Court the evidence shall be taken down in question and answer.

(3) For the identification of witnesses the following particulars shall be recorded as to each, namely—

(*a*) full name,

(*b*) if a married woman, the name of the husband,

(*c*) age,

(*d*) occupation,

(*e*) place of residence,

(*f*) if a foreigner his nationality.

(4) Every Judge recording the evidence of a witness may record such remarks as he thinks material respecting the demeanour of such witness whilst under examination.

Procedure in regard to such evidence when completed.

274. (1) As the evidence of each witness taken at an inquiry is completed or at some time before commitment it shall be read over to the witness by the Magistrate in the presence of the accused person if in attendance or of his pleader if he appears by pleader, and shall if necessary be corrected.

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

(3) If the witness does not understand the language in which the evidence has been recorded such evidence shall be interpreted to him in the language in which it was given.

(4) When the evidence has been read over to the witness and every correction, if any asked for by him, has been made or noted the witness shall subscribe the deposition with his signature, and in the event of his refusing to do so the Magistrate shall record such refusal.

Certifications of depositions by Magistrates.

(5) When a deposition has been read over to a witness and acknowledged to be correct, the Magistrate shall append to the evidence of the witness a certificate, signed with his signature or initials to the following effect, that is to say—

(*a*) in the case of a witness who gave evidence in the language in which the record is kept: "Read over to the witness in open court in the presence of the accused and admitted by the witness to be correct"; and

(*b*) in the case of other witnesses : "Read over and interpreted to the witness in open court in the presence of the accused and admitted by the witness to be correct".

(6) In the case of depositions recorded in the absence of the accused the words "in the presence of the accused" shall be deleted from the certificate referred to in subsection (5).

(7) The absence of such a certificate in a deposition shall not be a bar to the deposition being received in evidence in any case in which it is desired to tender the deposition in evidence if it is proved by other evidence that the other requirements of the section were in fact complied with.

Interpretation of evidence to accused.

275. (1) Whenever any evidence is given in a language not understood by the accused and he is present in person and not represented by an attorney-at-law it shall be interpreted to him in open court in a language understood by him.

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

Documentary evidence.

276. (1) On every inquiry and trial in a Magistrate's Court all documentary evidence shall be filed in the record and initialled by the Magistrate and dated with the date of its receipt by him.

(2) Where any document is not in the language of the court there shall be filed with it a translation of such document or of so much thereof as is material, in the language of the court.

(3) It shall be lawful for a Judge to require any document to be translated into a language with which he is familiar.

(4) When any documentary evidence is of such a nature, that it is impracticable or inconvenient to file the same in the record the Magistrate may after initialling it for the purpose of identification return the same to the person producing it, who shall be legally bound to produce it again before the court of trial, but the Magistrate shall in that case cause a copy to be made of such part or portion of the document as is relevant and filed with the record.

How statement or examination of accused shall be recorded.

277. (1) Whenever in the course of an inquiry under Chapter XV, an accused makes a statement to a Magistrate the whole of such statement shall be recorded in full and such record shall be shown or read to him or if he does not understand the language in which it is written shall be interpreted to him in a language he understands and he shall be at liberty to explain or add to his statement.

(2) When the whole is made conformable to what he declares is the truth the record shall be signed by the Magistrate, who shall certify under his own hand that it was taken in his presence and in his hearing and contains accurately the whole of the statement of the accused.

(3) The accused shall sign or attest by his mark such statement ; and in the event of his refusing to do so the Magistrate shall record such refusal.

Presiding Judge to take or cause to be taken notes of evidence.

278. In cases tried before the High Court the presiding Judge shall take or cause to be taken in writing notes of the evidence.

CHAPTER XXIII

OF THE JUDGMENT

Mode of delivering judgment.

279. The judgment in every trial under this Code shall be pronounced in open court immediately after the verdict is recorded or save as provided in section 203 at some subsequent time of which due notice shall be given to the parties or their pleaders, and the accused shall if in custody be brought up or if not in custody shall be required to attend to hear judgment delivered except when his personal attendance during the trial has been dispensed with and the sentence is one of fine only or when he has been absent at the trial.

Allocutus.

280. In the High Court before judgment of death is pronounced the accused shall be asked whether he has anything to say why judgment of death should not be pronounced against him.

Punishment of detention in lieu of death for the persons under sixteen years of age.

281. Where any person convicted of an offence punishable with death, appears to the court to be under the age of sixteen years, the court shall pronounce on that person in lieu of the sentence of death the sentence provided by section 53 of the Penal Code.

Procedure where a woman convicted of a capital offence alleges pregnancy.

282. (1) Where a woman convicted of an offence punishable with death alleges that she is pregnant, or where the court before whom a woman is so convicted thinks it expedient that the question whether or not the woman is pregnant should be determined, such question shall, before sentence is passed on her, be determined—

(*a*) if the woman is convicted after trial at Bar by three Judges of the High Court without a jury, by those Judges ; or

(*b*) if the woman is convicted after trial by jury, by the jury who returned the verdict of guilty, and the members of such jury need not be resworn.

(2) In cases falling under paragraph (*b*) of subsection (1)—

(*a*) if after the conviction of the woman and before the jury return a verdict on the question whether the woman is or is not pregnant, any juror is from any sufficient cause prevented from attending throughout the inquiry, or if any juror absents himself and it is not practicable to enforce his attendance, or if it appears that any juror is unable to understand the language in which the evidence is given or when such evidence is interpreted the language in which it is interpreted, the court may either order a new juror to be added or discharge the jury and order a new jury to be chosen ;

(*b*) if the jury are not able, either unanimously, or by a majority of not less than five to two, to agree upon the question to be determined or if in the opinion of the court the interests of justice so require, the court may discharge the jury and order a new jury to be chosen ;

(c) where the court orders a new jury to be chosen under paragraph (*a*) or paragraph (*b*) of this subsection, such jury shall be constituted in like manner as the jury chosen for a trial and every such jury, and every new juror added under paragraph (*a*) of this subsection, shall be sworn in such manner as the court may direct.

(3) The question whether the woman is pregnant or not shall be determined by the Judges or by the jury, as the case may be, on such evidence as may be laid before them either on the part of the woman or on the part of the prosecution, and the Judges or the jury, as the case may be, shall find that the woman is not pregnant unless it is proved affirmatively to their satisfaction that she is pregnant.

Punishment of imprisonment in lieu of death for pregnant woman.

(4) If the finding is that the woman is pregnant, the court shall pronounce on her in lieu of the sentence of death a sentence of imprisonment as provided by section 54 of the Penal Code.

Judgments of courts other than Supreme Court or Court of Appeal.

283. The following provisions shall apply to the judgments of courts other than the Supreme Court or Court of Appeal :—

(1) The judgment shall be written by the Judge who heard the case and shall be dated and signed by him in open court at the time of pronouncing it, and in case where appeal lies shall contain the point or points for determination, the decision thereon, and the reasons for the decision.

(2) It shall specify the offence if any of which and the section of the law under which the accused is convicted and the punishment to which he is sentenced.

(3) If it be a judgment of acquittal it shall state the offence of which the accused is acquitted.

(4) When a judgment has been so signed it cannot be altered or reviewed by the court which gives such judgment :

Provided that a clerical error may be rectified at any time and that any other error may be rectified at any time before the court rises for the day.

(5) The judgment shall be explained to the accused affected thereby and a copy thereof shall be given to him without delay if he applies for it.

(6) The original shall be filed with the record of proceedings.

Judgment in alternative.

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

Sentence of death and whipping.

285. (1) When a person is sentenced to death the sentence shall direct that he be hanged by the neck till he is dead on a day and at a place, decided upon by the President.

(2) When a person is sentenced to whipping the judgment shall state whether he is above or under sixteen years of age and shall specify the number of lashes or strokes to be inflicted, such number in no case to exceed twenty-four.

CHAPTER XXIV

Of Sentences and the Carrying out Thereof

Provisions as to execution of sentences of death.

286. With regard to sentences of death the following provisions shall take effect :—

(*a*) after sentence has been pronounced a warrant shall be made out and signed by the Judge who passed the sentence or by his colleague or successor in office for the commitment of the person sentenced to the custody of the superintendent of a prison. Every such warrant shall be addressed to the superintendent of the prison in which the convict is to be kept pending execution of sentence and the provisions of section 290 shall apply to every such warrant :

(*b*) so soon as conveniently may be after sentence of death has been pronounced the Judge of the High Court who presided at the trial or in case of his absence or inability his colleague or successor in office shall forward to the President the notes of evidence made by the Judge at the trial with a report in writing signed by him setting out his opinion

whether there are any and what reasons why the sentence of death should or should not be carried out ;

(c) the President after considering the said report shall inform the High Court of any order he may have made thereon ;

(d) the President may order a respite of the execution of the warrant or appoint a date and time and place for its execution ;

(e) (i) there shall be present at the execution of the sentence, the superintendent or a jailer of the prison, the medical officer of the prison and such other officers of the prison as the superintendent or jailer as the case may be requires and if the execution takes place within the walls of the prison there may also be present any minister of religion in attendance at the prison and such relations of the prisoner or other persons as the superintendent of the prison thinks proper to admit ;

(ii) as soon as may be after judgment of death has been executed the medical officer of the prison shall examine the body of the person executed and shall ascertain the fact of death and shall sign a certificate thereof and deliver the same to the superintendent of the prison ;

(iii) a Magistrate of the division in which the place of execution was situate shall within twenty-four hours after the execution inquire into and satisfy himself of the identity of the body and whether judgment of death was duly executed thereon and he shall make a report in duplicate. One of the originals shall be forwarded to and filed in the High Court and the other shall be forwarded to and filed in the office of the Minister ;

(f) when a sentence of death cannot be executed owing to the absence during the trial or escape of the person sentenced to death execution of such sentence shall be carried into effect at such other time after his capture or recapture as the case may be as the President shall order ;

(*g*) any omission or error as to time and place and any defect in form in any order or warrant given under this section and any omission to comply with the provisions of paragraph (*e*) shall not be held to render illegal any execution carried into effect under such order or warrant or intended so to have been carried into effect, nor to render any execution illegal which would otherwise have been legal.

In this section and in section 288 the expression "President" shall mean the President of the Republic of Sri Lanka.

Execution of sentence of High Court other than sentences of death.

287. With regard to sentences passed by the High Court other than sentence of death the following provisions shall take effect:—

(*a*) as soon as conveniently may be after the sentence has been pronounced the Registrar shall make out a warrant of commitment which shall be signed by the Judge who passed sentence or a colleague of his or his successor in office and dated of the day when sentence was passed;

(*b*) every such warant shall be in the prescribed form and shall be addressed to the superintendent of any prison and the provisions of section 290 shall apply to every such warrant.

Execution of sentences under section 53 of the Penal Code.

288. When any person has been sentenced under section 53 of the Penal Code to be detained during the President's pleasure he shall, notwithstanding any enactment to the contrary, be liable to be detained in such place and under such conditions as the President may from time to time direct, and whilst so detained shall be deemed to be in legal custody.

Execution of sentence of courts other than the Supreme Court or Court of Appeal or High Court.

289. With regard to sentences passed by courts other than the Supreme Court, Court of Appeal and High Court the following provisions shall take effect:—

(*a*) where the accused is sentenced to imprisonment the court passing the sentence shall forthwith make out a warrant signed by the Judge or his colleague or his successor in office and dated of the day when the sentence was passed;

(*b*) every such warrant shall be in the prescribed form and shall be addressed to the superintendent of any prison and the provisions of section 290 shall apply to every such warrant.

Procedure on issue of warrants under sections 286, 287 and 289.

290. (1) Every such warrant as is referred to in section 286, section 287, or section 289 shall be delivered in the prescribed form to an officer of the Prisons Department. Such officer shall upon receipt thereof take charge of the person named therein, and deliver him into the custody of the superintendent of the prison named therein, together with the warrant under the hand of the Judge, and the said warrant shall be full authority for detaining the said person for the purpose, and for carrying him to the prison specified in the warrant.

(2) The said superintendent shall, upon delivery to him as aforesaid of the person named in the warrant, detain him and keep him safely in custody until the sentence has been carried into execution, and shall otherwise comply with the terms of the warrant and with any order lawfully issued to him by any court with respect to such person.

(3) The warrant aforesaid shall be full authority to the superintendent for such detention and custody and for carrying the sentence into execution.

(4) A copy of the warrant under the hand of the Judge shall be filed of record in the case.

(5) Anything in this section shall not affect the provisions of this Code relating to the execution of sentences of whipping.

Provisions as to sentences of fines.

291. (1) Where any fine is imposed under the authority of any law for the time being in force, then in the absence of any express provision relating to such fine in such law contained the provisions following shall apply, that is to say :—

(*a*) where a sum is not expressed to which the fine may extend the amount to which the offender is liable is unlimited but shall not be excessive ;

(*b*) in every case of an offence punishable with imprisonment as well as fine in which the offender is sentenced to a fine, whether with or without imprisonment, and in every case of an offence punishable with fine only in which the offender is sentenced to a fine, the court passing the sentence may in its discretion direct by the sentence that in default of payment of the fine the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced or to which he may be liable under a commutation of a sentence ;

(c) notwithstanding the provisions of paragraph (b), where the fine to which the offender is sentenced does not exceed ten rupees, the court shall not impose a term of imprisonment in default of payment of the fine, but may make order as provided in section 15 (2);

(d) the term for which the court directs the offender to be imprisoned in default of payment of a fine shall not exceed one-fourth of the term of imprisonment which is the maximum fixed for the offence if the offence be punishable with imprisonment as well as fine;

(e) the imprisonment which the court imposes in default of payment of a fine may be of any description to which the offender might have been sentenced for the offence; if the offence be punishable with fine only, the imprisonment shall be simple;

(f) if the offence is not punishable with imprisonment the term for which the court directs the offender to be imprisoned in default of payment of fine shall not exceed the following scale, that is to say :—

(i) for a term of seven days where the amount of the fine exceeds ten rupees but does not exceed twenty-five rupees ;

(ii) for any term not exceeding fourteen days where the amount of the fine exceeds twenty-five rupees but does not exceed fifty rupees ;

(iii) for any term not exceeding three months where the amount of the fine exceeds fifty rupees but does not exceed one hundred rupees ;

(iv) for any term not exceeding six months where the amount of the fine exceeds one hundred rupees ;

(g) the imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or by process of law levied ;

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

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

(2) Whenever an offender is sentenced to pay a fine under the authority of any law for the time being in force the court passing the sentence may in its discretion issue a warrant for the levy of the amount by distress and sale of any movable property belonging to the offender although the sentence directs that in default of payment of the fine the offender shall be imprisoned. Such warrant shall be addressed to the Fiscal of the court and may be executed at any place in Sri Lanka but if it is required to be executed outside the jurisdiction of the court by which it was issued it shall be endorsed by a Magistrate having jurisdiction where it is to be so executed.

(3) The wearing apparel of an offender and his family and to the value of two hundred and fifty rupees the tools and implements of his trade, including therein seed grain, shall not be taken under a warrant of distress.

(4) Where an offender has been sentenced to fine only and to imprisonment in default of the fine, the court may do all or any of the following things :—

(*a*) allow time for the payment of the said fine,

(*b*) direct payment to be made of the said fine by instalments,

(*c*) direct that the person liable to pay the said fine shall be at liberty to give to the satisfaction of the court a bond, with or without a surety or sureties, for the payment of the said fine or any instalment thereof, and such bond may be given and enforced in manner provided by this Code.

(5) When a fine is directed to be paid by instalments, and default is made in the payment of any one instalment, the same proceedings may be taken as if default had been made in payment of all the instalments then remaining unpaid.

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

292. When an offender has been sentenced to fine only and to imprisonment in default of payment of the fine and the court issues a warrant under section 291 it may suspend the execution of the sentence of imprisonment and may release the offender on his executing a bond with or without sureties as the court thinks fit conditioned for his appearance before such court on the day appointed for the return to such warrant, such day not being more than fifteen days from the time of executing the bond ; and on that day in the event of the fine not having been paid or realized the court may direct the sentence of imprisonment to be forthwith carried into execution :

Provided that where the fine is imposed by the High Court the bond may be conditioned for the appearance of the offender before a Magistrate's Court therein named and such Magistrate's Court shall on the day of appearance, if the fine shall not have been paid or realized, direct the sentence of imprisonment to be forthwith carried into execution.

Who may issue warrant.

293. Every warrant for the execution of any sentence may be issued by the Judge who passed the sentence or by his colleague or successor in office.

When and where sentence of whipping to be executed.

294. (1) When the accused is sentenced to whipping the sentence shall, subject to the other provisions of this Chapter, be executed at such time and place as the court may direct.

(2) Such whipping shall in the case of persons above sixteen years of age be inflicted in the presence of a medical officer with a cane or rattan or other implement of such description and in such manner as the court may direct, and in the case of persons under sixteen years of age shall be inflicted with a light cane.

Whipping not to be inflicted until after fourteen days.

295. (1) When the accused is sentenced to whipping, the sentence shall not be carried out until after the expiration of fourteen days from the date of the pronouncement thereof, or (if an appeal is presented within that time) until the order of the Court of Appeal or Supreme Court shall have been notified to the accused, and the execution of the sentence shall be subject to the terms of such order.

(2) Subject to the provisions of subsection (1) of this section and to the provisions of section 294 (1), the whipping shall be inflicted as soon as practicable after the order.

(3) This section shall not apply to sentences of whipping passed on male offenders under sixteen years of age.

Whipping not to be inflicted unless medical officer certifies that offender is in a fit state of health.

296. (i) The punishment of whipping shall not be inflicted unless the medical officer certifies that the offender is in a fit state of health to undergo the punishment.

(2) If during the execution of a sentence of whipping the medical officer certifies that the offender is not in a fit state of health to undergo the remainder of the punishment the whipping shall be finally stopped.

When sentence of whipping cannot be carried out offender may be discharged.

297. (1) In any case in which under section 296 a sentence of whipping is wholly or partially prevented from being carried into execution the offender shall be kept in custody till the court which passed the sentence can review it; and the said court may at its discretion either order the discharge of such offender or sentence him in lieu of whipping or in lieu of so much of the sentence of whipping as was not carried out to imprisonment for any term not exceeding that which the court is competent to inflict which may be in addition to any other punishment to which he may have been sentenced for the same offence.

(2) Anything in this section shall not be deemed to authorize any court to inflict imprisonment for a term exceeding that to which the accused is liable by law or that which the said court is competent to inflict.

Whipping of juvenile offenders under sixteen years of age.

298. Whenever a male offender under sixteen years of age is sentenced by any court to whipping, such whipping shall not exceed six strokes with a light cane and shall be inflicted forthwith in the presence of the court, and if the parent of the offender desires to be present, in his presence.

A medical officer need not be present, but such whipping shall not be inflicted unless it appears to the court that the offender is in a fit state of health to undergo the same.

Sentences on escaped convicts.

299. (1) Any convict shall not by reason of his escape from prison avoid any unexpired term of imprisonment simple or rigorous or any other punishment to which he was liable under any sentence or sentences passed on him prior to his escape.

(2) When a sentence is passed on an accused who was absent at his trial such sentence shall be put into execution immediately upon his arrest.

(3) When a sentence of death or of fine or whipping with or without imprisonment is passed on an escaped convict, such sentence, if of death, fine, or whipping, shall subject to the provisions herein before contained take effect immediately; and if the imprisonment under the new sentence is rigorous and such convict was undergoing only simple imprisonment when he escaped, the rigorous imprisonment shall take effect immediately and shall be enforced concurrently with the former sentence, but if such convict was undergoing rigorous imprisonment when he escaped, the rigorous imprisonment under the new sentence shall take effect after such convict has suffered rigorous imprisonment for a further period commencing from the date of his recapture equal to that which at the time of his escape remained unexpired of his former sentence.

Sentence on offender already sentenced for another offence.

300. When a person actually undergoing imprisonment is sentenced to imprisonment such imprisonment shall commence at the expiration of the imprisonment to which he has been previously sentenced.

Certain sections of Penal Code to apply to all offences.

301. The provisions of sections 55 and 67 of the Penal Code shall apply to all offences whatever.

Return of warrant on execution of sentence.

302. When a sentence has been fully executed the officer executing it shall return the warrant to the court from which it issued with an endorsement under his hand certifying the manner in which the sentence has been executed.

Suspended sentence of imprisonment

303. (1) A court which imposes a sentence of imprisonment on an offender for a term not exceeding two years for an offence may order that the sentence shall not take effect unless, during a period specified in the order being not less than five years from the date of the order (hereinafter referred to as the "operational period"), such offender commits another offence punishable with imprisonment (hereinafter referred to as "subsequent offence").

(2) A court which imposes a sentence of imprisonment for a term not exceeding six months in respect of one offence on an offender who has had no previous experience of imprisonment shall make an order under subsection (1) unless—

(*a*) the offence involved the use or threat of violence, or the use or possession of a firearm, an explosive or an offensive weapon ;

(*b*) the offence is one in respect of which a probation order or order for conditional discharge was originally made ;

(*c*) the offender was subject to a suspended sentence at the time the offence was committed ; or

(*d*) the court is of opinion that, for reasons to be stated in writing, it would be inappropriate in the circumstances of the case, to deal with the offender in terms of this subsection.

(3) A court which imposes a suspended sentence on any person in respect of one offence shall not impose a sentence of imprisonment in respect of a different offence, in the same proceeding.

(4) On imposing a suspended sentence the court shall explain to the offender in ordinary language his liability under section 304 if during the operational period he commits a subsequent offence.

(5) If the offender does not commit a subsequent offence during the operational period, the conviction and the suspended sentence imposed on the offender shall be deemed for all purposes, never to have been entered or imposed :

Provided that where the accused has paid a fine or part thereof, or any sum or part thereof by way of State costs or compensation in consequence of the sentence he shall not be entitled to a refund of that fine or sum.

(6) Before a suspended sentence is imposed by any court, the court shall make an order for the identification and finger-printing of the offender.

When offender subject to suspended sentence is convicted of subsequent offence.

304. (1) Where an offender is convicted of a subsequent offence committed during the operational period, the court which so convicts him shall order that the suspended sentence shall take effect either immediately, or upon the expiration of a term of imprisonment which may have been imposed on the offender by such court in respect of the subsequent offence ;

Provided that the court may, in an appropriate case having regard to the extenuating circumstances under which the subsequent offence was committed or to the trival nature of such offence—

(*a*) order that the suspended sentence shall take effect with the substitution of a lesser term for the original term ;

(*b*) vary the original order under section 303 by substituting for the operational period specified therein an operational period expiring not later than five years from the date of the variation ; or

(*c*) make no order with respect to the suspended sentence. In every case where the court acts under this proviso it shall state its reasons therefor.

(2) Where a court deals with an offender in respect of a suspended sentence passed by another court, the court dealing with the offender shall notify the court which passed the sentence of the manner in which the offender was dealt with.

(3) An order made by a court under this section in respect of a suspended sentence shall, for the purpose of preferring any appeal, be deemed to be a sentence passed on the offender by such court for the offence for which the suspended sentence was originally passed.

Discovery of further offence.

305. (1) Where during the operational period any offender is convicted by a court of a subsequent offence but such court not being aware of the suspended sentence does not deal with the offender in respect of such sentence, any court may on receipt of information relating to such suspended sentence and the conviction for the subsequent offence, issue a summons requiring such offender to appear at the place and time specified therein or may issue a warrant for his arrest.

(2) A summons or warrant issued under subsection (1) shall direct the offender to appear or to be brought before the court by which he was convicted in respect of the subsequent offence and upon such offender appearing of being so brought, the court shall proceed to deal with him under subsection (1) of section 304 in respect of the suspended sentence.

CHAPTER XXV

CONDITIONAL DISCHARGE OF OFFENDERS, &c.

Power of court to permit conditional release of offenders.

306. (1) Where any person is charged before a Magistrate's Court with a offence punishable by such court, and the court thinks that the charge is proved, but is of opinion that, having regard to the character, atencedents, age, health, or mental condition of the person charged, or to the trivial nature of the offence, or to the extenuating circumstances under which the offence was committed, it is inexpedient to inflict any punishment or any other than a nominal punishment, or that it is expedient to discharge the offender conditionally as hereinafter provided, the court may, without proceeding to conviction, either—

(*a*) order such offender to be discharged after such admonition as to the court shall seem fit; or

(*b*) discharge the offender conditionally on his entering into a recognizance, with or without sureties, to be of good behaviour, and to appear for conviction and sentence when called on at any time during such period, not exceeding three years, as may be specified in the order of the court.

(2) Where any person has been convicted on indictment of any offence punishable with imprisonment, and the court is of opinion that, having regard to the character, antecedents, age, health, or mental condition of the person charged, or to the trivial nature of the offence, or to the extenuating circumstances under which the offence was committed, it is inexpedient to inflict any punishment, or any other than a nominal punishment, or that it is expedient to discharge the offender conditionally as hereinafter provided, the court may, in lieu of imposing a sentence of imprisonment, make an order discharging the offender conditionally on his entering into a recognizance, with or without sureties, to be of good behaviour, and to appear for sentence when called on at any time during such period, not exceeding three years as may be specified in the order.

(3) The court may, in addition to any order it may make under subsection (1) or subsection (2), order the offender to pay—

(i) compensation under section 17 (4) ; and

(ii) State costs in an amount not exceeding one thousand five hundred rupees as the court thinks fit.

(4) Where an order under this section is made by a Magistrate's Court, the order shall, for the purpose of re-vesting or restoring stolen property, and of enabling the court to make orders as to the restitution or delivery of property to the owner and as to the payment of money upon or in connection with such restitution or delivery, have the like effect as a conviction.

conditions of recognizance.

307. A recognizance under this Chapter may contain such conditions as the court may, having regard to the particular circumstances of the case, order to be inserted therein with respect to all or any of the following matters :—

(*a*) for prohibiting the offender from associating with thieves and other undesirable persons, or from frequenting undesirable places ;

(*b*) as to abstention from intoxicating liquor, where the offence was drunkenness or an offence committed under the influence of drink ;

(*c*) generally for securing that the offender should lead an honest and industrious life ;

(*d*) providing that the offender, with his surety or sureties, if any, shall appear in chambers before the Magistrate of any Magistrate's Court at such intervals as may be specified in the order.

Power to vary conditions of recognizance.

308. The court before which any person is bound by his recognizance under this Code to appear for conviction or sentence may, after notice to the offender, vary the conditions of the recognizance, and may, on being satisfied that the conduct of that person has been such that the recognizance should be discharged, discharge the recognizance.

Provision in case of offender failing to observe conditions of recognizance.

309. (1) If the court before which an offender is bound by his recognizance under this Chapter to appear for conviction or sentence is satisfied by information on oath or affirmation that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension, or may, if it thinks fit, instead of issuing a warrant in the first instance, issue a summons to the offender and his sureties (if any) requiring him or them to attend at such court and at such time as may be specified in the summons.

(2) The offender, when apprehended, shall, if not brought forthwith before the court before which he is bound by his recognizance to appear for conviction or sentence, be brought before a Magistrate's Court.

(3) The court before which an offender on apprehension is brought, or before which he appears in pursuance of such summons as aforesaid, may, if it is not the court before which he is bound by his recognizance to appear for conviction or sentence, remand him to custody or release him on bail until he can be brought before the last-mentioned court.

(4) A court before which a person is bound by his recognizance to appear for conviction and sentence, on being satisfied that he has failed to observe any condition of his recognizance may forthwith, without further proof of his guilt, convict and sentence him for the original offence ; or, if the case was one in which the court in the first instance might, under the Children and Young Persons Ordinance, have ordered the offender to be sent to an approved or certified school, and the offender is still apparently under the age of sixteen years, make such an order.

Power to make rules.

310. Rules for carrying the provisions of this Chapter into effect may be made under section 453

CHAPTER XXVI

Of Suspensions Remissions, and Commutations of Sentences

President may suspend or remit sentence on conditions.

311. (1) When any person has been sentenced to punishment for an offence the President may at any time without conditions or upon any conditions which the person sentenced accepts suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced.

(2) Whenever an application is made to the President for the suspension or remission of a sentence the President may require the presiding judge of the court before or by which the conviction was had or confirmed to state his opinion as to whether the application should be granted or refused together with his reasons for such opinion.

(3) If the person in whose favour a sentence has been suspended or remitted fails to fulfil the conditions prescribed by the President, the President may cancel such suspension or remission ; whereupon such person may

if at large be arrested by any police officer without warrant and remanded by a Magistrate's Court to undergo the unexpired portion of the sentence.

(4) Anything herein contained shall not be deemed to interfere with the right of the President to grant pardons, reprieves, respites, or remissions of punishment.

President may commute sentence.

312. The President may, without the consent of the person sentenced, commute any one of the following sentences for any of the commuted sentences indicated in the corresponding entry :—

Sentence	*Commuted Sentence*
Death	Rigorous or simple imprisonment for life or for any other term.
Rigorous imprisonment ..	Any lesser term of rigorous imprisonment, or any term of simple imprisonment not exceeding the term to which such person might have been sentenced, or fine.
Simple imprisonment ..	Any lesser term of simple imprisonment, or fine.

Meaning of the expression "President" in this Chapter.

313. In this Chapter the expression "President" shall mean the President of the Republic of Sri Lanka.

CHAPTER XXVII

Of Previous Acquittals Or Convictions

No person to be tried twice for same offence.

314. (1) A person who has once been tried by a court of competent jurisdiction for an offence and convicted or acquitted of such offence shall while such conviction or acquittal remain in force not be liable to be tried again for the same offence nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 166 or for which he might have been convicted under section 167.

(2) A person acquitted or convicted of any offence may be afterwards tried for any distinct offence for which a separate charge might have been made against him on the former trial under subsection (1) of section 165.

(3) A person convicted of any offence constituted by any act causing consequences which together with such act constituted a different offence from that of which he was convicted may be afterwards tried for such last-mentioned

offence, if the consequences had not happened or were not known to the court to have happened at the time when he was convicted.

(4) A person acquitted or convicted of any offence constituted by any acts may notwithstanding such acquittal or conviction be subsequently charged with and tried for any other offence constituted by the same acts which he may have committed, if the court by which he was first tried was not competent to try the offence with which he is subsequently charged.

Illustration

(*a*) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards while the acquittal remains in force be charged with theft as a servant or upon the same facts with theft simply or with criminal breach of trust.

(*b*) A is tried upon a charge of murder and acquitted. There is no charge of robbery, but it appears from the facts that A committed robbery at the time when the murder was committed. He may afterwards be charged with and tried for robbery.

(*c*) A is tried for causing grievous hurt and convicted. The person injured afterwards dies. A may be tried again for culpable homicide.

(*d*) A is charged and convicted of the culpable homicide of B. A may not afterwards be tried on the same facts for the murder of B.

(*e*) A is charged with and convicted of voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B on the same facts unless the case comes within subsection (3) of this section.

Plea of previous acquittal of conviction.

315. (1) The plea of a previous acquittal or conviction may be pleaded either orally or in writing and may be in the following form or to the following effect :—

"the defendant says that by virtue of section 314 of the Code of Criminal Procedure Act he is not liable to be tried ".

(2) Such plea may be pleaded together with any other plea, but the issue raised by such plea shall be tried and disposed of before the issues raised by the other pleas are tried.

(3) On the trial of an issue on a plea of a previous acquittal or conviction the depositions transmitted to the court on the former trial, together with the Judge's notes if available and the depositions transmitted to the court on the subsequent charge, shall be admissible in evidence to prove or disprove the identity of the charges.

PART VII

OF APPEAL, REFERENCE AND REVISION

CHAPTER XXVIII

OF APPEALS

An appeal not to lie except as provided for.

316. (1) An appeal shall not lie from any judgment or order of a criminal court except as provided for by this Code or by any other law for the time being in force.

A—APPEALS FROM MAGISTRATES' COURTS TO THE COURT OF APPEAL

Appeals not to lie in certain cases.

317. (1) An appeal shall not lie from a conviction—

(*a*) where in the case of a male offender under sixteen years of age the sentence is one of whipping only;

(*b*) where an accused has under section 183 made an unqualified admission of his guilt and been convicted by a Magistrate's Court.

(2) An appeal upon a matter of law shall lie in all cases except in the case referred to in paragraph (*a*) of subsection (1).

Appeal from acquittal.

318. An appeal shall not lie from an acquittal by a Magistrate's Court except at the instance or with the written sanction of the Attorney-General.

Appeal against refusal to issue process.

319. Where a Magistrate's Court has refused to issue process a mandamus shall lie to compel such court to issue such process, but an appeal shall not lie against such refusal except at the instance or with the written sanction of the Attorney-General.

Right of appeal.

320. (1) Subject to the provisions of sections 317, 318 and 319 any person who shall be dissatisfied with any judgment or final order pronounced by any Magistrate's Court in a criminal case or matter to which he is a party may prefer an appeal to the Court of Appeal against such judgment for any error in law, or in fact—

(*a*) by lodging within fourteen days from the time of such judgment or order being passed or made, with such Magistrate's Court a petition of appeal addressed to the Court of Appeal, or

(*b*) by stating within the time aforesaid to the Registrar of such court or to the jailer of the prison in which he is for the time being confined his desire to appeal and the grounds therefor, providing at the same time a stamp of the value of five rupees, and it shall thereupon be the duty of such Registrar or jailer as the case may be, to prepare a petition of appeal and lodge it with the court by which such judgment or order was pronounced.

(2) Subject to the relevant provision of section 317 the Attorney-General may prefer an appeal to the Court of Appeal against any judgment or final order pronounced by a Magistrate's Court in any criminal case or matter, and where he so appeals, or where he sanctions an appeal, the time within which the petition of appeal must be preferred shall be twenty eight-days.

Explanation.—An order made under section 154 committing an accused for trial or an order made under section 153 discharging an accused is not a judgment or final order.

Computation of time.

321. (1) In computing the time within which an appeal must be preferred, the day on which the judgment or order complained of was pronounced shall be included, but all Sundays and public holidays shall be excluded.

(2) If the time for preferring a petition of appeal expires on a day on which the office of the court is closed the appeal shall be deemed in time if such petition be preferred on the first day next thereafter on which such office is open.

What petition of appeal shall state.

322. (1) Every petition of appeal shall state shortly the grounds of appeal and shall be signed by the appellant or his attorney-at-law.

(2) Where the appeal is on a matter of law the petition shall contain a statement of the matter of law to be argued and shall bear a certificate by an attorney-at-law that such matter of law is a fit question for adjudication by the Court of Appeal.

(3) Every such petition shall bear a stamp of five rupees :

Provided that such stamp shall not be necessary—

(*a*) if the appeal is preferred by the Attorney-General under section 320 (2), or

(*b*) in the case of an appeal against a judgment or final order pronounced by a Magistrate's Court in any proceedings instituted on a written report made under section 136 (1) (*b*), if the appeal is preferred by the person who made such report :

Provided further that the court from which an appeal is preferred may if it sees fit allow the payment of the stamp fee to stand over until judgment on the appeal shall have been given.

(4) If the appeal be decided in whole or in part in favour of the appellant the amount of stamp fee when such fee has been paid shall be returned to him.

(5) If the appeal be decided against the appellant such stamp fee when such fee has not been paid shall be paid by him or recovered from him in the way of fine unless the Court of Appeal shall deem fit to remit all or any part of such stamp fee, in which case only such part as shall not be so remitted shall be recovered.

Appellant to be released on giving security.

323. (1) When an appeal has been preferred the court from which the appeal is preferred shall order the appellant if in custody to be released on his entering into a recognizance in such sum and with or without a surety or sureties as such court may direct conditioned to abide the judgment of the Court of Appeal and to pay such costs as may be awarded :

Provided always that the appellant may if the court from which the appeal is preferred thinks fit instead of entering into a recognizance give such other security by deposit of money with such court or otherwise as that court may deem sufficient.

(2) Upon the appellant's entering into such recognizance or giving such other security as aforesaid he shall be released from custody.

(3) Such recognizance may if the appellant is in prison be entered into before the superintendent or jailer of the prison and if so entered into shall be as valid in all respects as if it had been entered into before the court from which the appeal is preferred ; and for this purpose the court shall endorse on the warrant of committal the amount and nature of the security which is to be given in case an appeal is preferred.

(4) When a person sentenced to a term of rigorous imprisonment has preferred an appeal, but is unable to give the required recognizance or other security he shall be detained in custody without hard labour until the judgment of the Court of Appeal is made known to the superintendent of the prison.

(5) The Court of Appeal may order that the time so spent by such appellant in custody or any part thereof shall be reckoned as part of the term of his sentence.

Proceedings to be forwarded to Court of Appeal and notice to be given to party in whose favour the judgment or order appealed against was pronounced.

(6) On a petition of appeal being lodged the Magistrate shall transmit the record of the case to the Court of Appeal together with the petition of appeal and shall forthwith issue notice thereof to the party, whether complainant or accused, in whose favour the judgment or order appealed against was pronounced or made or adversely to whom the appeal is preferred.

Procedure in Court of Appeal on appeal.

324. (1) When the record and petition of appeal have been transmitted to the Court of Appeal the Registrar shall number the appeal and enter it on the list of appeals and such list shall be kept suspended in the Registry of the Court of Appeal.

(2) The appeal shall come on for hearing in its order without further notice to the parties concerned :

Provided that the court may of its own motion or on the application of a party concerned accelerate or postpone the hearing of an appeal upon any such terms as to the prosecution or the costs of the appeal or otherwise as it may think fit.

Appellant to be heard first.

325. (1) When the appeal comes on for hearing the appellant if present shall be first heard in support of the appeal and then the respondent if present shall be heard against it.

(2) If the appellant does not appear to support his appeal the court shall consider the appeal and may make such order thereon as it may deem fit.

Procedure if respondent not present.

326. If at the hearing of an appeal the respondent is not present and the court is not satisfied that the notice of appeal was duly served upon him the court may adjourn the hearing of the appeal to a future day for his appearance and in that case shall issue the requisite notice to him for service through the Fiscal, but unless the court is so satisfied as aforesaid it shall not, in the absence of the respondent, make any order to his prejudice.

Arrest of accused in appeal from acquittal.

327. When an appeal is presented against an acquittal the Court of Appeal may issue a warrant directing that the accused be arrested and brought before it and may commit him to prison pending the disposal of the appeal or admit him to bail.

Power of Court of Appeal on appeals.

328. At the hearing of the appeal the court may if it considers that there is no sufficient ground for interfering dismiss the appeal or may—

(*a*) in an appeal from an order of acquittal, reverse such order and direct that further inquiry be made or that the accused be re-tried or committed for trial as the case may be or find him guilty and pass sentence on him according to law ;

(*b*) in an appeal from a conviction—

(i) reverse the verdict and sentence and acquit or discharge the accused or order him to be re-tried

by a court of competent jurisdiction or committed for trial, or

(ii) alter the verdict maintaining the sentence, or with or without altering the verdict increase or reduce the amount of the sentence or the nature thereof;

(c) in an appeal from any other order, alter or reverse such order :

Provided always that the sentence awarded on an appeal shall not exceed the sentence which might have been awarded by the court of first instance.

Court of Appeal may take further evidence or direct it to be taken.

329. (1) In dealing with an appeal under this Chapter the Court of Appeal if it thinks additional evidence to be necessary, may either take such evidence itself or direct it to be taken by any Magistrate.

(2) When the additional evidence is taken the Magistrate taking the same shall transmit the evidence so taken duly certified to the Court of Appeal together with his opinion on such evidence.

(3) Unless the Court of Appeal otherwise directs the accused or his pleader shall be present when any additional evidence is taken under this section and section 328.

(4) The taking of such evidence shall be deemed an inquiry under Chapter XV.

Judgment in appeal to be given in open court.

330. (1) On the termination of the hearing of the appeal the Court of Appeal shall either at once or on some future day, which shall then be appointed for the purpose, deliver judgment giving reasons for its decision in open court.

(2) On the day so fixed, if the court is not prepared to give its judgment, a yet future day may be appointed and announced for the purpose.

B—Appeals From The High Court To The Court Of Appeal And Applications For Leave To Appeal

Filing of petition of appeal or application for leave to appeal.

331. (1) An appeal under this Chapter may be lodged by presenting a petition of appeal or application for leave to appeal to the Registrar of the High Court within fourteen days from the date when the conviction, sentence or order sought to be appealed against was pronounced :

Provided that a person in prison may lodge an appeal by stating within the time aforesaid to the jailer of the prison in which he is for the time being confined his desire

to appeal and the grounds therefor and it shall thereupon be the duty of such jailer to prepare a petition of appeal and lodge it with the High Court where the conviction, sentence or order sought to be appealed against was pronounced.

(2) In computing the time within which an appeal may be preferred, the day on which the judgment or final order appealed against was pronounced shall be included, but all Sundays and public holidays shall be excluded.

(3) If the time for preferring a petition of appeal expires on a day on which the office of the court is closed the appeal shall be deemed to be in time if such petition be preferred on the first day next thereafter on which such office is open.

(4) The petition of appeal shall be distinctly written on good and suitable paper, signed by the appellant or his attorney-at-law and dated and shall contain the following particulars—

(*a*) the sessions of the High Court where the conviction, sentence or order appealed against was pronounced,

(*b*) the number of the case,

(*c*) the names and addresses of the appellant and the respondent,

(*d*) the address to the Court of Appeal.

(*e*) the date of pronouncement of the judgment or order as the case may be sought to be appealed against and the nature of such pronouncement,

(*f*) a plain and concise statement of the grounds of appeal,

(*g*) the relief claimed.

(5) Stamps to the value of five rupees shall be affixed by such appellant but where the appeal is by the Attorney-General or from a sentence of death a stamp fee is not required.

Appeal may be amended or rejected.

332. If the appeal is not given in the manner prescribed herein, it may be returned to the appellant for the purpose of being amended, within a time to be fixed by the court, or be amended then and there. If it is not amended as directed, the court may for reasons to be recorded by it, reject it. When any appeal is amended, the Judge or such other officer of his court as he shall appoint in that behalf shall attest the amendment by his signature.

Stay of further proceedings upon acceptance of appeal.

333. (1) Upon the appeal being accepted all further proceedings in such case shall be stayed and the said appeal together with the record of the case and eight copies thereof and the notes of evidence taken by the Judge shall be forwarded as speedily as possible to the Court of Appeal.

(2) When an appeal against an acquittal is lodged, the court may issue a warrant directing that the accused be arrested and brought before it and may commit him to prison pending the determination of the appeal or admit him to bail.

(3) When an appeal against a conviction is lodged, the High Court may subject to subsection (4) admit the appellant to bail pending the determination of his appeal. An appellant who is not admitted to bail shall pending the determination of the appeal be treated in such manner as may be prescribed by rules made under the Prisons Ordinance.

(4) Where the accused is sentenced to death, execution shall be stayed and he shall be kept on remand in prison pending the determination of the appeal.

(5) The time during which an appellant, pending the determination of his appeal is admitted to bail and (subject to any directions which the Court of Appeal may give to the contrary on any appeal) the time during which the appellant if in custody is specially treated as an appellant under this section, shall not count as part of any term of imprisonment under his sentence ; and, any imprisonment of the appellant whether it is under the sentence imposed by the High Court or the Court of Appeal shall subject to the directions or order of the Court of Appeal be deemed to be resumed or to begin to run, as the case requires, if the appellant is in custody, as from the day on which the appeal is determined and, if he is not in custody, as from the day on which he is received into prison under the sentence.

Determination of appeals in cases where trial was by jury.

334. (1) The Court of Appeal on any appeal against conviction on a verdict of a jury shall allow the appeal if it thinks that such verdict should be set aside on the ground that it is unreasonable or cannot be supported having regard to the evidence, or that the judgment of the court before which the appellant was convicted should be set aside on the ground of a wrong decision of any question of any law or that on any ground there was a miscarriage of justice, and in any other case shall dismiss the appeal :

Provided that the court may, notwithstanding that it is of opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if it considers that no substantial miscarriage of justice has actually occurred.

(2) Subject to the special provisions of this Code the Court of Appeal shall, if it allows an appeal against conviction, quash the conviction and direct a judgment of acquittal to be entered :

Provided that the Court of Appeal may order a new trial if it is of opinion that there was evidence before the jury upon which the accused might reasonably have been convicted but for the irregularity upon which the appeal was allowed.

(3) Anything in this section shall not affect the power of the Court of Appeal to order a new trial when the trial at which the conviction was had was a nullity by reason of any defect in the constitution of the court or otherwise.

(4) If it appears to the Court of Appeal that an appellant, though not properly convicted on some charge or part of the indictment, has been properly convicted on some other charge or part of the indictment, the court may either affirm the sentence passed on the appellant at the trial or pass such sentence in substitution therefor as it thinks proper and as may be warranted in law by the verdict on the charge or part of the indictment on which the court considers that the appellant has been properly convicted.

(5) Where an appellant has been convicted of an offence and the jury could on the indictment have found him guilty of some other offence, and on the verdict of the jury it appears to the Court of Appeal that the jury must have been satisfied of facts which proved him guilty of that other offence, the court may, instead of allowing or dismissing the appeal, substitute for the verdict found by the jury a verdict of guilty of that other offence, and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law for that other offence, not being a sentence of greater severity.

(6) Where on the conviction of the appellant the jury have found a special verdict, and the Court of Appeal considers that a wrong conclusion has been arrived at by the court before which the appellant has been convicted on the effect of that verdict, the Court of Appeal may, instead of allowing the appeal, order such conclusion to be recorded as appears to the court to be in law required by the verdict and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law.

Determination of appeals in cases where trial was without a jury.

335. (1) In an appeal from a verdict of a Judge of the High Court at a trial without a jury the Court of Appeal may if it considers that there is no sufficient ground for interfering dismiss the appeal.

(2) In an appeal from a conviction by a Judge of the High Court at a trial without a jury the Court of Appeal may :—

(*a*) reverse the verdict and sentence and acquit or discharge the accused or order him to be re-tried ; or

(*b*) alter the verdict maintaining the sentence or without altering the verdict increase or reduce the amount of the sentence or the nature thereof or substitute a conviction for a different offence of which the accused person could have been found guilty on the indictment and pass such sentence as may be warranted by law in substitution for the sentence passed.

Appeals from sentences.

336. On an appeal against the sentence whether passed after trial by jury or without a jury, the Court of Appeal shall, if it thinks that a different sentence should have been passed, quash the sentence, and pass other sentence warranted in law by the verdict (whether more or less severe) in substitution therefor as it thinks ought to have been passed and in any other case shall dismiss the appeal.

Appeals from acquittals.

337. (1) In an appeal from an order of acquittal, the Court of Appeal may reverse such order and direct the accused to be re-tried or find him guilty of the same or a different offence of which the accused person could have been found guilty on the indictment and pass sentence on him according to law.

(2) In an appeal from any other order, the Court of Appeal may alter or reverse or set aside such order or make such order in substitution for the order of the High Court as may be warranted by law.

Where appellant is guilty but insane.

338. If on any appeal it appears to the Court of Appeal that, although the appellant was guilty of the act or omission charged against him, he was, at the time the act was done or omission made incapable by reason of unsoundness of mind of knowing the nature of the act or that it was wrong or contrary to law, the court may quash the sentence passed at the trial and order that the appellant be kept in safe custody in such place and manner as the court thinks fit, and shall report the case for the orders of the

Minister. Upon such report, the appellant shall, for the purposes of Chapter XXXI, be deemed to be an accused whose case had been reported for the orders of the Minister under subsection (1) of section 381.

Disposal of property on conviction.

339. (1) The operation of any order for the disposal of property made by the High Court under Chapter XXXVIII of this Code on the conviction of any person on indictment, and the operation in case of any such conviction of the provisions of subsection (1) of section 24 of the Sale of Goods Ordinance as to the revesting of the property in stolen goods on conviction, shall (unless the court before which the conviction takes place directs to the contrary in any case in which, in its opinion, the title to the property is not in dispute) be suspended—

(*a*) in any case until the expiration of fourteen days after the date of the conviction ; and

(*b*) in any case where appeal has been filed until the determination of the appeal ;

and in cases where the operation of any such order, or the operation of the said provisions is suspended until the determination of the appeal, the order shall not take effect as to the property in question if the conviction is quashed on appeal. Provisions may be made by rules made under section 453 or by order of court for securing the safe custody of any property pending suspension of the operation of any such order or of the said provisions.

(2) The Court of Appeal may by order annul or vary any order made on a trial for the disposal of any property, although the conviction is not quashed ; and the order, if annulled, shall not take effect, and, if varied, shall take effect as so varied.

Filing of application for leave to appeal.

340. An application for leave to appeal may be lodged by presenting it to the Registrar of the Court of Appeal within fourteen days from the date when the conviction, sentence or order sought to be appealed against was pronounced and the provisions of the proviso to subsection (1) of section 331 and subsections (2), (3) and (4) of that section shall *mutatis mutandis* apply to such application.

Disposal of application for leave to appeal.

341. On an application for leave to appeal the Court of Appeal may—

(*a*) grant such leave ; or

(*b*) reject the application.

High Court to forward record to Court of Appeal on leave being granted.

342. Upon leave to appeal being granted on an application for leave to appeal the Registrar of the Court of Appeal shall so inform the High Court and the provisions of section 333 shall thereafter become applicable *mutatis mutandis* to such application.

LISTING AND HEARING OF APPEALS AND APPLICATIONS FOR LEAVE TO APPEAL.

Appeals and applications to be numbered and entered in the Register of Appeals.

343. (1) On receipt of the appeal or an application for leave to appeal the Registrar of the Court of Appeal shall forthwith number the appeal or application as the case may be, enter such number and the names of the parties on the Register of Appeals and notify the parties. Thereafter the appeal or application as the case may be shall be entered on the appropriate Roll of Pending Appeals set down for hearing.

(2) The list of appeals and applications on the Roll of Pending Appeals shall be exhibited outside the Registry of the Court of Appeal.

Appeals and applications to be listed for hearing.

344. An appeal or application for leave to appeal entered on the appropriate Roll of Pending Appeals shall come on for hearing in the order of its position on the roll without further notice to the parties.

Where leave to appeal is granted, application deemed to be an appeal.

345. Where leave to appeal is granted at the hearing of an application for leave to appeal, such application will thereafter be deemed to be an appeal and come on for hearing as directed by the Court of Appeal.

Appeal or application for leave to appeal to be exhibited for at least seven days.

346. Any appeal or application for leave to appeal shall not be listed for hearing until seven days at least shall have expired after such appeal or application as the case may be was entered on the roll and exhibited in the manner required in section 343.

Acceleration and postponement of appeals and application for leave to appeal.

347. The Court of Appeal may, of its own motion or an application of a party accelerate or postpone the hearing of an appeal or application for leave to appeal upon such terms as it may think fit.

Consolidation of appeals and applications for leave to appeal.

348. Where there are two or more appeals or applications for leave to appeal arising out of the same matter and the Court of Appeal is of opinion that it would be convenient for the court and for all the parties concerned if they are consolidated, the court may so direct and such consolidated

appeals and applications shall for all purposes thereafter be deemed to be a single appeal or application as the case may be.

Procedure at the hearing.

349. (1) At the hearing of the appeal or application the court may call upon the appellant or applicant as the case may be and the respondent or their attorneys-at-law to make their submissions.

(2) Subject to the provisions of subsection (1), the appellant or the applicant shall first be heard in support of the appeal or application. The Court shall then, it if does not at once dismiss the appeal or application or affirm the judgment or order appealed from, hear the respondent and in such case the appellant or applicant shall be entitled to reply.

(3) If the appellant or applicant does not appear to support the appeal, or application the court shall consider the appeal or application and may make such order thereon as it may deem fit.

Appellant or applicant in custody entitled to be present.

350. An appellant or applicant who is in custody shall be entitled to be present, if he so desires, at the hearing of his appeal or application.

Supplementary powers of Court.

351. In dealing with an appeal, the Court of Appeal may, if it thinks it necessary or expedient in the interests of justice—

(*a*) order the production of any document, exhibit or other thing connected with the proceedings, the production of which appears to it necessary for the determination of the case ;

(*b*) take additional evidence itself or direct it to be taken by any judge of an original court or other person appointed by the Court of Appeal for the purpose :

Provided that when additional evidence is taken other than before the Court of Appeal the officer taking the same shall transmit the evidence so taken duly certified to the Court of Appeal together with his opinion on such evidence.

Delivery of judgment.

352. (1) On the termination of the hearing of the appeal or application the Court of Appeal shall, either at once or on some future date which shall then be appointed for the purpose, pronounce judgment in open court.

(2) On the day so fixed, if the court is not prepared to give its judgment a yet future date may be appointed and announced for the purpose.

(3) The judgment of the Court of Appeal shall be taken down in writing, shall be signed and dated by the Judges, and state—

(a) the points for determination;

(b) the decision of the Judges thereon;

(c) the reasons which have led to the decision; and

(d) the relief, granted.

GENERAL PROVISIONS

Legal assistance to appellant.

353. The Court of Appeal may at any time on the application of the appellant assign to an appellant in any criminal case, matter or proceeding any attorney-at-law if, in the opinion of the court, it appears desirable in the interests of justice that the appellant should have legal aid, and that he has not sufficient means to enable him to obtain that aid.

Expenses.

354. The expenses of any attorney-at-law assigned to an appellant under this Chapter, and the expenses of any witnesses attending on the order of the court or examined in any proceedings incidental to the appeal and all expenses of, and incidental to, any examination of witnesses conducted by any person appointed by the court for the purpose, shall be defrayed, up to an amount allowed by the court, but subject to such rates and scales of payment as may be prescribed by rules made under section 453. Until such rules are made the rules relating to rates and scales of payment in force immediately before the appointed date shall continue in force.

Effect of error, omission or default in complying with the provisions of this Code.

355. (1) Where there is any error, omission or default in complying with the provisions of this Code relating to the lodging of an appeal, the High Court shall, notwithstanding such error, omission or default forward to the Court of Appeal the petition of appeal together with all the relevant papers and proceedings of the case.

(2) The Court of Appeal shall not exercise the powers vested in such court by this Code to reject or dismiss an appeal on the ground only of any error, omission or default on the part of the appellant in complying with the provisions of this Code unless material prejudice has been caused thereby to the respondent to such appeal.

(3) The Court of Appeal shall, in the case of any appeal referred to in subsection (2) which is not rejected or dismissed by such court, direct the appellant to comply with such directions as the court may deem necessary for the

purpose of rectifying, supplying or making good any error, omission or default so referred to within such time and upon such conditions as may be specified in such directions, and shall reject or dismiss the appeal if the appellant fails to comply with such directions.

Order of Court of Appeal to be certified to High Court.

356. (1) Whenever a case is decided on appeal by the Court of Appeal under this Chapter the court shall certify its order under its seal to the High Court and shall return to the High Court the record and petition of appeal accompanied by a copy of the reasons given by the Court of Appeal for its order.

(2) The High Court to which the order of the Court of Appeal is certified shall thereupon make such orders as are conformable to the order so certified and if necessary the record shall be amended in accordance therewith.

(3) The High Court shall then comply with the order of the Court of Appeal.

Costs.

357. The Court of Appeal shall have power in all proceedings under this Chapter to award costs to be paid by or to the parties thereto as the said Court shall think fit:

Provided that such an order shall not in any case be made against the Attorney-General.

C—ABATEMENT AND WITHDRAWAL OF APPEALS AND APPLICATIONS FOR LEAVE TO APPEAL

Abatement.

358. (1) Every appeal and application for leave to appeal to the Court of Appeal under this Code shall abate on the death of the accused:

Provided that where the appeal or application is against a conviction, a person aggrieved may with the leave of the court hearing the appeal intervene and prosecute the appeal or application only in so far as the finding of guilt is concerned.

(2) The expression "person aggrieved" shall have the same meaning as in section 16 of the Judicature Act, No. 2 of 1978.

Withdrawal of appeals or applications for leave to appeal.

359. Any appellant or applicant as the case may be who has lodged an appeal or application to the Court of Appeal under this Code may at any time apply to the Court of Appeal to withdraw his appeal or application and such court may after such inquiry as it considers necessary, permit the withdrawal of such appeal or application on such terms as it may think fit to impose and thereupon the appeal or application shall stand dismissed.

D—STATE REPRESENTATION AT APPEALS

State representation.

360. (1) The Attorney-General shall appear for the State in every appeal to the Court of Appeal under this Code to which the State or a public officer is a party and all such documents, exhibits and other things connected with the proceedings as the Attorney-General may require for the purpose of his duties under this section shall be transmitted to him by the Registrar of the court having custody of such documents, exhibits and things.

(2) The Solicitor-General or a State Counsel or an attorney-at-law specially or generally authorized by the Attorney-General in that behalf shall be entitled to appear for the State in place of the Attorney-General in any such appeal.

CHAPTER XXIX

OF REFERENCE AND REVISION

Reservation of points of law.

361. (1) Any Magistrate's Court acting in summary jurisdiction may if it thinks fit reserve for the consideration of the Court of Appeal any question of law arising in the proceedings whenever any person shall have been convicted and sentenced to any penalty or punishment.

(2) Every question of law so reserved shall be submitted to the said court in the shape of a special case.

(3) Every such special case shall be drawn up by the Magistrate of the court before which the proceedings are held and shall set out shortly the facts which are considered by the Magistrate to be proved and shall state the question of law which shall have been reserved for the opinion of the court.

(4) Every such special case shall be sent by the Magistrate to the Registrar of the Court of Appeal and shall be set down for argument in such manner as the Court of Appeal may direct.

(5) The person convicted shall pending the decision on the special case be remanded to prison or if the court thinks fit admitted to bail.

Determination and orders thereon.

362. The Court of Appeal shall hear and determine the question of law arising on such special case and shall thereupon affirm, amend, or reverse the determination in respect of which the special case has been stated or may make such order in relation to the matter as to the Court of Appeal may seem fit:

Provided always that a Magistrate who shall state and deliver a special case in pursuance of this Code shall not be liable to any costs in respect thereto.

Powers to reserve questions arising in High Court.

363. (1) When any person has in a trial before a Judge of the High Court been convicted of an offence and sentenced, the Judge if he thinks fit may reserve and refer for the decision of the Court of Appeal any question of law which has arisen on the trial, stating in a case signed by him such question with the special circumstances upon which the same shall have arisen.

(2) If the Judge reserves any such question the person convicted shall pending the decision thereon be remanded to prison or if the Judge thinks fit be admitted to bail, and the Court of Appeal shall have power to hear and finally determine such question and thereupon to reverse, affirm, or amend the judgment or to make such order as justice may require.

(3) When any person has in a trial before a Judge of the High Court been convicted of an offence and the Attorney-General is of opinion that any question of law arising on such trial which has not been reserved under this section ought to be further considered he may certify accordingly under his hand and thereupon the Court of Appeal shall have full power and authority to review the case or such part of it as may be necessary and finally determine such question and thereupon to reverse, affirm, or amend the judgment or to make such other order as justice may require in like manner as though such question had been reserved under subsection (1).

Court of Appeal may call for record of High Court or Magistrate's Court.

364. The Court of Appeal may call for and examine the record of any case, whether already tried or pending trial in the High Court or Magistrate's Court, for the purpose of satisfying itself as to the legality or propriety of any sentence or order passed therein or as to the regularity of the proceedings of such court.

Power of court on revision.

365. (1) The Court of Appeal may in any case the record of the proceedings of which has been called for by itself or which otherwise comes to its knowledge in its discretion exercise any of the powers conferred on it by Chapter XXVIII.

(2) Any order under this section shall not be made to the prejudice of the accused unless he has had an opportunity of being heard either personally or by attorney-at-law in his own defence.

(3) Anything in this section shall not be deemed to authorize the Court of Appeal to convert a finding of acquittal into one of conviction.

Optional with court to hear parties on review.

366. A party has no right to be heard either personally or by pleader before the Court of Appeal when exercising its powers of revision :

Provided that the court may if it thinks fit when exercising such powers hear any party either personally or by pleader.

When record called for by Court of Appeal Judge of the High Court or Magistrate may submit statement of grounds of decision.

367. When the record of any case is called for by the Court of Appeal under section 364 the Judge of the High Court or Magistrate may submit with the record a statement setting forth the grounds of his decision or order and any facts which he thinks material, and the court shall consider such statement before over-ruling or setting aside the said decision or order.

Judge of High Court or Magistrate to carry into effect orders of Court of Appeal.

368. (1) When a case is revised under this Chapter by the Court of Appeal such court shall certify its order under its seal to the court by which the verdict, sentence, or order revised was recorded or passed, and shall return to such court the record accompanied by a copy of the reasons given by the Court of Appeal for its order.

(2) The court to which the order is so certified shall thereupon make such orders as are conformable to the order so certified and if necessary the record shall be amended in accordance therewith.

PART VIII

SPECIAL PROCEEDINGS

CHAPTER XXX

INQUESTS OF DEATH

Inquests of death.

369. An inquest of death shall not be held except under the provisions of this Code.

Duty of inquirer.

370. (1) Every inquirer on receiving information that a person—

(*a*) has committed suicide ; or

(*b*) has been killed by an animal or by machinery or by an accident ; or

(*c*) has died suddenly or from a cause which is not known,

shall immediately proceed to the place where the body of such deceased person is and there shall make an inquiry and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises, and other marks of injury as may be found on the body and such marks, objects, and circumstances as in his opinion may relate to the cause of death and stating in what manner such marks appear to have been inflicted.

(2) The report shall be signed by such inquirer and shall be forthwith forwarded to the nearest Magistrate.

(3) If the report or other material before him discloses a reasonable suspicion that a crime has been committed the Magistrate shall take proceedings under Chapter XIV and XV and in such event the record of the inquiry and the inquirer's report shall be annexed to the record of the proceedings before the Magistrate.

(4) Anything herein contained shall not preclude a Magistrate from forthwith holding an inquiry under the powers vested in him by section 9, whenever any of the events mentioned in paragraphs (*a*), (*b*) and (*c*) of subsection (1) of this section have been brought to his notice.

Powers of inquirer.

(5) Any inquirer may, for the purpose of any inquiry under this Chapter, if he considers it expedient, issue process to compel the attendance of any witness to give evidence before him, or to produce any document or other thing.

(6) If any person so summoned fails or neglects to attend at the time and place specified in such summons, the inquirer may issue his warrant for the apprehension and production before him of such person.

(7) Every person who so fails to attend, or who refuses to take the oath of a witness, or refuses to answer any question which shall be legally asked of him, or fails or refuses to produce any document or other thing, shall be

guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding one hundred rupees, or to imprisonment of either description for any period not exceeding three months, or to both.

Death of a person in custody of police or in a mental or leprosy hospital.

371. (1) When any person dies while in the custody of the police or in a mental or leprosy hospital or prison, the officer who had the custody of such person or was in charge of such hospital or prison, as the case may be, shall forthwith give information of such death to a Magistrate of the Magistrate's Court within the local limits of whose jurisdiction the body is found, and such Magistrate shall view the body and hold an inquiry into the cause of death.

(2) For the purposes of an inquiry under this section a Magistrate shall have all the powers which he would have in holding an inquiry into an offence.

Evidence and finding to be recorded.

372. (1) The Magistrate or inquirer holding an inquiry prescribed under this Chapter shall record the evidence and his finding thereon.

(2) The place in which an inquiry of death under this Chapter is held shall be a place open to the public. But a Magistrate or inquirer conducting an inquiry of death may on special grounds of public policy or expediency in his discretion exclude the public at any stage of the inquiry from the place in which the inquiry is being held.

Post-mortem examinations.

373. (1) The Magistrate or any inquirer empowered in that behalf by the Minister shall, if he considers it expedient, call upon the Government medical officer of the district, or any other medical practitioner, to hold a post-mortem examination of the dead body, and to report to such Magistrate or inquirer regarding the cause of death.

(2) For the purposes of the post-mortem examination under subsection (1), the Magistrate may, if the dead body has already been buried, cause that body to be disinterred.

CHAPTER XXXI

Persons of Unsound Mind

Procedure in case of accused being of unsound mind.

374. (1) When a Magistrate's Court holding an inquiry or a trial has reason to believe that the accused is of unsound mind and consequently incapable of making his defence it shall inquire into the fact of such unsoundness and shall cause such person to be examined by the Government medical officer of the district or some other medical officer, and thereupon shall examine such officer as a witness and shall reduce the examination to writing.

(2) If the Magistrate's Court is of opinion that the accused is of unsound mind and consequently incapable of making his defence it shall postpone further proceedings in the case.

Procedure in case of person committed before High Court being of unsound mind.

375. (1) If any person committed for trial before the High Court appears to the court at his trial to be of unsound mind and consequently incapable of making his defence, the jury or (where the trial is without a jury) the Judge of the High Court shall in the first instance try the fact of such unsoundness and incapacity, and if satisfied of the fact shall find accordingly and thereupon the trial shall be postponed.

(2) The trial of the fact of the unsoundness of mind and incapacity of the accused shall be deemed to be part of his trial before the court.

Release of person of unsound mind pending investigation or trial.

376. (1) Whenever an accused is found to be of unsound mind and incapable of making his defence the court, if the case is one in which bail may be taken, may release him on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person and for his appearance when required before the court or such officer as the court appoints in this behalf.

(2) If the case is one in which bail may not be taken or if sufficient security is not given, the court shall report the case to the Minister and the Minister may by writing under the hand of the Secretary to the Ministry order the accused to be confined in a mental hospital or other suitable place of safe custody and the court shall give effect to such order.

Resumption of inquiry or trial.

377. (1) Whenever an inquiry or a trial is postponed under sections 374 and 375 the court may at any time resume the inquiry or commence the trial *de novo* and require the accused to appear or be brought before such court.

(2) When the accused has been released under section 376 and the sureties for his appearance produce him to the officer whom the court appoints in this behalf the certificate of such officer that the accused is capable of making his defence shall be receivable in evidence.

Procedure on accused appearing before court.

378. (1) If when the accused appears or is again brought before the court and the court considers him capable of making his defence, the inquiry or trial shall proceed.

(2) If the court considers the accused person to be still incapable of making his defence the court shall again act according to the provisions of section 374 or section 376, as the case may be.

When accused appears to have been of unsound mind.

379. When the accused appears to be of sound mind at the time of the inquiry and the Magistrate's Court is satisfied from the evidence given before the court that there is reason to believe that the accused committed an act which if he had been of sound mind would have been an offence and that he was at the time when the act was committed by reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law, the court shall proceed with the case as directed by Chapter XV.

Judgment of acquittal on ground of unsoundness of mind.

380. Whenever any person is acquitted upon the ground that at the time at which he is alleged to have committed an offence he was by reason of unsoundness of mind incapable of knowing the nature of the act alleged as constituting the offence or that it was wrong or contrary to law, the verdict shall state specifically whether he committed the act or not.

Person acquitted on ground of unsoundness of mind to be kept in safe custody.

381. (1) Whenever the verdict states that the accused committed the act alleged the court before which the trial has been held shall, if such act would but for the incapacity found have constituted an offence, order such person to be kept in safe custody in such place and manner as the court thinks fit and shall report the case for the orders of the Minister.

(2) The Minister may by writing under the hand of the Secretary to the Ministry order such person to be confined in a mental hospital, prison, or other suitable place of safe custody until further orders.

Person confined under this Chapter to be visited by Commissioner of Prisons or Visitors of the mental hospital.

382. When any person is confined under the provisions of this Chapter the Commissioner of Prisons if such person is confined in a prison, or the Visitors of the mental hospital or any two of them if he is confined in a mental hospital may visit him in order to ascertain his state of mind ; and he shall be visited once at least in every six months by such Commissioner or by two of such Visitors as aforesaid, and such Commissioner or Visitors shall make a special report to the Minister as to the state of mind of such person.

Procedure where person confined under section 376 is reported capable of making his defence.

383. If such person is confined under the provisions of section 376 and such Commissioner or Visitors shall certifiy that in his or their opinion such person is capable of making his defence he shall be taken before the court at the instance of which he was confined at such time as such court appoints, and the court shall deal with such person under the provisions of section 378 and the certificate of such Commissioner or Visitors as aforesaid shall be receivable as evidence.

Procedure where person confined under section 376 or 381 is declared fit to be discharged.

384. If such person is confined under the provisions of section 376 or section 381 and such Commissioner or Visitors shall certify that in his or their judgment he may be discharged without danger of his doing injury to himself or to any other person, the Minister may thereupon order him to be discharged or to be detained in custody or to be transferred to a mental hospital if he has not been already sent to a mental hospital ; and in case the Minister orders him to be transferred to a mental hospital, he may appoint a committee of inquiry consisting of a Magistrate and two medical officers to make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and to report to the Minister who may order his discharge or detention as he thinks fit.

Delivery of person confined to care of relative or friend.

385. (1) Whenever any relative of friend of any person confined under the provisions of section 376 or section 381 desires that the person shall be delivered over to his care and custody the Minister, upon the application of any relative or friend and on his giving security to the satisfaction of the Minister that the person delivered shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may order such person to be delivered to such relative or friend.

(2) Whenever such person is so delivered it shall be upon condition that he shall be produced for the inspection of such officer and at such times as the Minister directs.

(3) The provisions of sections 382 and 384 shall *mutatis mutandis* apply to persons delivered under the provisions of this section and the certificate of the inspecting officer appointed under this section shall be receivable as evidence.

Person suspected to be of unsound mind where and how to be remanded.

386. A Magistrate proceeding under section 384 may subject any accused person who is suspected to be of unsound mind to medical observation and remand such person once or oftener for such reasonable time as shall be specified in the order of remand either to the custody of the Superintendent of a prison to be by him detained in prison or of the officer in charge of such house or place of observation as may be appointed by the Minister under the provisions of section 3 of the Mental Diseases Ordinance, to be by such officer detained in such house or place of observation. And every person so remanded shall be subject to the inspection of the medical officer of the prison or of the house or place of observation in which he may be detained.

CHAPTER XXXII

Proceedings In Case Of Certain Offences Affecting The Administration Of Justice

Procedure in cases mentioned in section 135 (1), paragraphs (*b*) and (*c*).

387. (1) When any civil or criminal court other than a Magistrate's Court is of opinion that there is ground for inquiring into any offence referred to in section 135 (1), paragraphs (*b*) and (*c*), committed before it or brought under its notice in the course of a judicial proceeding, such court may send the case for inquiry or trial to the nearest Magistrate's Court and may send the accused in custody or take suffifficient security for his appearance before such Magistrate's Court and may bind over any person to appear and give evidence on such inquiry or trial, and such Magistrate's Court shall thereupon proceed according to law.

(2) Where the officer presiding in such court at the time the offence was committed before it or brought under its notice is also a Magistrate of the nearest Magistrate's Court he shall not try the accused, but shall either himself hold an inquiry under Chapter XV with a view to a committal for trial to the High Court or remand the accused or release him on bail to be tried by another Magistrate of such Magistrate's Court.

(3) In the case of a Magistrate's Court the Magistrate presiding in such court at the time the offence was committed before it or brought under its notice may either himself hold an inquiry under Chapter XV with a view to committal for trial by the High Court or may remand the accused or release him on bail to be tried by another Magistrate of such Magistrate's Court.

Procedure in certain cases of contempt.

388. (1) Whenever any such offence as is described in sections 173, 176, 177, 178 or 223 of the Penal Code is committed in view or presence of any court criminal or civil, other than the Supreme Court or Court of Appeal or the High Court such court may cause the offender to be detained in custody and at any time before the rising of the court on the same day may if it thinks fit take cognizance of the offence and sentence the offender; if a District Court, to a fine not exceeding one thousand five hundred rupees and in default of payment to simple imprisonment which may extend to three months unless such fine be sooner paid; if a Magistrate's Court, to a fine not exceeding five hundred rupees and in default of payment to simple imprisonment which may extend to two months unless such fine be sooner paid.

(2) If the offence is under section 223 of the Penal Code the record must show the nature and stage of the judicial proceeding in which the court interrupted or insulted was sitting and the nature of the interruption or insult.

(3) The court may in its discretion discharge the offender or remit the punishment on his submission to the order or requisition of such court or an apology being made to its satisfaction.

Procedure where court considers case should not be dealt with under section 388.

389. (1) If any Magistrate's Court or District Court in any case considers that a person accused of any of the offences referred to in section 388 and committed in its view or presence should be punished otherwise than there provided or such court is for any other reason of opinion that the case should not be disposed of under that section, such court after recording the facts constituting the offence and the statement of the accused as herein before provided may forward the case to the Attorney-General, and thereafter abide the Attorney-General's instructions.

(2) The Attorney-General shall on receipt of such case, if satisfied of the facts either prosecute the offender in the appropriate Magistrate's Court or direct the Magistrate to hold an inquiry under Chapter XV with a view to committal of the offender for trial by the High Court or directly indict the offender for trial by the High Court:

Provided that the trial in the High Court shall be without a jury:

Provided further that a Magistrate in whose view or presence the offence was committed shall not himself summarily try the case.

Imprisonment or committal of person refusing to answer or produce documents.

390. (1) If any person before a court other than the Supreme Court or Court of Appeal refuses to answer such questions as are put to him or to produce any document in his possession or power which the court requires him to produce and does not offer any reasonable excuse for such refusal such court may for reasons to be recorded in writing order him to be detained as a prisoner for any term not exceeding seven days unless in the meantime such person consents to be examined and to answer or to produce the document. In the event of his persisting in his refusal after the expiration of the said term he may be dealt with according to the provisions of section 388 or 389.

(2) In every case in which an order is made under this section the court shall record the facts of the refusal with the statement if any made by the person so refusing and shall send a copy of such record together with a copy of the order made by him to the Court of Appeal so that the Court of Appeal if it thinks fit exercise its power of revision.

District Judges and Magistrates not to try offences referred to in section 135 (1), paragraphs (*b*) and (*c*), when committed before themselves.

391. Except as provided in this Chapter any District Judge or Magistrate shall not try any person for any offence referred to in section 135 (1), paragraphs (*b*) and (*c*), when such offence is committed before himself or in contempt of his authority or is brought under his notice as such District Judge or Magistrate in the course of a judicial proceeding.

High Court may take cognizance of certain offences.

392. Anything to the contrary in this Code notwithstanding, the High Court may take cognizance of and try any such offence as is described in sections 173, 176, 177 or 178 of the Penal Code or any such offence as is referred to in section 135 (1), paragraphs (*c*) and (*d*), of this Code—

(i) where the offence has been committed in its view or presence or brought under its notice in the course of a judicial proceeding before it without indictment by the Attorney-General, and

(ii) otherwise upon indictment by the Attorney-General.

PART IX

SUPPLEMENTARY PROVISIONS

CHAPTER XXXIII

OF PROCEEDINGS BY THE ATTORNEY-GENERAL

Powers of Attorney-General.

393. (1) It shall be lawful for the Attorney-General to exhibit information, present indictments and to institute, undertake, or carry on criminal proceedings in the following cases, that is to say—

(*a*) in the case of any offence where a preliminary inquiry under Chapter XV by a Magistrate is imperative or may be directed to be held by the Attorney-General ;

(*b*) in any case where the offence is not bailable ;

(*c*) in any case referred to him by a State Department in which he considers that criminal proceedings should be instituted ;

(*d*) in any case other than one filed under section 136 (1) (*a*) of this Code which appears to him to be of importance or difficulty or which for any other reason requires his intervention ;

(*e*) in any case where an indictment is presented or information exhibited in the High Court by him.

(2) The Attorney-General shall give advice, whether on application or on his own initiative to State Departments, public officers, officers of the police and officers in corporations in any criminal matter of importance or difficulty.

(3) The Attorney-General shall be entitled to summon any officer of the State or of a corporation or of the Police to attend his office with any books or documents and there interview him for the purpose of—

(*a*) initiating or prosecuting any criminal proceeding or

(*b*) giving advice in any criminal matter of importance or difficulty :

The officer concerned shall comply with such summons and attend at the office of the Attorney-General with such books and documents as he may have been summoned to bring.

(4) The Attorney-General may nominate State Counsel or employ any attorney-at-law to conduct any prosecution in any court and determine the fees to be paid to such attorney-at-law.

(5) The Superintendent or Assistant Superintendent of Police in charge of any division shall report to the Attorney-General every offence committed within his area where—

(*a*) preliminary investigation under Chapter XV is imperative ; or

(*b*) for the institution of proceedings the consent or sanction of the Attorney-General is required ; or

(*c*) a request for such report has been made by the Attorney-General ; or

(*d*) such Superintendent or Assistant Superintendent considers the advice or assistance of the Attorney-General necessary or desirable ; or

(*e*) the Magistrate so directs ; or

(*f*) the offence was cognizable and the prosecution was withdrawn or cannot be proceeded with.

(6) When reporting in terms of subsection (5) the Superintendent or Assistant Superintendent of Police as the case may be shall supply to the Attorney-General—

(*a*) a full statement of the circumstances ;

(*b*) copies of the statements of all witnesses ;

(*c*) such other information, documents or productions as may be relevant or as may be called for by the Attorney-General ; and

(*d*) where an inquest has been held, a copy of the inquest proceedings.

(7) The Minister may make regulations containing all such incidental or supplementary provisions as may be necessary to enable the Attorney-General to exercise and perform his powers and duties under this section.

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

394. All persons appearing before the High Court under a commitment for trial or in pursuance of bail so to appear against whom an indictment is preferred shall unless the contrary is shown be deemed to have been brought before the court in due course of law and (subject to the provisions herein contained) shall be tried upon the indictment so preferred.

Power of Attorney-General to call for original record and productions.

395. (1) It shall be lawful for the Attorney-General after the receipt by him of the certified copy of the record of an inquiry forwarded under section 159, if he is of opinion that such action is necessary for the proper consideration of the case by him, to call for the original record of the inquiry (together with any documents produced in evidence) from the court to which such record has been forwarded, and for any productions other than documentary evidence, from the Registrar.

(2) It shall be the duty of the Registrar of the High Court to forward to the Attorney-General any record or production called for under subsection (1).

Power of Attorney-General to quash commitment and issue instructions to Magistrate.

396. If, after the receipt by him of the certified copy of the record of an inquiry forwarded under section 159, the Attorney-General is of opinion that there is not sufficient evidence to warrant a commitment for trial, or if for any reason he is of opinion that the accused should be discharged from the matter of the complaint, information or charge, and if the accused is in custody from further detention, he may by order in writing quash the commitment made by the Magistrate and may direct the Registrar of the High Court to return the record of the inquiry to the Magistrate's Court. The Attorney-General shall in every such case issue to the Magistrate such directions as to the disposal of the complaint, information or charge against the accused as to him may seem expedient, and it shall be the duty of the Magistrate to comply with the directions so issued.

Attorney-General may order further evidence to be taken.

397. (1) If the Attorney-General is of opinion that a criminal offence is disclosed by the proceedings against the accused but that the evidence already taken by reason of being in any particular or respect defective is not sufficient to afford a foundation for a full and proper trial, then he may make in writing an order requiring the Magistrate's Court to take such further evidence as may be specified or indicated in the order either in the way of examining anew witnesses who have already given their testimony or otherwise to continue the inquiry, and upon making such order the Attorney-General shall direct that the record of the inquiry be returned to the Magistrate's Court, and thereupon the Registrar of the High Court shall so return the record and the Magistrate shall comply with the order ofthe Attorney-General.

(2) The Attorney-General may if he thinks it necessary, direct the Magistrate to record the evidence of any expert witness or police officer and the Magistrate shall then comply with such directions.

(3) The supplemental inquiry may be conducted in the Magistrate's Court by a Magistrate thereof other than the Magistrate who conducted the original inquiry.

Judge of the High Court and Magistrate to transmit proceedings to Attorney-General when required.

398. (1) A Judge of the High Court and a Magistrate shall whenever required in writing by the Attorney-General forthwith transmit to the Attorney-General the proceedings in any criminal case in which an inquiry or trial has been or is being held before him and thereupon such inquiry or trial shall be suspended in the same and the like manner as upon adjournment thereof :

Provided that the Attorney-General shall return such record to such court not later than two months after it is received by him.

(2) It shall be competent for the Attorney-General upon the proceedings in any case being transmitted to him by a Magistrate under the provisions of this section to give instructions with regard to the inquiry to which such proceedings relate as he may consider requisite ; and thereupon it shall be the duty of the Magistrate to carry into effect subject to the provisions of this Code the instructions of the Attorney-General and to conduct and conclude such inquiry in accordance with the terms of such instructions.

Attorney-General may order Committal or fresh inquiry when of opinion that an accused should not have been discharged.

399. Whenever a Magistrate shall have discharged an accused under the provisions of section 153 and the Attorney-General shall be of opinion that such accused should not have been discharged the Attorney-General may direct him to commit such accused to the High Court or order a Magistrate of such court to re-open the inquiry and may give such instructions with regard thereto as to him shall appear requisite ; and thereupon it shall be the duty of such Magistrate to carry into effect such instructions.

Who may conduct prosecution before Magistrate.

400. (1) A person other than the Attorney-General, State Counsel, or a pleader generally or specially authorized by the Attorney-General shall not conduct the prosecution in any case into which the Magistrate of a Magistrate's Court may be inquiring.

(2) In the absence of the Attorney-General, the Solicitor-General, State Counsel, and a pleader generally or specially authorized by the Attorney-General the Magistrate shall conduct the prosecution, but anything in this section shall

not preclude the Magistrate from availing himself, if he considers it so desirable, of the assistance of any pleader or public officer in the conduct of any inquiry.

Scope of functions of Solicitor-General and State Counsel.

401. The Solicitor-General and State Counsel may by the direction either general or special of the Attorney-General exercise all or any of the powers, except the powers of entering a *nolle prosequi* and of pardoning an accomplice or of sanctioning an appeal from an acquittal, conferred and perform all or any of the duties imposed upon the Attorney-General by this Code.

CHAPTER XXXIV

OF BAIL

Bail to be taken in case of bailable offence.

402. When any person other than a person accused of a non-bailable offence appears or is brought before a court and is prepared at any time at any stage of the proceedings before such court to give bail such person shall be released on bail :

Provided that the court if it thinks fit may instead of taking bail from such person discharge him on his executing a bond without sureties for his appearance as here in after provided.

When bail may be taken in case of non-bailable offence.

403. (1) A Magistrate or a Judge of the High Court, at any stage of any inquiry or trial, as the case may be, may in his discretion release on bail any person accused of any non-bailable offence, but he shall not except with the sanction of the Attorney-General and subject to the provisions of the Criminal Procedure (Special Provisions) Law, No. 15 of 1978, for so long as that Law is in force be so released if it is alleged that he has committed or been concerned in committing or is suspected to have committed or to have been concerned in committing an offence punishable under sections 114, 191 and 296 of the Penal Code.

(2) If it appears to the court at any stage of the inquiry or trial as the case may be that there are not reasonable grounds for believing that a person accused of a non-bailable offence has committed such offence, but that there are sufficient grounds for further inquiry or trial the accused shall pending such inquiry be released on his executing a recognizance in such sum and with or without a surety or sureties as such court may direct conditioned for his appearance as hereinafter provided.

(3) Where a Magistrate has committed any person for trial for any non-bailable offence under any of the sections of the Penal Code referred to in subsection (1), the Magistrate shall not release such person on bail without the sanction of the Attorney-General. Where a person is committed by the Magistrate for trial for any other non-bailable offence under the Penal Code, such Magistrate may in his discretion release such person on bail.

Bail not to be excessive and the Court of Appeal may admit to bail in any case.

404. The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstances of the case and shall not be excessive ; and notwithstanding anything to the contrary in this Code or any other law the Court of Appeal may in any case direct that any person in custody be admitted to bail or that the bail fixed by the High Court or Magistrate be reduced or increased, or that any person enlarged on bail by a Judge of the High Court or Magistrate to be remanded to custody.

Bond of accused and sureties.

405. (1) Before any person is released on bail or released on his own bond a bond for such sum of money as the officer or court as the case may be thinks sufficient shall be executed by such person, and when he is released on bail by one or more sufficent sureties, conditioned that such person shall attend at the time and place mentioned in the bond and shall continue so to attend until otherwise directed.

(2) If the case so requires, the bond shall also bind the person released on bail to appear when called upon at the High Court or other court to answer the charge and to continue so to appear on every date to which the trial may be postponed or adjourned.

Discharge from custody.

406. (1) As soon as the bond has been executed the person for whose appearance it has been executed shall be released ; and when he is in prison the court admitting him to bail shall issue an order of release to the officer in charge of the prison and such officer on receipt of the order shall release him.

(2) Anything in this section, section 402, or section 403 shall not be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

Power to order sufficient bail when that first taken is insufficient.

407. If through mistake, fraud, or otherwise, insufficient sureties have been accepted or if they afterwards become insufficient, the court may issue a warrant of arrest directing that the person released on bail be brought before it and may order him to find sufficient sureties, and on his failing so to do may commit him to prison.

Discharge of sureties.

408. (1) All or any sureties for the attendance and appearance of a person released on bail may at any time apply to the court to discharge the bond either wholly or so far as relates to the applicants.

(2) On such application being made the court shall issue a warrant of arrest directing that the person so released be brought before it.

(3) On the appearance of such person pursuant to the warrant or on his voluntary surrender the court shall direct the bond to be discharged either wholly or so far as relates to the applicants and shall call upon such person to find other sufficient sureties, and if he fails to do so may commit him to custody.

(4) A surety may at any time arrest the person for whose attendance and appearance he is a surety where such person is absconding and forthwith bring him before the Court, which shall thereupon discharge such surety's bond and shall call upon such person to find another sufficient surety, and if he fails to do so shall commit him to custody.

(5) If the court is satisfied that the surety is a person who habitually stands surety for persons on whom bail is ordered and that the application to have himself discharged is withouth adequate cause, it shall be lawful for the court to impose a fine not exceeding one thousand five hundred rupees on such surety and in default of payment. to commit him to prison for a period not exceeding six months' simple imprisonment.

CHAPTER XXXV

Of Commissions For the Examination of Witnesses

Court may issue commission for taking evidence of absent witness.

409. Whenever in the course of an inquiry, trial or other proceeding under this Code it appears to the court that the examination of a witness is necessary for the ends of justice and that the attendance of such witnesses cannot be procured without an amount of delay, expense, or inconvenience which under the circumstances of the case would be unreasonable, such court may dispense with such attendance and may after notice to the parties issue a commission to a court of like or inferior jurisdiction within the local limits of whose jurisdiction such witness resides to take the evidence of such witness.

Procedure on commission.

410. (1) The court to which the commission is issued shall on receiving the commission summon before it the witness named in the commission ; or if from ill health or other cause his attendance cannot reasonably be procured the Judge shall proceed to the place where the witness is.

(2) The evidence of the witness shall be taken down by the Judge in the same manner and such Judge may for the purpose exercise the same powers as a Magistrate holding inquiries under this Code.

Parties may forward interrogatories, and accused or his pleader may examine witness.

411. (1) The parties to any proceeding under this Code in which a commission is issued may respectively forward any interrogatories in writing which the court in which the proceeding has taken place may think relevant to the issue ; and the Judge taking the examination shall examine the witness upon such interrogatories.

(2) The accused may appear before such Judge by pleader or if he is not in custody in person and may examine, cross-examine, and re-examine as the case may be the said witness.

Return of commission.

412. After any commission has been duly executed it shall be returned together with the deposition of the witness examined thereunder to the court out of which it issued and the commission, the return thereto, and the deposition shall be open at all reasonable times to inspection of the parties and may subject to all just exceptions be read in evidence in the case by either party and shall form part of the record.

Adjournment of inquiry or trial.

413. In every case in which a commission is issued under section 409 the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

CHAPTER XXXVI

Special Provisions Relating to Evidence

Deposition of medical and other special witnesses and reports of Government Analyst or Government Radiologists receivable in evidence in certain cases.

414. (1) Any document purporting to be a report under the hand of the Government Analyst, the Government Examiner of Questioned Documents, the Registrar of Finger Prints, or Government medical officer upon any person, matter or thing duly submitted to him for examination or analysis and report, or the report of a Government medical officer based upon any skiagraph purporting to have been made by a Government Radiologist or such skiagraph itself and any document purporting to be a report under the hand of such Radiologist upon such

skiagraph, may be used as evidence in any inquiry, trial or other proceeding under this Code although such officer is not called as a witness:

Provided that nothing in this section shall affect the necessity of proving the identity of the person, matter or thing so examined or analysed and reported on.

(2) The depositions regarding an identification parade (or the notes thereof) held by a Magistrate or Justice of the Peace and the depositions of the witnesses who assisted the Magistrate or the Justice of the Peace to hold the parade or affidavits by them may be given in evidence in any inquiry, trial or proceeding under this Code although the deponents or the Magistrate or the Justice of the Peace or the witnesses referred to are not called to testify as witnesses.

(3) The report of a medical witness other than a Government medical officer, made and attested before a Justice of the Peace, may be given in evidence although such person is not called as a witness.

(4) The report of any witness made and attested before a Justice of the Peace, and relating to the custody or disposal of any matter or thing used in the commission of an offence or forwarded to any public officer for examination or analysis and report of the accuracy of a plan or survey or sketch made by him may be given in evidence although such person is not called as a witness.

(5) For the purpose of proving any statement made by a deceased person, the report of the Magistrate by whom the statement was recorded and the person, if any, by whom it was interpreted may be given in evidence although such persons are not called as witnesses.

(6) The court may presume that the signature on any such document is genuine and that the person signing it held the office he professed to hold at the time he signed it:

Provided that if in any case the court of trial is of the opinion that it is necessary or expedient that, or either party to the case requests that the Government medical

officer or other medical witness or the Government Analyst or Government Examiner of Questioned Documents or Registrar of Finger Prints or Government Radiologist or the Magistrate or Justice of the Peace or the interpreter or any other witness referred to in the preceding subsections should be present to give evidence at any particular trial to which the deposition or report may refer, such officers shall be summoned as witnesses for the purpose of giving evidence in the same manner as the other witnesses for the prosecution.

Affidavits before whom to be sworn.

415. An affidavit may be used in a criminal court if it is sworn or affirmed to—

(*a*) in Sri Lanka before any Justice of the Peace, or Judge;

(*b*) in any other place before a Judge or Magistrate, or Justice of the Peace or other person qualified or authorized to administer oaths in that place or in any other way deemed sufficient by the court; or

(*c*) before any person authorized by the Supreme Court to receive oaths out of Sri Lanka.

Record of evidence in the absence of accused.

416. If it be proved that an accused has absconded and that there is no immediate prospect of arresting him the court competent to try or commit for trial such accused for the offence complained of may in his absence examine the witnesses (if any) produced on behalf of the prosecution and record their depositions. Any such deposition may on the arrest of such accused be given in evidence against him at the inquiry into or trial for the offence with which he is charged, if the deponent is dead or incapable of giving evidence or his attendance cannot be procured without an amount of delay, expense or inconvenience which under the circumstances of the case would be unreasonable.

Depositions of Magistrates and interpreters receivable in evidence in certain cases.

417. Where, for the purpose of proving any statement made by a deceased person, the Magistrate by whom the statement was recorded and the person, if any, by whom it was interpreted are examined in the course of an inquiry into any offence, the depostion of such Magistrate or of such person, taken and attested by any other Magistrate

in the presence of the accused, may be given in evidence at the trial of the accused, although the deponent is not called as a witness :

Provided that—

(*a*) where the Magistrate who commits the accused for trial is of opinion that it is necessary or expedient, or where either party in the case requests, that any such deponent should be present to give evidence at the trial, such deponent shall be summoned as a witness for the purpose of giving evidence in the same manner as the other witnesses for the prosecution ; and

(*b*) anything in this section shall not affect or be deemed to affect the power of the court of trial to summon and examine such deponent as a witness at any time.

When receivers &c. charged evidence of other cases allowed.

418. Where proceedings are taken against any person for having received goods knowing them to be stolen or for having in his possession stolen property evidence may be given at any stage of the proceedings that there was found in the possession of such person other property stolen within the preceding period of twelve months, and such evidence may be taken into consideration for the purpose of proving that such person knew the property to be stolen which forms the subject of the proceeding taken against him.

Memorandum of admissions (if any) to be filed with the record.

419. (1) At the conclusion of non-summary proceedings under Chapter XV if the accused person through his attorney-at-law agrees to make any admissions of the facts in issue or of facts in issue or of facts relevant to the facts in issue, the Magistrate shall prepare a memorandum of the matters agreed and such memorandum shall be read over and explained to the accused in a language he understands. If the accused agrees that such memorandum is an accurate record of the admissions, he shall sign the memorandum and such memorandum shall be filed of record.

(2) At the trial before the High Court the matters admitted in the agreement shall be deemed to have been duly proved.

(3) The provisions of this section shall not apply unless the accused was represented by an attorney-at-law at the time the admissions were made.

Further proof of matters admitted unnecessary.

420. It shall not be necessary in any summary prosecution or trial on indictment for either party to lead proof of any fact which is admitted by the opposite party or to prove any documents the authenticity and terms of which are not in dispute and copies of any documents may by agreement of the parties be accepted as equivalent to the originals.

Such admissions may be made before or during the trial.

Such admissions shall be sufficient proof of the fact or facts admitted without other evidence :

Provided however that this section shall not apply unless the accused person was represented by an attorney-at-law at the time the admission was made :

Provided further that where such admissions have been made before the trial, they shall be in writing, signed by the accused and attested as to their accuracy and the identity and signature of the accused by an attorney-at-law.

CHAPTER XXXVII

PROVISIONS AS TO BONDS

Deposit of money instead of bond.

421. When any person is required by any court to execute a bond without sureties such court may, except in the case of a bond for good behaviour, permit him to deposit a sum of money either in current coin or notes to such amount as the court may fix in lieu of executing such bond.

Procedure on forfeiture of bond.

422. (1) Whenever it is proved to the satisfaction of the court by which a bond under this Code has been taken, or when the bond is for appearance before a court to the satisfaction of such court that such bond has been forfeited, the court shall record the grounds of such proof and may call upon any person bound by such bond, to pay the penalty thereof or to show cause why it should not be paid.

(2) If sufficient cause is not shown and the penalty is not paid the court may proceed to recover the same by issuing a warrant for the attachment and sale of the movable or immovable property belonging to such person.

(3) Such warrant may be executed within the local limits of the jurisdiction of the court which issued it and it shall authorize the distress and sale of any movable or immovable property belonging to such person without such limits when endorsed by the Judge within the local limits of whose jurisdiction such property is found.

(4) If such penalty be not paid and cannot be recovered by such attachment and sale the person so bound shall be liable by order of the court which issued the warrant to simple imprisonment for a term which may extend to six months.

(5) The court may at its discretion remit any portion of the penalty mentioned and enforce payment in part only.

Power of Fiscal to execute conveyance to purchaser.

423. Whenever immovable property has been sold under the provisions of this Chapter it shall be lawful for the Fiscal under whose directions the attachment and sale was carried out to execute a conveyance in favour of the purchaser, and a conveyance so executed shall vest the property sold in the purchaser in like manner as if such conveyance has been executed by the person against whom the warrant for the attachment and sale of such immovable property was issued.

424. The High Court may direct any Magistrate to levy the amount due on a bond to appear and attend at such High Court.

Power to direct levy of amount due on recognisances.

CHAPTER XXXVIII

OF THE DISPOSAL OF PROPERTY THE SUBJECT OF OFFENCES

425. (1) When an inquiry or trial in any criminal court is concluded the court may make such order as it thinks fit for the disposal of any document or other property produced before it regarding which any offence appears to have been committed or which has been used for the commission of any offence.

Order for disposal of property regarding which offence committed.

(2) When the High Court makes such order and cannot through its own officers conveniently deliver the property to the person entitled thereto under such order, such court may direct that the order be carried into effect by a Magistrate.

(3) When an order is made under this section in a case in which an appeal lies such order shall not (except when the property is livestock or is subject to speedy and natural decay) be carried out until the period allowed for presenting such appeal has passed, or when such appeal is presented within such period until such appeal has been disposed of.

(4) In this section the term "property" includes in the case of property regarding which an offence appears to have been committed not only such property as has been originally in the possession or under the control of any party but also any property into or for which the same may have been converted or exchanged and anything acquired by such conversion or exchange whether immediately or otherwise.

426. In lieu of making an order under section 425 the High Court may direct the property to be delivered to a Magistrate who shall in such cases deal with it as if it had been seized by the police and the seizure had been reported to him in the manner hereinafter mentioned.

In lieu of order property may be sent to Magistrate for disposal.

427. When any person is convicted of any offence which includes or amounts to theft or receiving stolen property and it is proved that any other person has bought the stolen property from him without knowing or having reason to believe that the same was stolen and that any money has on his arrest been taken out of the possession of the convicted person, the court may on the application of such purchaser

Payment to innocent purchaser of money found on accused.

and on the restitution of the stolen property to the person entitled to the possession thereof order that out of such money a sum not exceeding the price paid by such purchaser be delivered to him.

Stay of order under this Chapter.

428. The Court of Appeal may direct any order under the foregoing sections of this Chapter made by a High Court or a Magistrate's Court to be stayed pending consideration by the Court of Appeal and may modify, alter or annul such order.

Destruction of libellous and other matters.

429. (1) On a conviction under section 285, 286, 481 or 482 of the Penal Code the court may order the destruction of all the copies of the thing in respect of which the conviction was had and which are in the custody of the court or remain in the possession or power of the person convicted.

(2) The court may in like manner on a conviction under sections 265, 266, 267 or 268 of the Penal Code order the food, drink, drug or medical preparation in respect of which the conviction was had to be destroyed.

Power to restore possession of immovable property.

430. (1) Whenever a person is convicted of an offence attended by criminal force and it appears to the court that by such force any person has been dispossessed of any immovable property, the court may if it thinks fit order such person to be restored to the possession of the same.

(2) Any such order shall not prejudice any right of interest to or in such immovable property which any person may be able to establish in a civil suit.

Procedure by notice upon seizure of property taken under section 29, or stolen.

431. (1) The seizure by any police officer of property taken under section 29 or alleged or suspected to have been stolen or found under circumstances which create suspicion of the commission of any offence shall be immediately reported to a Magistrate who shall forthwith make such order as he thinks fit respecting the delivery of such property to the person entitled to the possession thereof, or if such person cannot be ascertained respecting the custody and production of such property.

(2) If the person so entitled is known the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit. If such person is unknown the Magistrate may detain it and shall in such case publish a notification in the court notice-board and two other public places to be decided on by the Magistrate, specifying the articles of which such property consists and

requiring any person who may have a claim thereto to come before him and establish his claim within six months from the date of such public notification.

(3) Such notification may also, if the Magistrate thinks fit, be published at least once in newspapers published in Sinhala, Tamil and English if the value of the property amounts to two thousand five hundred rupees or more.

Procedure where no claimant appears within six months.

432. If any person within such period does not establish his claim to such property and if the person in whose possession such property was found is unable to show that it was legally acquired by him, such property shall be at the disposal of the State and may be sold under the orders of the Magistrate.

Power to sell.

433. If the person entitled to the possession of such property is unknown or absent and the property is subject to speedy and natural decay or the Magistrate to whom its seizure is reported is of opinion that its sale would be for the benefit of the owner, the Magistrate may at any time direct it to be sold and the provisions of sections 431 and 432 shall as nearly as may be practicable apply to the net proceeds of such sale.

CHAPTER XXXIX

OF IRREGULARITIES IN PROCEEDINGS

Proceedings in wrong place.

434. Any judgment of any criminal court shall not be set aside merely on the ground that the inquiry, trial, or other proceedings in the course of which it was passed took place in a wrong local area unless it appears that such error occasioned a failure of justice.

Non-compliance with provisions of Code.

435. If any court before which a deposition of a witness or a statement of an accused recorded under the provisions of this Code is tendered in evidence finds that the provisions of this Code have not been fully complied with by the Magistrate recording the evidence or statement, it may take evidence that such witness or accused duly gave the evidence or made the statement recorded; and notwithstanding section 91 of the Evidence Ordinance such evidence or statement shall be admitted if the error has not injured the accused as to his defence on the merits.

Finding or sentence when reversible by reason of error or omission in charge or other proceedings.

436. Subject to the provisions herein before contained any judgment passed by a court of competent jurisdiction shall not be reversed or altered on appeal or revision on account—

(*a*) of any error, omission, or irregularity in the complaint, summons, warrant, charge, judgment, summing up, or other proceedings before or during trial or in any inquiry or other proceedings under this Code; or

(*b*) of the want of any sanction required by section 135,

unless such error, omission, irregularity, or want has occasioned a failure of justice.

Distress not illegal for defect in proceedings.

437. Any distress made under this Code shall not be deemed unlawful nor shall any person making the same be deemed a trespasser on account of any defect or want of form in the summons or other previous conviction, writ of distress, or other proceedings relating thereto.

CHAPTER XL

General Provisions

Jurisdiction to deal with fugitive persons.

438. Jurisdiction relating to fugitive persons shall be exercised in accordance with the law in force for the time being relating to fugitive persons and their extradition.

Power to summon material witness or examine person present.

439. Any court may at any stage of an inquiry, trial, or other proceeding under this Code summon any person as a witness or examine any person in attendance though not summoned as a witness or recall and re-examine any person already examined; and the court shall summon and examine or recall and re-examine any such person if his evidence appears to it essential to the just decision of the case.

Power of court to order prisoner in jail to be brought up for examination.

440. (1) Any criminal court desirous of examining as a witness in any case pending before the court any person confined in any prison may issue an order to the officer in charge of the said prison requiring him to bring such prisoner in proper custody at a time to be therein named to the court for examination.

(2) The officer so in charge on receipt of such order shall act in accordance therewith and shall provide for the safe cutody of the prisoner during his absence from the prison for the purpose aforesaid.

Money ordered to be paid recoverable as fines.

441. Any money (other than a fine) payable by virtue of any order made under this Code shall be recoverable as if it were a fine.

Copies of any deposition or other part of record.

442. If any person affected by a judgment or final order of a criminal court desires to have a copy of any deposition or other part of the record he shall on applying for such copy be furnished therewith by the court upon payment therefor at the rate of twenty-five cents for one hundred words as the court may direct, unless the court for some special reason thinks fit to furnish it free of cost.

Accused person entitled to certified copy of whole or part of proceedings whether concluded or pending.

443. The Registrar of the court shall without delay issue to every accused person who applies for it a certified copy of the whole or any part as desired of the proceedings (whether pending or concluded) against such accused person on payment therefor at the rates mentioned in section 442.

Accused person entitled to copy of first information.

444. (1) Every inquirer or officer in charge of a police station shall issue to every accused person or his attorney-at-law who applies for it a duly certified copy of the first information relating to the commission of the offence with which he is charged and of any statement made by the person against whom or in respect of whom the accused is alleged to have committed an offence.

(2) In every proceedings under this Code the production of a certified copy of any information or statement obtained under subsection (1) shall be prima facie evidence of the fact that such information was given or that such statement was made to the inquirer or police officer by whom it was recorded; and notwithstanding the provisions of any other law, it shall not be necessary to call such inquirer or officer as a witness solely for the purpose of producing such certified copy.

(3) In the course of a trial in a Magistrate's Court, the Magistrate may, in the interests of justice, make available to the accused or his attorney-at-law for perusal in open court the statement recorded under section 110 of any witness whose evidence is relied on by the prosecution in support of the charge against the accused.

Delivery to military authorities of persons capable of being tried by court martial.

445. (1) Rules may be made under section 454 consistent with this Code and military law or any similar law for the time being in force as to the cases in which persons subject to military law shall be tried by a court to which this Code applies; and when any person is brought before a Magistrate and charged with an offence for which he is liable to be tried under military law, such Magistrate shall have regard to such rules and shall in proper cases deliver him together with a statement of the offence of which he is accused to the commanding officer of the ship, regiment, corps or detachment to which he belongs or to the commanding officer of the nearest naval, military or air force station, as the case may be, for the purpose of being tried in accordance with military law.

In this subsection the expression "military law" includes the Army Act, the Navy Act, and the Air Force Act, and the expression "person subject to military law" includes all persons subject to any one of the said Acts.

(2) Every Magistrate shall on receiving a written application for that purpose by the commanding officer of any body of troops stationed or employed at any such place use his utmost endeavours to apprehend and secure any person accused of such offence.

Person released on bail to give address for service.

446. When any person is released on bail or on his own bond he shall give to the court or officer taking such bail or bond an address at which service upon him of all notices and process may be made, and in any case where such person cannot be found or for other reasons such service on him cannot be effected any notice or process left for such person at such address shall be deemed to have been duly served upon him.

Power to compel restoration of abducted females.

447. Upon complaint made to a Magistrate on oath of the abduction or unlawful detention of a woman or of a female child under the age of fourteen years for any unlawful propose he may after such inquiry as he may deem fit, if such woman or child is within his division, make an order for the immediate restoration of such woman to her liberty or of such female child to her parent, guardian, or other person having the lawful charge of such child and may compel compliance with such order using such force as may be necessary.

Summary trial of witness on alternative charges for giving false evidence.

448. If in the course of any trial before the High Court any witness shall on any material point contradict either expressly or by necessary implication the evidence previously given by him at the inquiry before the Magistrate, it shall be lawful for the presiding Judge, upon the conclusion of such trial, to have such witness arraigned and tried on an indictment for intentionally giving false evidence in a stage of a judicial proceeding. The indictment shall be prepared and signed by the Registrar, and the accused may be tried by the same jury where the first-mentioned trial was by jury or by the Judge sitting alone where the first-mentioned trial was without a jury.

(2) At such trial it shall be sufficient to prove that the accused made the contradictory statements alleged in the indictment, and it shall not be necessary to prove which of such statements is false.

(3) The presiding Judge may, if he considers expedient, adjourn the trial of such witness for such period as he may think fit, and may commit such witness to custody or take bail in his own recognizance or with sureties for his appearance. Such adjourned trial shall where the trial was by jury, be held before the same or any other jury as the Judge shall direct.

Summary punishment for perjury in open court.

449. (1) If any person giving evidence on any subject in open court in any judicial proceeding under this Code gives, in the opinion of the court before which the judicial proceeding is held, false evidence within the meaning of section 188 of the Penal Code it shall be lawful for the Court, if such court be the Supreme Court or Court of Appeal or High Court, summarily to sentence such witness as for a contempt of the court to imprisonment either simple or rigorous for any period not exceeding two years or to fine such witness in any sum not exceeding one thousand rupees ; or if such court be an inferior court to order such witness to pay a fine not exceeding five hundred rupees or to undergo rigorous or simple imprisonment for any period not exceeding three months. Whenever the power given by this section is exercised by a court other than the Supreme Court or Court of Appeal, the Judge of such court shall record the reasons for imposing such sentence.

(2) Any person who has undergone any sentence of imprisonment or paid any fine imposed under this section shall not be liable to be punished again for the same offence.

(3) Any person against whom any order is made by any court other than the Supreme Court or Court of Appeal under subsection (1) may appeal to the Court of Appeal and every such appeal shall be subject to the provisions of this Code.

(4) In lieu of exercising the power given by this section the court may if it thinks fit transmit the record of the judicial proceeding to the Attorney-General to enable him to exercise the powers conferred on him by this Code.

Three Judges of the High Court at Bar may try without jury in certain cases.

450. (1) Notwithstanding anything to the contrary in any other writiten law or any other provision of this Code, the trial of any person for any offence punishable under section 114, 115 or 116 of the Penal Code shall be held before the High Court at Bar by three Judges without a jury.

(2) Where the Chief Justice is of the opinion that owing to the nature of the offence or the circumstances of and relating to the commission of the offence, in the interests of justice a trial at Bar should be held, the Chief Justice may by order under his hand direct that the trial of any person for that offence shall be held before the High Court at Bar by three judges without a jury.

(3) A trial before the High Court under this section may be held either upon indictment, or upon information exhibited by the Attorney-General.

(4) Notwithstanding anything to the contrary in this Code or any other law, the Attorney-General may exhibit to the High Court information in respect of any offence to be tried before the High Court at Bar by three Judges without a jury.

(5) A trial before the High Court at Bar under this section shall be held as speedily as possible and shall proceed as nearly as possible in the manner provided for trials before the High Court without a jury subject to such modifications as may be ordered by the Court or as may be prescribed by rules made under this Code.

(6) At any trial before the High Court under this section, the court or the presiding Judge thereof, may give directions for the summoning, arrest, custody or bail of all persons charged before the court on indictment or by information exhibited under this section :

Provided, however, that any such person shall not be admitted to bail except with the consent of the Attorney-General.

(7) Any person indicted or charged on an information before the High Court under this section may at least two weeks before the commencement of such trial, by application in writing to the High Court request that he be furnished with copies of the statements made by the witnesses whom the prosecution intends to call and of the documents the prosecution intends to produce at the trial and the court may direct that copies of all such statements or documents, or of only such statements or documents as the court in its discretion thinks fit, be given by the Attorney-General to such person.

(8) The trial of any person before the High Court under this section may commence or continue in the absence of such person if the court is satisfied that he is absconding or feigning illness or has left the island or being present, obstructs or impedes the progress of the trial.

Nomination of Judges and appeals.

451. (1) In every case of a trial at Bar before the High Court under section 450, the relevant provisions of the Judicature Act, No. 2 of 1978, shall apply on the question of the nomination of the Judges of the Court and the place where such trial shall be held.

(2) Anything to the contrary in this code or any other law notwithsanding an accused person may appeal from any judgment, sentence or order pronounced at a trial held under section 450. Such appeal shall be to the Court of Appeal and shall be heard by a Bench of not less than five Judges of that Court nominated by the President of the Court of Appeal. It shall be lawful for the President of the Court of Appeal to nominate himself to such Bench.

(3) The provisions in this Code and of any other written law governing appeals to the Court of Appeal from judgments, sentences and orders of the High Court in cases tried without a jury shall *mutatis mutandis* apply to appeals under the subsection (2).

Custody of women and persons under sixteen years pending inquiry or trial.

452. In every case where the committal or remand of any person to custody pending inquiry or trial is authorized by any written law, the court may, if such person is a woman or under the age of sixteen years, in lieu of committing or remanding such person to the custody of the superintendent of a prison, direct that for the period for which such commital or remand may otherwise have been ordered under that law, such person shall remain in the custody of a probation officer or in an approved home.

In this section "approved home" means home or other similar institution for women or persons under the age of sixteen years, which has been approved by the Minister by notification published in the *Gazette*.

Power of Supreme Court to make rules.

453. (1) Without prejudice to the provisions of Article 136 of the Constitution, the Chief Justice with any three Judges of the Supreme Court may from time to time make rules for carrying out or giving effect to the principles and provisions of this Code, for prescribing forms for every proceeding in all courts for which the Chief Justice considers that a form should be provided for or for matters in respect of which rules are authorized by this Code to be made.

(2) Rules made under subsection (1) shall be made in the manner provided for in Article 136 of the Constitution.

Forms.

454. Subject to the power conferred by section 454 the forms set forth in the Second Schedule with such variation as the circumstances of each case require shall be used for the respective purposes therein mentioned.

Public servants not to bid at sales under this Code.

455. A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property at such sale.

Period of prescription for crimes or offences.

456. The right of prosecution for murder or treason shall not be barred by any length of time, but the right of prosecution for any other crime or offence (save and except those as to which special provision is or shall be made by law) shall be barred by the lapse of twenty years from the time when the crime or offence shall have been committed.

Repeal and havings and transitional provisions.

457. (1) Chapters II and IV of the Administration of Justice Law, No. 44 of 1973, are hereby repealed.

(2) Any appeal, application, trial, inquiry or investigation pending in any court on the day immediately preceding the appointed date may be disposed of, continued, held, or made as the case may be as nearly as may be practicable under the provisions of this Code.

(3) Where an offence falling under the Second Schedule to the Judicature Act, No. 2 of 1978 has been committed before the appointed date but in respect of such offence an indictment has not been filed a Magistrate shall hold a preliminary inquiry under Chapter XV and proceed in accordance with the provisions of this Code if the Attorney-General so directs him :

Provided however that in respect of any such offence the Attorney-General may, where having regard to the nature and circumstances of the commission of the offence, he thinks fit, directly indict the accused to stand trial by jury in the High Court and the trial shall proceed in the High Court with a jury as nearly as may be practicable under the provisions of this Code.

(4) The Attorney-General may, where having regard to the nature and circumstances of the commission of the offence he thinks fit, directly file indictment in the High Court for trial without a jury in respect of any offence committed before the appointed date (but not falling within the list of offences specified in the Second Schedule to the Judicature Act, No. 2 of 1978), and then such trial shall proceed in the High Court as nearly as may be practicable under the provisions of this Code.

(5) All notifications published, proclamations issued, powers conferred, forms prescribed, local jurisdictions defined, sentences passed and orders, rules and appointments made under the law in force immediately prior to the appointed date, shall be deemed respectively to have been published, issued, conferred, prescribed, defined, passed or made under the corresponding provisions of this Code.

(6) Any sanction accorded or consent given under the provisions of the Administration of Justice Law, No. 44 of 1973, in pursuance of which any proceeding was not commenced under that law or in pursuance of which proceedings are pending on the day immediately prior to the appointed date shall be deemed to have been accorded or given under the corresponding provisions of this Code and

proceedings may be commenced or continued as the case may be under this Code in pursuance of such sanction or consent.

(7) Where the period prescribed by the law in force immediately before the appointed date, for filing an appeal or application or other proceeding or taking a step in procedure had expired before the appointed date, anything in this Code shall not be construed as enabling any such appeal or application to be filed or proceeding to be commenced or step in procedure to be taken by reason only of the fact that a longer period thereof is prescribed by this Code or provisions are made in this Code for the extension of time or that other relief earlier not available are provided by this Code.

(8) All trials pending on indictment in the Hight Court on the day immediately before the appointed date shall as far as is practicable be tried and disposed of by the High Court as if such indictments had been filed under the provisions of this Code.

(9) Such of the provisions of the Prevention of Crimes Ordinance and of the Probation of Offenders Ordinance as were deemed to be repealed by section 3 (1) (c) of the Administration of Justice Law, No. 44 of 1973, shall for all purposes be deemed to have been and to be in operation as if the same had not been deemed to be repealed.

Regulations.

458. (1) The Minister may make regulations in respect of matters for which regulations are authorized by this Code to be made.

(2) Every regulation made by the Minister under subsection (1) shall be published in the *Gazette* and shall come into force on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation shall as soon as convenient after publication in the *Gazette* be brought before the Parliament for approval and any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder.

(4) The date on which any regulation is so deemed to be rescinded shall be published in the *Gazette*.

FIRST SCHEDULE

Sections 10 and 11

TABULAR STATEMENT OF OFFENCES

Explanatory Notes

(1) The entries in the second and seventh columns of this Schedule, headed respectively " Offence " and " Punishment under the Penal Code", are not intended as definitions of the offences and punishments described in the several corresponding sections of the Penal Code, or even as abstracts of those sections, but merely as references to the subject of the sections, the number of which is given in the first column.

(2) The entries in the third column of this Schedule are not intended in any way to restrict the powers of arrest without warrant which may be lawfully exercised by peace officers.

1 *Section*	*2* *Offence*	*3* *Whether Peace Officer may arrest without warrant or not*	*4* *Whether a warrant or a summons shall ordinarily issue in first instance*	*5* *Whether bailable or not*	*6* *Whether compoundable or not*	*7* *Punishment under the Penal Code*	*8* *By what Court other than High Court triable*
		CHAPTER V—ABETMENT					
102	Abetment of any offence if the act abetted is committed in consequence, and where no express provision is made for its punishment	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise	According as a warrant or summons may issue for the offence abetted	According as the offence abetted is bailable or not	According as the offence abetted is compoundable or not	The same punishment as for the offence abetted	The court by which the offence abetted is triable
103	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor	Same	Same	Same	Same	Same	The court by which the offence abetted is triable
104	Abetment of any offence, when one act is abetted and a different act is done, subject to the proviso	Same	Same	Same	Same	The same punishment as for the offence intended to be abetted	The court by which the offence abetted is triable

1 Section	2 Offence	3 Whether Peace Officer may arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment under the Penal Code	8 By what Court other than High Court triable
106 ..	Abetment of any offence, when an effect is caused by the act abetted different from that intended by the abettor	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise	According as a warrant or summons may issue for the offence abetted	According as the offence abetted is bailable or not	According as the offence abetted is compoundable or not	The same punishment as for the offence committed	The court by which the offence abetted is triable
107 ..	Abetment of any offence if abettor is present when offence is committed	Same ..	Same ..	Same ..	Same ..	Same ..	The court by which the offence abetted is triable
108 ..	Abetment of an offence, punishable with death if the offence be not committed in consequence of the abetment	Same ..	Same ..	Not bailable ..	Not compoundable	Imprisonment of either description for seven years and fine	The court by which the offence abetted is triable
	If an act which causes harm be done in consequence of the abetment	Same ..	Same ..	Same ..	Same ..	Imprisonment of either description for fourteen years, and fine	The court by which the offence abetted is triable
109 ..	Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment	Same ..	Same ..	According as the offence abetted is bailable or not	According as the offence abetted is compoundable or not	Imprisonment extending to a quarter part of the longest term, and of any description provided for the offence or fine, or or both	The court by which the offence abetted is triable
	If the abettor, or the person abetted, be a public servant whose duty it is to prevent the offence	Same ..	Same ..	Same ..	Same ..	Imprisonment extending to half of the longest term, and of any description provided for the offence, or fine, or both	The court by which the offence abetted is triable.

110 ..	Abetting the commission of an offence by the public or by more than ten persons	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for three years, or fine, or both	The court by which the offence abetted triable
111 ..	Concealing a design to commit an offence punishable with death or imprisonment for twenty years, if the offence be committed	Same	.. Same	.. Not bailable	.. Not compoundable	Imprisonment of either description for seven years, and fine	The court by which the offence abetted is triable
	If the offence be not committed	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for three years, and fine	The court by which the offence abetted is triable
112 ..	A public servant concealing a design to commit an offence which it is his duty to prevent if the offence be committed	Same	.. Same	.. According as the offence abetted is bailable or not	Same	.. Imprisonment extending to half of the longest term, and of any description provided for the offence, or fine or both	The court by which the offence abetted is triable
	If the offence be punishable with death	Same	.. Same	.. Not bailable	.. Same	.. Imprisonment of either description for ten years	The Court by which the offence abetted is triable
	If the offence be not committed	Same	.. Same	.. According as the offence abetted is bailable or not	Same	.. Imprisenment extending to a quarter part of the longest term and of any description provided for the offence or fine or both	The court by which the offence abetted is triable
113	Concealing a design to commit an offence punishable with imprisenment, if the offence be committed	Same	.. Same	.. Same	.. Same	.. Imprisonment extending to a quarter part of the longest term, and of any description provided for the offence, or fine, or both	The court by which the offence abetted is triable

1 Section	2 Offence	3 Whether Peace Officer may arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment under the Penal Code	8 By what Court other than High Court triable
	If the offence be not committed	Same	Same	Same	Same	Imprisonment extending to one-eight part of the longest term, and of the description provided for the offence, or fine, or both	The court by which the offence abetted is triable.
	CHAPTER VA.—CONSPIRACY						
113B	Conspiracy for the commission or abetment of any offence	May arrest without warrant if arrest for the offence which is the object of the conspiracy may be made without warrant but not otherwise	According as a warrant or summons may issue for the offence which is the object of the conspiracy	According as the offence which is the object of the conspiracy is bailable or not	Not compoundable	The same punishment as that provided for the abetment of the offence which is the object of the conspiracy	Magistrate's Court if the offence which is the object of the conspiracy is triable by the Magistrate's Court
	CHAPTER VI —OFFENCES AGAINST THE STATE						
114	Waging, or attempting to wage war, or abetting the waging of war against the Republic of Sri Lanka	May arrest without warrant	Warrant	Not bailable	Same	In the case of persons under the age of sixteen years, detention during the Presidents' pleasure and forfeiture of property. In the case of pregnant women, imprisonment for life, and forfeiture of property. In all other cases, death or imprisonment	

						of either description which shall extend to at least ten years but shall not extend to more than twenty years and forfeiture of property
115	Conspiring to commit certain offences against the State	Same	Same	Same	Same	Imprisonment of either description for twenty years, and fine
116	Collecting arms, &c., with the intention of waging war against the Republic of Sri Lanka	Same	Same	Same	Same	Imprisonment of either description for twenty years and forfeiture of property
117	Concealing with intent to facilitiate a design to wage war	Same	Same	Same	Same	Imprisonment of either description for ten years, and fine
118	Attempt to bring the President into contempt	Same	Same	Same	Same	Simple imprisonment for two years and fine
119	Assaulting President &c., with intent to compel or restrain the exercise of any lawful power	Same	Same	Same	Same	Imprisonment of either description for seven years and fine
120	Exciting, or attempting to excite, disaffection	Same	Same	Same	Same	Simple imprisonment for two years
121	Waging war against any Power in alliance or at peace with the Republic or Sri Lanka, or abetting the waging of such war	Same	Same	Same	Same	Imprisonment of either description for ten years and fine, or fine

1 Section	2 Offence	3 Whether Peace Officer may arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment under the Penal Code	8 By what Court other than High Court triable
122	Committing depredation on the territories of any Power in alliance or at peace with the Republic of Sri Lanka	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment of either description for seven years and fine, and for foiture of certain property	
123	Receiving property taken by war or depredation, mentioned in sections 121 and 122	Same	Same	Same	Same	Imprisonment of either description for seven years and fine, and forfeiture of certain property	
124	Public servant voluntarily allowing prisoner of State or war in his custody to escape	Same	Same	Same	Same	Imprisonment of either description for twenty years and fine	
125	Public servant negligently suffering prisoner of State or war, in his custody, to escape	Same	Same	Bailable	Same	Simple imprisonment for three years, and fine	
126	Aiding escape of, rescuing or harbouring such prisoner, or offering any resistance to the recapature of such prisoner	Same	Same	Not bailable	Same	Imprisonment of either description for twenty years, and fine	
	CHAPTER VII—OFFENCES RELATING TO THE NAVY, ARMY AND AIR FORCE						
128	Abetting mutiny, or attempting to seduce an officer, sailor, soldier, or airman from his allegiance or duty	May arrest without warrant	Same	Same	Same	Imprisonment of either description for twenty years and fine	

129 .. Abetment of mutiny, if mutiny is committed in consequence thereof	Same	.. Same	.. Same	.. Same	.. Death or imprisonment of either description for twenty years, and fine	
130 .. Abetment of an assault by an officer, sailor, soldier, or airman, on his superior officer, when in the execution of his office	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for three years, and fine	Magistrate's Court
131 .. Abetment of such assault, if the assault is commited	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for seven years, and fine	Magistrate's Court
132 .. Abetment of the desertion of an officer, sailor, soldier, or airman	Same	.. Same	.. Bailable	.. Same	.. Imprisonment of either description for two years, or or fine, or both	Magistrate's Court
133 .. Harbouring such an officer, sailor, soldier, or airman who has deserted	Same	.. Same	.. Same	.. Same	.. Same	.. Magistrate's Court
134 .. Deserter concealed on board merchant vessel through negligence of master or person in charge thereof	Shall not arrest without warrant	Summons	.. Same	.. Same	.. Fine or five hundred rupees	Magistrate's Court
135 .. Abetment of act of insubordination by an officer, sailor, soldier, or airman, if the offence be committed in consequence	May arrest without warrant	Warrant	.. Same	.. Same	.. Imprisonment of either discription for six months, or fine or both	Magistrate's Court
137 .. Wearing the dress or carrying any token used by sailor, soldier or airman with intent that it may be believed that he is such sailor, soldier or airman	Same	.. Summons	.. Bailable	.. Same	.. Imprisonment of either description for three months, or fine on one hundred rupees, or both	Magistrate's Court

1 Section	2 Offence	3 Whether Peace Officer may arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment under the Penal Code	8 By what Court other than High Court triable
	CHAPTER VIII—OFFENCES AGAINST THE PUBLIC TRANQUILITY						
140	Being a member of an unlawful assembly	May arrest without warrant	Summons	Bailable	Not Compoundable	Imprisonment of either description for six month's or fine, or both	Magistrate's Court
141	Joining an unlawful assembly armed with any deadly weapon	Same	Warrant	Same	Same	Imprisonment of either description for two years, or fine or both	Magistrate's Court
142	Joining or continuing in an unlawful assembly knowing that it has been commanded to disperse	Same	Same	Same	Same	Same	Magistrate's Court
144	Rioting	Same	Same	Same	Same	Same	Magistrate's Court
145	Rioting, armed with a deadly weapon	Same	Same	Same	Same	Imprisonment of either description for three years, or fine, or both	Magistrate's Court
146	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence	According as arrest may be made, without warrant, for the offence or not	According as a warrant or summons may issue for the offence	According as the offence is bailable, or not	According as the offence is compoundable or not	The same as for the offence	The court by which the offence is triable
147	Hiring, engaging, or employing persons to take part in an unlawfull assemby	May arrest without warrant	According as to the offence committed by the person hired, engaged, or employed	According as the offence is bailable or not	Not compoundable	The same as for a member of such assembly, and for any offence committed by any member of such assembly	Magistrate's Court

148	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse	Same	Summons	Bailable	Same	Imprisonment of either description for six months, or fine, or both	Magistrate's Court
149	Assaulting or obstructing public servant when suppressing riot, and less &c.,	Same	Warrant	Same	Same	Imprisonment of either description or fine, or both	Magistrate's Court
150	Wantonly giving provocation with intent to cause riot, if rioting be committed	Same	Same	Same	Same	Imprisonment of either description for one year, or fine, or both	Magistrate's Court
	If not committed	Same	Summons	Same	Same	Imprisonment of either description for six months, or fine, or both	Magistrate's Court
151	Owner or occupier of land not giving information of riot, &c.,	Shall not arrest without warrant	Same	Same	Same	Fine of one thousand rupees	Magistrate's Court
152	Person for whose benefit or on whose behalf a riot takes place, not using all lawful means to prevent it	Same	Warrant	Same	Same	Fine	Magistrate's Court
153	Agent of owner or occupier for whose benefit a riot is committed, not using all lawful means to prevent it	Same	Same	Same	Same	Same	Magistrate's Court
154	Harbouring persons hired for an unlawful assembly	May arrest without warrant	Same	Same	Same	Imprisonment of either description for six months, or fine, or both	Magistrate's Court

1 Section	2 Offence	3 Whether Peace Officer may arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment under the penal Code	8 By what Court other than High Court triable
155	Being hired to take part in an unlawful assembly or riot	May arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment of either description for six months, or fine, or both	Magistrate's Court
	Or to go armed	Same	Same	Same	Same	Imprisonment of either description for two years, or fine, or both	Magistrate's Court
157	Committing affray	Same	Summons	Same	Compoundable	Imprisonment of either description for one month, or fine of one hundred rupees, or both	Magistrate's Court
	CHAPTER IX—OFFENCES BY OR RELATING TO PUBLIC SERVANTS						
158	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act	Shall not arrest without warrant	Same	Same	Not compoundable	Imprisonment of either description for three years, or fine or both	Magistrate's Court
159	Taking a gratification in order, by corrupt or illegal means, to influence a public servant	Same	Same	Same	Same	Same	Magistrate's Court
160	Taking a gratification for the exercise of personal influence with a public servant	Same	Same	Same	Same	Simple inprisonment for one year, or fine, or both	Magistrate's Court

161.. Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for three years, or fine, or both	Magistrate's Court
162.. Public servant disobeying a direstion of the law with intent to cause injury to any person.	Same	.. Same	.. Same	.. Same	.. Simple imprisonment for one year, or fine, or both	Magistrate's Court
163.. Public servant framing an incorrect document with intent to cause injury.	Same	.. Same	Same	.. Same	.. Imprisonment of either description for three years, or fine, or both	Magistrate's Court
164.. Fraudulent or malicious infraction of duty by public servant in Posts and Telecommunications Department.	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for two years, or fine, or both	Magistrate's Court
165.. Misconduct by public servant in Posts and Telecommunications Department.	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for three months, or fine which may extend to fifty rupees or both.	Magistrate's Court
166.. Fraud by public servant in Posts and Telecommunications Department.	May arrest without warrant	Warrant	.. Same	.. Same	.. Imprisonment of description which may extend to two years, or fine, or both.	Magistrate's Court
167.. Injury to messages, & c., committed by public servants in Posts & Telecommunication Department.	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for seven years, or fine, or both.	Magistrate's Court

1 Section	2 Offence	3 Whether Peace Officer may arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment under the Penal Code	8 By what Court other than High Court triable
168..	Personating a public servant.	May arrest without warrant	Warrant	.. Bailable	.. Not compoundable	Imprisonment of either description for two years or fine, or both.	Magistrate's Court.
169..	Wearing garb or carrying token used by public servant with fraudulent intent.	Same	.. Summons	.. Same	.. Same	.. Imprisonment of either description for three months, or fine of one hundred rupees, or both	Magistrate's Court

CHAPTER IXA—OFFENCES RELATING TO ELECTIONS

169E ..	Bribery in connection with an election.	Shall not arrest without warrant	Same	.. Same	.. Same	.. Fine of five hundred rupees	Magistrate's Court
	If bribery by treating	Same :	Same	.. Same	.. Same	.. Fine of two hundred rupees..	Magistrate's Court
169F..	Undue influence at an election.	Same	.. Same	.. Same	.. Same	.. Fine of five hundred rupees.	Magistrate's Court
	Personation at an election.	Same	.. Same	.. Same	.. Same	.. Fine of three hundred rupees	Magistrate's Court
169G	False statement in connection with an election.	Same	.. Same	.. Same	.. Same	.. Same	.. Magistrate's Court
169H	Failure to keep election accounts.	Same	.. Same	.. Same	.. Same	.. Same	.. Magistrate's Court

170	Absconding to avoid service of summons or order proceeding from a public servant.	Same	Same	Same	Same	Simple imprisonment for one month, or fine of fifty rupees, or both	Magistrate's Court	
	If summons or notice require attendance in person, &c., in a Court of Justice	Same	Same	Same	Same	Simple imprisonment for six months, or fine of one hundred rupees, or both.	Magistrate's Court	
171	Preventing the service or the affixing of any summons or notice or the removal of it when it has been affixed, or preventing a proclamation.	Same	Same	Same	Same	Simple imprisonment for one month, or fine of fifty rupees, or both.	Magistrate's Court	
	If summons, &c. require attendance in person, &c., in a Court of Justice.	Same	Same	Same	Same	Simple imprisonment for six months, or fine one hundred or both	Magistrate's Court	
172	Not obeying a legal order to attend at a certain place in person or by agent, or departing there from without authority.	Same	Same	Same	Same	Simpll imprisonment for one month, or fine of fifty repees, or both.	Magistrate's Court	
	If the order require personal attendance, &c., in a Court of Justice.	Same	Same	Sane	Same	Simple imprisonment for six months, or fine of one hundred rupees or both.	Magistrate's Court	

1 Section	2 Offence	3 Whether Peace Officer may arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment under the Penal Code	8 By what Court other than High Court triable
173	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Simple imprisonment for one month, or fine of one hundred rupees or both	The court in which the offence is committed subject to the provisions of Chapter XXXII; or, if not committed in a court, a Magistrate's Court
	If the document is required to be produced in or delivered to a Court of Justice	Same	Same	Same	Same	Simple imprisonment for six months, or fine of one hundred rupees, or both	Magistrate's Court
174	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information	Same	Same	Same	Same	Simple imprisonment for one month, or fine of fifty rupees, or both	Magistrate's Court
	If the notice or information required respects the commission of an offence &c.	Same	Same	Same	Same	Simple imprisonment for six months or fine of one hundred rupees or both	Magistrate's Court
175	Knowingly furnishing false information to a plublic servant	Same	Same	Same	Same	Same	Magistrate's Court
	If the information required respects the commission of an offence, &c.	Same	Same	Same	Same	Imprisonment of either description for two years, or fine, or both	Magistrate's Court

176	Refusing oath when duly required to take oath by a public servant	Same	Same	Same	Same	Simple imprisonment for six months, or fine of one hundredrupees, or both	The court in which the offence is committed, subject to the provisions of Chapter XXXII; or, if not committed in a court, a Magistrate's Court
177	Being legally bound to state truth, and refusing to answer questions	Same	Same	Same	Same	Same	The court in which the offence is committed, subject to the provisions of Chapter XXXII; or if not committed in a court, a Magistrate's Court
178	Refusing to sign a statement made to a public servant when legally required to do so	Same	Same	Same	Same	Simple imprisonment for three months, or fine of one hundred rupees, or both	Magistrate's Court
179	Knowingly stating to a public servant on oath, as true, that which is false	Same	Warrant	Same	Same	Imprisonment of either description for three years, and fine	Magistrate's Court
180	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person	Same	Summons	Same	Same	Imprisonment of either description for six months, or fine of one thousand rupees, or both	Magistrate's Court
181	Resistance to the taking of property by the lawful authority of a public servant	Same	Same	Same	Same	Imprisonment of either description for six months, or fine of one hundred rupees or both	Magistrate's Court

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1 Section	2 Offence	3 Whether Peace Officer may arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment under the Penal Code	8 By what Court other than High Court triable
182	Obstructing sale of property offered for sale by authority of a public servant	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment of either description for one month, or fine of one hundred rupees or both	Magistrate's Court
183	Obstructing public servant in discharge of his public functions	Same	Same	Same	Same	Imprisonment of either description for three months, or fine of one hundred rupees, or both	Magistrate's Court
184	Omission to assist public servant when bound by law to give such assistance	Same	Same	Same	Same	Simple imprisonment for one month, or fine of fifty rupees or both	Magistrate's Court
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, etc.	Same	Same	Same	Same	Simple imprisonment for six months or fine of one hundred rupees, or both	Magistrate's Court
185	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction, annoyance, or injury to persons lawfully employed	Same	Same	Same	Same	Simple imprisonment for one month or fine of fifty rupees, or both	Magistrate's Court

	If such disobedience causes danger to human life, health, or safety, etc.	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for six month's or fine of one hundred rupees, or both	Magistrate's Court
186 ..	Threatening a public servant with injury to him; or one in whom he is interested; to induce him to do or for bear to do any official act	Same	.. Same	.. Same	.. Same	Imprisonment of either description for two years, or fine, or both	Magistrate's Court
187 ..	Threatening any person to induce him to refrain from making a legal application for protection from injury	Same	.. Same	.. Same	.. Same	.. mprisonment of either description for one year, or fine or both	Magistrate's Court

CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE

190 ..	Giving or fabricating false evidence in a judicial proceeding	Same	.. Warrant	.. Same	.. Same	.. Imprisonment of either description for seven years, and fine	Magistrate's Court
	Giving or fabricating false evidence in any other case	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for three years, and fine	Magistrate's Court
191 ..	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence	Same	.. Same	.. Not bailable	.. Same	.. Rigorous imprisonment for ten years, and fine	

1 Section	2 Offence	3 Whether Peace Officer may arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment under the Penal Code	8 By what Court other than High Court triable
	If innocent person be thereby convicted and executed	Shall not arrest without warrant	Warrant	Not bailable	Not compoundable	In the case of persons under the age of sixteen years, detention during the President's pleasure. In the case of pregnant women, imprisonment for life. In all other cases, death	
192	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with imprisonment for seven years or upwards	Same	Same	Same	Same	The same as for the offence	
193	Using, in a judicial proceeding, evidence known to be false or fabricated	Same	Same	According as the offence of giving such evidence is bailable or not	Same	The same as for giving or fabricating false evidence	Magistrate's Court
194	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence	Same	Same	Bailable	Same	The same as for giving false evidence	Magistrate's Court
195	Using as a true certificate, one known to be false in a material point	Same	Same	Same	Same	Same	Magistrate's Court

196	False statement made in any declaration which is by law receivable as evidence	Same	Same	Same	Same	Same	Magistrate's Court
197	Using, as true, any such declaration known to be false	Same	Same	Same	Same	Same	Magistrate's Court
198	Causing disappearance of evidence of an offence committed, or giving false information touching it, to screen the offender; if a capital offence	Same	Same	Same	Same	Improisnment of either description for seven years, and fine	
	If punishable with imprisonment for ten years	Same	Same	Same	Same	Imprisonment of either description for three years, and fine	Magistrate's Court
	If punishable with less than ten years imprissonment	Same	Same	Same	Same	Imprisonment for a quanrter of the longest term and description provided for the offence or fine or both	Magistrate's Court
199	Intentional omission to give information of an offence by a person legally bound to inform	Same	Summons	Same	Same	Imprisonment of either description for six moths, or fine, or both	Magistrate's Court
200	Giving false information respecting an offence committed	Same	Warrant	Same	Same	Imprisonment of either description for two years, or fine, or both	Magistrate's Court
201	Secreting or destroying any document to prevent its production as evidence	Same	Same	Same	Same	Same	Magistrate's Court
202	False personation for the purpose or any act of proceeding in a suit or criminal prosecution or for becoming ball or security	Same	Same	Same	Same	Imprisonment of either description for three years, or fine, or both	Magistrate's Court

1 *Section*	2 *Offence*	3 *Whether Peace Officer may arrest without warrant or not*	4 *Whether a warrant or a summons shall ordinarily issue in first instance*	5 *Whether bailable or not*	6 *Whether compoundable or not*	7 *Punishment under the Penal Code*	8 *By what Court other than High Court triable*
203	Fraudulent removal or concealment, &c., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment of either description for two years, or fine, or both	Magistrate's Court
204	Claiming property without right or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree	Same	Same	Same	Same	Same	Magistrate's Court
205	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied	Same	Same	Same	Same	Same	Magistrate's Court
206	False claim in a Court of Justice	Same	Same	Same	Same	Imprisonment of either description for two years, and fine	Magistrate's Court
207	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied	Same	Same	Same	Same	Imprisonment of either description for two years, or fine, or both	Magistrate's Court

208 ..	False charge of offence made with intent to injure	Same	..	Same	..	Same	..	Same	..	Imprisonment of either description for two years, or fine, or both	Magistrate's Court
	If offence charged be capital, or punishable with imprisonment for a term exceeding seven years	Same	..	Same	..	Same	..	Same	..	Imprisonment of either description for seven years, and fine	Magistrate's Court
209 ..	Harbouring an offender, if the offence be captial	May arrest without warrant		Same	..	Same	..	Same	..	Imprisonment of either description for five years, and fine	Magistrate's Court
	If punishable with imprisonment for ten years	Same	..	Same	..	Same	..	Same	..	Imprisonment of either description for three years, and fine	Magistrate's Court
	If punishable with imprisonment for one year and not for ten years	Same	..	Same	..	Same	..	Same	..	Imprisonment for a quarter of the longest term, and of the description provided for the offence, or fine or both	Magistrate's Court where offence committed by person harboured is triable by a Magistrate's Court
210 ..	Taking gift, &c., to screen as offender from punishment, if the offence be capital	Shall not arrest without warrant		Same	..	Same	..	Same		Imprisonment of either description for seven years, and fine	Magistrate's Court
	If punishable with imprisonment for ten years	Same	..	Same	..	Same	..	Same	..	Imprisonment of either description for three years, and fine	Magistrate's Court
	If with imprisonment for less than ten years.	Same	..	Same	..	Same	..	Same	..	Imprisonment for a quarter of the longest term, and of the description provided for the offence, or fine, or both	Magistrate's Court, if the offender is triable by a Magistrate's Court
	If with fine	Same	..	Same	..	Same	..	Same	..	Fine	Magistrate's Court

1 Section	2 Offence	3 Whether Peace Officer may arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment under the Penal Code	8 By what Court other than High Court triable
211	Offering gift or restoration of property in consideration of screening offender; if the offence be capital	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment of either description for seven years, and fine	Magistrate's Court
	If punishable with imprisonment for ten years	Same	Same	Same	Same	Imprisonment of either description for three years, and fine	Magistrate's Court
	If with imprisonment for less than ten years	Same	Same	Same	Same	Imprisonment for a quarter of the longest term, and of the description provided for the offence, or fine, or both	Magistrate's Court, if the offender is triable by a Magsitrate's Court
	If with fine	Same	Same	Same	Same	Fine	Magistrate's Court
212	Taking gift to help to recover movable property of which a person has been deprived by an offence, without causing apprehension of offender	Same	Same	Same	Same	Imprisonment of either description for two years, or fine, or both	Magistrate's Court
213	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital	May arrest without warrant	Same	Same	Same	Imprisonment of either description for seven years, and fine	
	If punishable with imprisonment for ten years	Same	Same	Same	Same	Imprisonment of either description for three years, with or without fine	Magistrate's Court

	If with imprisonment for one year and not for ten years	Same	..	Same	..	Same	..	Same	..	Imprisonment for quarter of the longest term, and of the description provided for the offence, or fine, or both	Magistrate's Court
214	.. Public servant disobeying a direction of law with intent to save person from punishment of property from forfeiture	Shall not arrest without warrant		Summons	..	Same	..	Same	..	Imprisonment of either description for two years, or fine, or both	Magistrate's Court
215	.. Public servant framing an incorrect record or writing with intend to save person from punishment or property from forfeiture	Same	..	Warrant	..	Same	..	Same	..	Imprisonment of either description for three years, or fine, or both	Magistrate's Court
216	.. Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender; if the offence be capital	Same	..	Same	..	Same	..	Same	..	Imprisonment of either description for seven years, with or without fine	Magistrate's Court
	If punishable with imprisonment for ten years	Same	..	Same	..	Same	..	Same	..	Imprisonment of either description for three years, with or without fine	Magistrate's Court
	If with imprisonment for less than ten years	Same	..	Same	..	Same	..	Same	..	Imprisonment of either description for two years, with or without fine	Magistrate's Court
217	.. Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice: if under sentence of death	Same	..	Same	..	Not bailable	..	Same	..	Imprisonment of either description for fourteen years, with or without fine	

1 Section	2 Offence	3 Whether Peace Officer may arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment under the penal Code	8 By what Court other than High Court triable
	If under sentence of imprisonment for ten years or upwards	Shall not arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment of either description for seven years, with or without fine	Magistrate's Court
	If under sentence of imprisonment for less than ten years; or lawfully committed to custody	Same	Same	Bailable	Same	Imprisonment of either description for three years, or fine, or both	Magistrate's Court
218	Escape from confinement negligently suffered by a public servant	Same	Summons	Same	Same	Simple imprisonment for two years, or fine, or both	Magistrate's Court
219	Resistance or obstruction by a person to his lawful apprehension	May arrest without warrant	Warrant	Same	Same	Imprisonment of either description for two years, or fine, or both	Magistrate's Court
219A	Resistance or obstruction to lawful apprehension under a civil process	Shall not arrest without warrant	Summons	Same	Same	Imprisonment of either description for six months, or fine of one hundred rupees, or both	Magistrate's Court
220	Resistance or obstruction to lawful apprehension of another person or rescuing him from lawful custody	May arrest without warrant	Warrant	Not bailable	Same	Imprisonment of either description for two years, or fine or both	Magistrate's Court
	If charged with an offence punishable with imprisonment for ten years	Same	Same	Same	Same	Imprisonment of either description for three years and fine	Magistrate's Court
	If charged with a capital offence	Same	Same	Same	Same	Imprisonment of either description for seven years, and fine	Magistrate's Court

	If the person charged is sentenced to imprisonment for ten years or upwards	Same	..	Same	..	Sam	..	Same	.. Same	Magistrate's Court
	If under sentence of death	Same	..	Same	..	Same	..	Same	.. Imprisonment of either description for ten years and fine.	
220A	Resistance, obstruction to lawful apprehension in cases not otherwise provided for	Same	..	Same	..	Bailable	..	Same	.. Imprisonment of either description for six months, or fine or both	Magistrate's Court
221 ..	Escape, or attempt to escape from custody for failing to furnish security for good behaviour	Same	..	Same	..	Same	..	Same	.. Imprisonment of either description for one year, or fine, or both	Magistrate's Court
222 ..	Violation of condition of remission of punishment	Shall not arrest without warrant		Summons	..	Not bailable	..	Same	.. Punishment of original sentence or, if part of the punishment has been undergone, the residue	The court by which the original offence was triable
223 ..	Intentional insult or interruption to a public servant sitting in any stage of a juridial proceeding	Same	..	Same	..	Bailable	..	Same	.. Simple imprisonment for six months, or fine of one thousand rupees, or both	The court in which the offence is committed, subject to provisions of Chapter XXXIV
224 ..	Personation of a juror or assessor	Same	..	Same	..	Same	..	Same	.. Imprisonment of either description for two years, or fine, or both	Magistrate's Court
	CHAPTER XII—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS									
226 ..	Counterfeiting or performing any part of the process of counterferiting coin	May arrest without warrant		Warrant	..	Not bailable	..	Same	.. Imprisonment of either description for seven years, and fine	Magistrate's Court
227 ..	Counterfeiting or performing any part of the process of counterfeiting current coin	Same	..	Same	..	Same	..	Same	.. Imprisonment of either description for ten years, and fine	Magistrate's Court

1 Section	2 Offence	3 Whether Peace Officer my arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment under the Penal Code	8 By what Court other than High Court triable
228	Making, buying or selling instrument for the purpose of counterfeiting coin	May arrest without warrant	Warrant	Not bailable	Not Compoundable	Imprisonment of either description for three years, and fine	Magistrate's Court
229	Making, buying, or selling instrument for the purpose of counterfeiting current coin	Same	Same	Same	Same	Imprisonment of either description for seven years, and fine	Magistrate's Court
230	Possession of instrument or material for the purpose of using the same for counterfeiting coin	Same	Same	Same	Same	Imprisonment of either description for three years, and fine	Magistrate's Court
	If current coin	Same	Same	Same	Same	Imprisonment of either description for ten years, and fine	Magistrate's Court
231	Abetting in the counterfeiting out of coin	Same	Same	Same	Same	The punishment provided for abetting the counterfeiting of such coin within Ceylon	Magistrate's Court
232	Import or export of counterfeit coin knowing the same to be counterfeit	Same	Same	Same	Same	Imprisonment of either description for three years, and fine	Magistrate's Court
233	Import or export of counterfeits of current coin, knowing the same to be counterfeit	Same	Same	Same	Same	Imprisonment of either description for ten years, and fine	Magistrate's Court
234	Having any counterfeit coin, known to be such when it came into possession and delivering, &c., the same to any person	Same	Same	Same	Same	Imprisonment of either description for five years, and fine	Magistrate's Court

235 .. Having any counterfeit current coin, known to be such when it came into possession and delivering, &c., the same to any person	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for ten years, and fine	Magistrate's Court
236 .. Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for two years, or fine of ten times the value of the coin counterfeited, or both	Magistrate's Court
237 .. Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for three years, and fine	Magistrate's Court
238 .. Possession of current coin by a person who knew it to be counterfeit when he became possessed thereof	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for seven years, and fine,	Magistrate's Court
239 .. Fraudulently diminishing the weight or altering the composition of any coin	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for three years, and fine	Magistrate's Court
240 .. Fraudulently diminishing the weight or altering the composition of current coin	Same	.. Same	.. Same.	.. Same	.. Imprisonment of either description for seven years, and fine	Magistrate's Court
241 .. Altering appearance of any coin with intent that it shall pass as a coin of a different description	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for three years, and fine	Magistrate's Court
242 .. Altering appearance of current coin with intent that it shall pass as a coin of a different description	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for seven years, and fine	Magistrate's Court

1 Section	2 Offence	3 Whether Peace Officer my arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment under the Penal Code	8 By what Court other than High Court triable
243	Delivery to another of coin possessed with the knowledge that it is altered	May arrest without warrant	Warrant	Not bailable	Not Compoundable	Imprisonment of either description for five years, and fine	Magistrate's Court
244	Delivery of current coin possessed with the knowledge that it is altered	Same	Same	Same	Same	Imprisonment of either description for ten years, and fine	Magistrate's Court
245	Possession of altered coin by a person who knew it to be altered when be became possessed thereof	Same	Same	Same	Same	Imprisonment of either description for three years, and fine	Magistrate's Court
246	Possession of current coin by a person who knew it to be altered when he became possessed thereof	Same	Same	Same	Same	Imprisonment of either description for five years, and fine	Magistrate's Court
247	Delivery to another of coin as genuine which when first possessed the deliverer did not know to be altered	Same	Same	Same	Same	Imprisonment of either of description for two years, or fine of ten times the value of the coin	Magistrate's Court
248	Counterfeiting a Government stamp	Same	Same	Bailable	Same	Imprisonment of either description for seven years, and fine	Magistrate's Court
249	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp	Same	Same	Same	Same	Imprisonment of either description for seven years, and fine	Magistrate's Court

250 .. Making, buying or selling instrument for the purpose of counterfeiting a Government stamp	Same	.. Same	.. Same	.. Same	Imprisonment of either description for seven years, and fine	Magistrate's Court
251 .. Sale of counterfeit Government stamp	Same	.. Same	.. Same	.. Same	.. Same	.. Magistrate's Court
252 .. Having possession of a counterfeit Government stamp	Same	.. Same	.. Same	.. Same	.. Same	.. Magistrate's Court
253 .. Using as genuine a Government stamp known to be counterfeit	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for seven years, for fine, or both	Magistrate's Court
254 .. Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it, with intent to cause loss to Government	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for three years, or fine, or both	Magistrate's Court
255 .. Using a Government stamp known to have been before used	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for two years, or fine, or both	Magistrate's Court
256 .. Erasure of mark denoting that stamp has been used	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for three years, or fine, or both	Magistrate's Court

CHAPTER XIII—OFFENCES RELATING TO WEIGHTS AND MEASURES

257 .. Use of weighing or measuring instrument knowing the same to be false	Shall not arrest without warrant	Summons	.. Same	.. Same	.. Imprisonment of either description for one year, or fine, or both	Magistrate's Court
258 .. Using false weight or measure	Same	.. Same	.. Same	.. Same	.. Same	.. Magistrate's Court

1 Section	2 Offence	3 Whether Peace Officer may arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment under the Penal Code	8 By what Court other than High Court triable
259	Being in possession of false weighing or measuring instrument or false weights or measures for use	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment of either description for one year, or fine or both	Magistrate's Court
260	Making or selling false weighing or measuring instrument or false weights or measures for fraudulent use	Same	Same	Same	Same	Imprisonment of either description for three years, or fine, or both	Magistrate's Cour
	CHAPTER XIV — OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS						
262	Negligently doing any act known to be likely to spread infection of any disease dangerous to life	May arrest without warrant	Same	Same	Same	Imprisonment of either description for six months, or fine, or both	Magistrate's Court
263	Maliciously doing any act known to be likely to spread infection of any disease dangerous to life	Same	Same	Same	Same	Imprisonment of either description for two years, or fine, or both	Magistrate's Court
264	Knowingly disobeying any quarantine rule	Same	Same	Same	Same	Imprisonment of either description for six months, or fine, or both	Magistrate's Court

265 ..	Adulterating food or drink intended for sale so as to make the same noxious	Shall not arrest without warrant	Same	..	Same	..	Same	..	Imprisonment of either description for six months, or fine of one hundred rupees, or both	Magistrate's Court
266 ..	Selling any food or drink as food and drink, knowing the same to be noxious	Same	.. Same	..	Same	..	Same	..	Same	.. Magistrate's Court
267 ..	Adulterating any drug or medical preparation, intended for sale, so as to lessen its efficacy or to change its operation, or to make it noxious	Same	.. Same	..	Same	..	Same	..	Same	.. Magistrate's Court
268 ..	Offering for sale, or issuing from a dispensary, any drug or medical preapration known to have been adulterated	Same	.. Same	..	Same	..	Same	..	Same	.. Magistrate's Court
269 ..	Knowingly selling, or dissuing from a dispensary any drug or medical preparation as a different drug or medical preparation	Same	.. Same	..	Same	..	Same	..	Same	.. Magistrate's Court
270 ..	Defilling the water of a public spring or reservoir	May arrest without warrant	.. Same	..	Same	..	Same	..	Imprisonment of either description for three months, or fine of fifty rupees or both	Magistrate's Court
271 ..	Making atmosphere noxious to health	Shall not arrest without warrant	Same	..	Same	..	Same	..	Fine of one hundred rupees	Magistrate's Court
272 ..	Driving or riding on a public way so rashly or negligently as to endanger human life, &c	May arrest without warrant	Same	..	Same	..	Same	..	Imprisonment of either description for six months, or fine of one hundred rupees, or both	Magistrate's Court

1 Section	2 Offence	3 Whether Peace Officer may arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment under the Penal Code	8 By what Court other than High Court triable
273	Navigating any vessel so rashly or negligently as to endanger human life, &c.	May arrest without	Summons	Bailable	Not compoundable	Imprisonment of either description for six months, or fine of one hundred rupees, or both	Magistrate's Court
274	Exhibiting of a false light, mark, or buoy	Same	warrant	Same	Same	Imprisonment of either description for seven years, or fine, or both	Magistrate's Court
275	Conveying for hire any person by water in a vessel in such a state, or so loaded, as to endanger his life	Same	Summons	Same	Same	Imprisonment of either description for six months, or fine of one hundred rupees or both	Magistrate's Court
276	Causing danger, obstruction, or injury in any public way or line of navigation	Same	Same	Same	Same	Fine of one hundred rupees	Magistrate's Court
277	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant	Same	Same	Same	Imprisonment of either description for six months, or fine of one hundred rupees, or both	Magistrate's Court
278	Dealing with fire, or any combustible matter, so as to endanger human life, &c.	May arrest without warrant	Same	Same	Same	Same	Magistrate's Court
279	Dealing with any explosive substance so as to endanger human life, &c.	Same	Same	Same	Same	Same	Magistrate's Court

280 ..	Dealing with any machinery so as to endanger human life, &c.	Shall not arrest without warrant	Same	..	Same	..	Same	..	Same	..	Magistrate's Court
281 ..	A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to pull it down or repair it	Same ..	Same	..	Same	..	Same	..	Same	..	Magistrate's Court
282 ..	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt, from such animal	May arrest without warrant	Same	..	Same	..	Same	..	Same	..	Magistrate's Court
283 ..	Committing a public nuisance	Shall not arrest without warrant	Same	..	Same	..	Same	..	Fine of fifty rupees, or imprisonment of either description for three months, or both		Magistrate's Court
284 ..	Continuance of nuisance after injunction to discontinue	May arrest without warrant	Same	..	Same	..	Same	..	Simple imprisonment for six month, or fine, or both		Magistrate's Court
285 ..	Sale, &c. of obscene books, &c.	Same ..	Warrant	..	Same	..	Same	..	Imprisonment of either description for three months, or fine, or both		Magistrate's Court
286 ..	Having in possession obscene books, &c, for sale or exhibition	Same ..	Same	..	Same	..	Same	..	Same	..	Magistrate's Court
287 ..	Obscene songs ..	Same ..	Same	..	Same	..	Same	..	Same	..	Magistrate's Court
289 ..	Wilful omission of statutory duty	Shall not arrest without warrant	Summons	..	Same	..	Same	..	Fine	..	Magistrate's Court

1 Section	2 Offence	3 Whether Peace Officer may arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment under the Penal Code	8 By what Court other than High Court triable
			CHAPTER XV—OFFENCES RELATING TO RELIGION				
290	Destroying, damaging or defiling a place of worship or sacred object with intent to insult the religion of any class of persons	May arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment of either description for two years or fine, or both	Magistrate's Court
290A	Doing any act in or upon or in the vicinity of a place of worship or a sacred or venerated object, with intent to insult the religion of any class of persons	Same	Same	Same	Same	Imprisonment of either description for one year, or fine, or both	Magistrate's Court
291	Causing a disturbance to an assembly engaged in religious worship	Same	Same	Same	Same	Imprisonment of either description for one year, or fine, or both	Magistrate's Court
291A	Uttering any word or making any sound in the hearing, or making any gesture, or placing any object in the sight of any person with intention to wound his religious feeling	Shall not arrest without warrant	Same	Same	Compoundable	Same	Magistrate's Court
291B	Deliberately and maliciously outraging the religious feelings of any class by insulting its religion or relgious beliefs	Same	Same	Same	Not compoundable	Imprisonment of either description for two years, or fine, or both	Magistrate's Court

292 .. Trespassing in place of worship or sepulchre, disturbing funeral with intention to wound the feelings or to insult the religion of any person, or offering indignity to human corpse	May arrest without warrant	Same	..	Same	..	Same	.. Imprisonment of either description for one year, or fine, or both	Magistrate's Court

CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY

OFFENCES AFFECTING LIFE

296 .. Murder	.. Same	.. Warrant	.. Not bailable	..	Same	..	In the case of persons under the age of sixteen years, detention during the President's pleasure. In the case of pregnant women, imprisonment for life. In all other cases, death	
297 .. Culpable homicide, not amounting to murder, if act by which the death is caused is done with intention of causing death, &c.	Same	.. Same	.. Same	..	Same	..	Imprisonment of either description for twenty years, and fine	
If act is done with knowledge that it is likely to cause death but without any intention to cause death, &c.	Same	.. Same	.. Same	..	Same	..	Imprisonment of either description for ten years, or fine, or both	
298 .. Causing death by rash or negligent act	Same	.. Same	.. Bailable	..	Same	..	Imprisonment of either description for five years, or fine, or both	Magistrate's Court

1 Section	2 Offence	3 Whether Peace Officer may arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment under the Penal Code	8 By what Court other than High Court triable
299	Abetment of suicide	May arrest without warrant	Warrant	Not bailable	Not compoundable	In the case of persons under the age of sixteen years, detention during the President's pleasure. In the case of pregnant women, imprisonment for life. In all other cases, death	
300	Attempt to murder	Same	Same	Same	Same	Imprisonment of either description for ten years, and fine	
	If such act cause hurt to any person	Same	Same	Same	Same	Imprisonment of either description for twenty years, and fine	
301	Attempt to commit culpable homicide	Same	Same	Bailable	Same	Imprisonment of either description for three years, or fine, or both.	Magistrate's court
	If such act cause hurt to any person	Same	Same	Same	Same	Imprisonment of either description for seven years, or fine, or both.	Magistrate's Court
302	Attempt to commit suicide	Same	Same	Same	Same	Imprisonment of either description for one year, or fine, or both	Magistrate's Court

CAUSING OF MISCARRIAGE; INJURIES TO UNBORN CHILDREN; EXPOSURE OF INFANTS; AND CONCEALMENT OF BIRTHS

303 ..	Causing miscarriage	.. Shall not arrest without warrant	Same	.. Same	.. Same	..	Imprisonment of either description for three years, or fine, or both — Magistrate's Court
	If the woman be quick with child	Same	Same	.. Same	.. Same	..	Imprisonment of either description for seven years, and fine
304 ..	Causing miscarriage without woman's consent	Same ..	Same	.. Not bailable	.. Same	..	Imprisonment of either description for twenty years, and fine
305 ..	Death caused by an act done with intent to cause miscarraige	Same ..	Same	.. Same	.. Same	..	Same ..
306 ..	Act done with intent to prevent a child being born alive; or to cause it to die after its birth	Same ..	Same	.. Same	.. Same	..	Imprisonment of either description for ten years or fine; or both — Magistrate's Court
307 ..	Causing death of a quick unborn child by an act amounting to culpable homicide	Same	Same	.. Same	.. Same		Imprisonment of either description for ten years and fine — Magistrate's Court
308 ..	Exposure of a child under twelve years of age by parent or person having care of it; with intention of wholly abandoning it	May arrest without warrant	Same	.. Bailable	.. Same	..	Imprisonment of either description for seven years; or fine; or both — Magistrate's Court
309 ..	Concealment of birth by secret disposal of dead body	Same ..	Same	.. Same	.. Same	..	Imprisonment of either description for two years; or fine; or both — Magistrate's Court

HURT

314 ..	Voluntarily causing hurt	Same ..	Summons	.. Same	.. Compoundable	..	Imprisonment of either description for one year; or fine of one thousand rupees, or both — Magistrate's Court

1 Section	2 Offence	Whether Peace Officer may arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment under the Penal Code	8 By what Court other than High Court triable
315	Voluntarily causing hurt; by dangerous weapons or means	May arrest without warrant	Warrant	Bailable	Compoundable	Imprisonment of either description for three years; or fine, or both, whipping in addition	Magistrate's Court
316	Voluntarily causing grievous hurt	Same	Same	Same	Same	Imprisonment of either description for seven years, and fine. If person hurt is a women or child, whipping in addition	Magistrate's Court
317	Voluntarily causing grievous hurt by dangerous weapons or means	Same	Same	Not bailable	Not compoundable	Imprisonment of either description for ten years and fine, whipping in addition	Magistrate's Court
318	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence	Same	Same	Same	Same	Imprisonment of either description for ten years, and fine	Magistrate's Court
319	Administering stupefying drug with intent to cause hurt, &c.	Same	Same	Same	Same	Imprisonment of either description for ten years, and fine	Magistrate's Court
320	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal or which may facilitate the commission of an offence	Same	Same	Same	Same	Imprisonment of either description for twenty years, and fine or whipping	

321	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c.	Same	Same	Bailable	Same	Imprisonment of either description for seven years, and fine	Magistrate's Court		
322	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.	Same	Same	Not Bailable	Same	Imprisonment of either description for ten years, and fine			
323	Voluntarily causing hurt to deter public servant from his duty	Same	Same	Bailable	Same	Imprisonment of either description for three years, or fine, or both	Magistrate's Court		
324	Voluntarily causing grievous hurt to deter public servant from his duty	Same	Same	Not bailable	Same	Imprisonment of either description for ten years, and fine	Magistrate's Court		
325	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation	Shall not arrest without warrant	Summons	Bailable	Compoundable	Imprisonment of either description for one month, or fine of fifty rupees, or both	Magistrate's Court		
326	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation	May arrest without warrant	Same	Same	Same	Imprisonment of either description for four years, or fine of two thousand rupees, or both	Magistrate's Court		
327	Doing any act rashly or negligently which endangers human life or the personal safety of others	Same	Same	Same	Not compoundable	Imprisonment of either description for three months, or fine of one hundred rupees, or both	Magistrate's Court		

1 Section	2 Offence	3 Whether Peace Officer may arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment under the Penal Code	8 By what Court other than High Court triable
328	Causing hurt by doing an act rashly or negligently which endangers human life, &c.	May arrest without warrant	Summons	Bailable	Compoundable	Imprisonment of either description for six months, or fine of one hundred rupees, or both	Magistrate's Court
329	Causing grievous hurt by doing an act rashly or negligently which endangers human life, &c.	Same	Same	Same	Same	Imprisonment of either description for two years, or fine of one thousand rupees, or both	Magistrate's Court
	WRONGFUL RESTRAINT AND WRONGFUL CONFINEMENT						
332	Wrongfully restraining any person	Same	Same	Same	Same	Simple imprisonment for one month, or fine of fifty rupees, or both	Magistrate's Court
333	Wrongfully confining any person	Same	Same	Same	Same	Imprisonment of either description for one year, or fine of one thousand rupees, or both	Magistrate's Court
334	Wrongfully confining for three or more days	Same	Same	Same	Not compoundable	Imprisonment of either description for two years, or fine, or both	Magistrate's Court
335	Wrongfully confining for ten or more days	Same	Same	Same	Same	Imprisonment of either description for three years, and fine	Magistrate's Court

336 .. Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation	Shall not arrest without warrant	Same	.. Same	.. Same	Imprisonment of either description for two years, in addition to imprisonment under any other section	Magistrate's Court	
337 .. Wrongful confinement in secret	May arrest without warrant	Same	.. Same	.. Same	.. Same	.. Magistrate's Court	
338 .. Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, &c	Same .. Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for three years; and fine	Magistrate's Court	
339 .. Wrongful confinement for the purpose of extorting confession or information; or of compelling restoration of property, &c	Same .. Same	.. Same	.. Same	.. Same	.. Same	.. Magistrate's Court	

CRIMINAL FORCE AND ASSAULT

343 .. Assault or use of criminal force; otherwise than on grave provocation	Shall not arrest without warrant	Same	.. Same	.. Compoundable	.. Imprisonment of either description for three months, or fine of fifty rupees, or both	Magistrate's Court
344 .. Assault or use of criminal force to deter a public servant from discharge of his duty	May arrest without warrant	Warrant	.. Same	.. Not compoundable	Imprisonment of either description for two years, or fine, or both	Magistrate's Court
345 .. Assault or use of criminal force to a woman with intent to outrage her modesty	Same .. Same	.. Same	.. Same	.. Same	.. Same, and whipping	.. Magistrate's Court
346 .. Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation	Shall not arrest without warrant	Summons	.. Same	.. Compoundable	.. Imprisonment of either description for two years, or fine, or both	Magistrate's Court

1 *Section*	2 *Offence*	3 *Whether Peace Officer may arrest without warrant or not*	4 *Whether a warrant or a summons shall ordinarily issue in first instance*	5 *Whether bailable or not*	6 *Whether compoundable or not*	7 *Punishment under the Penal Code*	8 *By what Court other than High Court triable*
347	Assault or criminal force in attempt to commit theft of property worn or carried by a person	May arrest without warrant	Warrant	Not Bailable	Not Compoundable	Imprisonment of either description for two years; or fine, or both	Magistrate's Court
348	Assault or use of criminal force in attempt wrongfully to confine a person	Same	Same	Bailable	Compoundable	Imprisonment of either description for one year; or fine of one thousand rupees, or both	Magistrate's Court
349	Assault or use of criminal force on grave and sudden provocation	Shall not arrest without warrant	Summons	Same	Compoundable	Simple imprisonment for one month; or fine or fifty rupees, or both	Magistrate's Court
	KIDNAPPING, ABDUCTION, SLAVERY AND FORCED LABOUR						
354	Kidnapping	May arrest without warrant	Warrant	Not Bailable	Not compoundable	Imprisonment of either description for seven years and fine	Magistrate's Court
355	Kidnapping or abducting in order to murder	Same	Same	Same	Same	Rigorous imprisonment for twenty years; and fine	
356	Kdinapping or abducting with intent secretly and wrongfully to confine a person	Same	Same	Same	Same	Imprisonment of either description for seven years, and fine	Magistrate's Court
357	Kidnapping or abducting a woman to compel a marriage, or to cause her defilement, etc.	Same	Same	Same	Same	Imprisonment of either description for ten years, and fine	Magistrate's Court

358 .. Kidnapping or abducting in order to subject a person to grievious hurt, slavery etc.	Same	.. Same	.. Same	.. Same	.. Same	.. Magistrate's Court
359 .. Concealing or keeping in confinement a kidnapped person	Same	.. Same	.. Same	.. Same	.. Punishment for kidnapping or abduction	Magistrate's Court
360 .. Kidnapping or abducting a child with intent to take property from the person of such child	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for seven years, and fine	Magistrate's Court
360A .. Procuring or attempting to procure any girl or woman under twenty-one years of age to leave Sri Lanka, with or without her consent, with a view to illicit intercourse, etc.	Shall not arrest without warrant	Same	.. Same	.. Same	.. Imprisonment of either description for two years, and if a male, in addition to any such imprisonment, to be whipped	Magistrate's Court
361 .. Buying or disposing of any person as a slave	Same	.. Same	.. Bailable	.. Same	.. Imprisonment of either description for seven years, and fine	Magistrate's Court
362 .. Habitual dealing in slaves	May arrest without warrant	Same	.. Not bailable	.. Same	.. Imprisonment of either description for fifteen years, and fine	
362A .. Cohabitation caused by a man deceitfully inducing a belief of lawful marriage	Shall not arrest without warrant	Same	.. Bailable	.. Same	.. Imprisonment : of either description for ten years, and fine	Magistrate's Court
362B .. Bigamy ..	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for seven years, and fine	Magistrate's Court
362C .. Bigamy with concealment of former marriage	Same	.. Same	.. Same	.. Same	.. Imprisoment of either description for ten years, and fine	Magistrate's Court

1 Section	2 Offence	3 Whether Peace Officer may arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment under the Penal Code	8 By what Court other than High Court triable
362D	Going through marriage ceremony with fraudulent intention	Shall not arrest without warrant	Warrant	Bailable	Not Compoundable	Imprisonment of either description for seven years, and fine	Magistrate's Court
			RAPE				
364	Rape	May arrest without warrant	Same	Not bailable	Same	Imprisonment of either description for twenty years, and fine, whipping in addition	
364A	Carnal knowledge of any girl of or above the age of twelve years and under the age of fourteen years	Same	Same	Same	Same	Imprisonment of either description for two years, whipping in addition	Magistrate's Court
365	Unnatural offence	Same	Same	Same	Same	Imprisonment of either description for ten years and fine, whipping in addition	
365A	Act of gross indecency by one male person with another	Same	Same	Same	Same	Imprisonment of either description up to two years, or with fine, or with both, whipping in addition	Magistrate's Court

THEFT

367 .. Theft	.. Same	.. Same	.. Same	.. Same	Imprisonment of either description for three years, or fine, or both	Magistrate's Court
368 .. Theft of cattle or praedial produce	Same	.. Same	.. Same	.. Same	.. Whipping, in addition to punishment for theft	Magistrate's Court
369 .. Theft in a dwelling house &c.	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for seven years, and fine	Magistrate's Court
370 .. Theft by clerk or servant of property in possession of master or employer	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for seven years, and fine	Magistrate's Court
371 .. Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death ,or of hurts, or of restraint, in order to the committing of such theft, or to retiring after committing it, or to retaining property taken by it.	Same	.. Same	.. Same	.. Same	.. Rigorous imprisonment for ten years, and fine, whipping in addition	Magistrate's Court

EXTORTION

373 .. Extortion	.. Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for three years, or fine, or both	Magistrate's Court
374 .. Putting or attempting to put in fear of injury, in order to commit extortion	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for two years, or fine, or both	Magistrate's Court

1 Section	2 Offence	3 Whether Peace Officer may arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment: under the Penal Code	8 By what Court other than High Court trible
375	Extortion by putting a person in fear of death or grievous hurt.	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment of either description for ten years, and and fine.	Magistrate's Court
376	Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion.	Same	Same	Same	Same	Imprisonment of either description for seven years, and fine.	Magistrate's Court
377	Extortion by threat of accusation of an offence punishable with death or imprisonment for ten years.	Same	Same	Same	Same	Imprisonment of either description for ten years, and fine, whipping in addition.	Magistrate's Court
	If the offence threatened be an unnatural offence.	Same	Same	Same	Same	Rigorous imprisonment for twenty years, and fine, whipping in addition.	
378	Putting a person in fear of accusation of offence punishable with death, or with imprisonment for ten years, in order to commit extortion.	Same	Same	Same	Same	Imprisonment of either description for ten years, and fine, whipping in addition.	
	If the offence be an unnatural offence.	Same	Same	Same	Same	Rigorous imprisonment for twenty years, and fine, whipping in addition.	

ROBBERY

380 .. Robbery	.. Same	.. Same	.. Same	.. Rigorous imprisonment for ten years, and fine, whipping in addition. If committed on highway between sunset and sunrise, rigorous imprisonment for fourteen years.	Magistrate's Court
If committed on the highway between sunset and sunrise.	Same	.. Same	.. Same	.. Rigorous imprisonment for fourteen years, and fine, whipping in addition.	Magistrate's Court
381 .. Attempt to commit robbery.	Same	.. Same	.. Same	.. Rigorous imprisonment for seven years, and fine, whipping in addition.	Magistrate's Court
382 .. Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery..	Same	.. Same	.. Same	.. Rigorous imprisonment for twenty years, and fine, or whipping.	Magistrate's Court
383 .. Robbery, with attempt to cause death or grievous hurt.	Same	.. Same	.. Same	.. Rigorous imprisonment for twenty years, also whipping.	Magistrate's Court
384 .. Attempt to commit robbery when armed with deadly weapons.	Same	.. Same	.. Same	.. Same	Magistrate's Court

1 Section	2 Offence	3 Whether Peace Officer may arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment under the Penal Code	8 By what Court other than High Court triable
385 ..	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts	May arrest without warrant ..	Warrant ..	Not bailable ..	Not compoundable ..	Rigorous imprisonment for Seven years and fine	Magistrate's Court
			CRIMINAL MISAPPROPRIATION OF PROPERTY				
386 ..	Dishonest misappropriation of movable property or converting it to one's own use	Same ..	Same ..	Bailable ..	Compoundable ..	Imprisonment of either description for two years, or fine, or both	Magistrate's Court
387 ..	Dishonest misappropriation of property knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it	Same ..	Same .	Same ..	Not compoundable	Imprisonemnt of either description for three years, and fine	Magistrate's Court
	If by clerk or person employed by deceased	Same ..	Same ..	Same ..	Same ..	Imprisonment of either description for seven years, and fine	Magistrate's Court
389 ..	Criminal breach of trust	Same ..	Same ..	Not bailable ..	Same	Imprisonment of either description for three years, or fine, or both	Magistrate's Court
390 ..	Criminal breach of trust by a carrier, wharfinger, &c.	Same ..	Same ..	Same ..	Same ..	Imprisonment of either description for seven years, and fine	Magistrate's Court

391 ..	Criminal breach of trust by a clerk or servent	Same	..	Same	..	Same	..	Same	..	Same	.. Magistrate's Court
392 ..	Criminal breach of trust by public servant or by banker, merchant, or agent, &c.	Same	..	Same	..	Same	..	Same	..	Imprisonment of either description for ten years, and fine	Magistrate's Court
392A	Criminal breach of trust by public servant in respect of money or balance of money	Same	..	Same	..	Same	..	Same	..	Same	.. Magistrate's Court
392B	Criminal breach of trust by agent in respect of postal articles	Same	..	Same	..	Same	..	Same	..	Same	.. Magistrate's Court
				RECEIVING OF STOLEN PROPERTY							
394 ..	Dishonestly receiving stolen property, knowing it to be stolen	Same	..	Same	..	Same	..	Same	..	Imprisonment of either description for three years, or fine, or both	Magistrate's Court
395 ..	Habitually dealing in stolen property	Same	..	Same	..	Same	..	Same	..	Imprisonment of either description for twenty years, and fine	Magistrate's Court
396 ..	Assisting is concealment or disposal of stolen property, knowing it to be stolen	Same	..	Same	..	Same	..	Same	..	Imprisonment of either description for three years, or fine or both	Magistrate's Court
397 ..	Receiving stolen cattle or praedial products	Same	..	Same	..	Same	..	Same	..	Whipping, in addition to other punishment	Magistrate's Court
				CHEATING							
400 ..	Cheating	Same	..	Same	..	Same	..	Same	..	Imprisonment of either description for one year, or fine, or both	Magistrate's Court

1 Section	2 Offence	3 Whether Peace Officer may arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment under the Penal Code	8 By what Court other than High Court triable
401	Cheating a person whose interest the offender was bound, either by law or by legal contract to protect	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment of either description for three years, or fine, or both	Magistrate's Court
402	Cheating by personation	Same	Same	Same	Same	Same	Magsitrate's Court
403	Cheating, and thereby dishonestly inducing delivery of property, or the making, alteration or destruction of a valuable security	Same	Same	Same	Same	Imprisonment of either description for seven years, and fine	Magstnate's Court
	FRAUDULENT DEEDS AND DISPOSITION OF PROPERTY						
404	Fraudulent removal or concealment of property, &c. to prevent distribution among creditors	Same	Same	Same	Same	Imprisonment of either description for two years, or fine, or both	Magistrate's Court
405	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender	Same	Same	Same	Same	Same	Magistrate's Court
406	Fraudulent execution of deed of transfer, containing a false statement of consideration	Same	Same	Same	Same	Same	Magistrate's Court

407	Fraudulent removal or concealment of property of himself or any other person, or assisting, in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled	Same	Same	Same	Same	Same	Magistrate's Court
	MISCHIEF AND ILLEGAL REMOVAL OF WRECKS						
409	Mischief	Shall not arrest without warrant	Summons	Bailable	Compoundable	Imprisonment of either description for three months, or fine, or both	Magistrate's Court
410	Mischief, and there by causing damage to the amount of fifty rupees or upwards	Same warrant	Warrant	Same	Same	Imprisonment of either description for two years, or fine, or both	Magistrate's Court
411	Mischief by killing, poisoning, maiming, or rendering useless any animal of the value of ten rupees or upwards	May arrest without warrant	Same	Same	Same	Same	Magistrate's Court
412	Mischief by killing, poisoning, maiming, or rendering useless any elephant, camel, horse, &c. whatever may be its value, or any other animal of the value of fifty rupees or upwards	Same	Same	Same	Same	Imprisonment of either description for five years, or fine, or both	Magistrate's Court
413	Mischief by causing a diminution of supply of water for agricultural purposes, &c.	Same	Same	Same	Not compundable	Same	Magistrate's Court

1 Section	2 Offence	3 Whether Peace Officer may arrest without warrant or not in first instance	4 Whether a warrant or a summons shall ordinarily issue	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment under the Penal Code	8 By what Court other than High Court triable
414	Mischief by injury to public road, bridge, navigable river, or navigable channel, and rendering it impassable or less safe for travelling or conveying property	May arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment of either description for five years, or fine, or both	Magistrate's Court
415	Mischief by causing inundation or obstruction to public drainage, attended with damage	Same	Same	Same	Same	Same	Magistrate's Court
416	Mischief by destroying or moving, or rendering less useful, a lighthouse or seamark, or by exhibiting false lights	Same	Same	Same	Same	Imprisonment of either description for seven years, or fine, or both	Magistrate's Court
417	Mischief by destroying or moving, &c., a landmark fixed by public authority	Shall not arrest without warrant	Same	Same	Same	Imprisonment of either description for one year, or fine, or both	Magistrate's Court
418	Mischief by fire or explosive substance, with intent to cause damage to the amount of one hundred rupees or upwards	May arrest without warrant	Same	Same	Same	Imprisonment of either description for seven years, and fine	Magistrate's Court
419	Mischief by fire or explosive substance, with intent to destroy a house &c.	Same	Same	Not bailable	Not compoundable	Imprisonment of either description for fifteen years, and fine	Magistrate's Court

420	Mischief with intent to destroy or make unsafe a docked vessel or a vessel of twenty tons burthen	Same	..	Same	..	Same	..	Same	..	Imprisonment of either description for ten years, and fine	Magistrate's Court
421	The mischief described in the last section, when committed by fire or any explosive substance	Same	..	Same	..	Same	..	Same	..	Imprisonment of either description for twenty years, and fine	—
422	Running vessel ashore, with intent to commit theft, &c.	Same	..	Same	..	Same	..	Same	..	Imprisonment of either description for ten years, and fine	Magistrate's Court
423	Impending the saving of a vessel	Same	..	Same	..	Same	..	Same	..	Imprisonment of either description for five years, or fine, or both	Magistrate's Court
424	Removing or secreting wreck	Same	..	Same	..	Same	..	Same	..	Imprisonment of either description for one year, or fine, or both	Magistrate's Court
425	Taking wreck into foreign port	Same	..	Same	..	Same	..	Same	..	Imprisonment of either description for five years, or fine, or both	Magistrate's Court
426	Mischief committed after preparation made for causing death or hurt, &c.	Same	..	Same	..	Same	..	Same	..	Imprisonment of either description for five years, and fine	Magistrate's Court
				CRIMINAL TRESPASS							
433	Crimanal trespass	..	Same	..	Summons	..	ailable	..	Compoundable	..	Imprisonment of either description for three months, or fine of one hundred rupees, or both	Magistrate's Court

1 Section	2 Offence	3 Whether Peace Officer may arrest without warrant or not in first instance	4 Whether a warrant or a summons shall ordinarily issue	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment under the Penal Code	8 By what Court other than High Court triable
434	House-trespass	May arrest without warrant	Warrant	Bailable	Compoundable	Imprisonment of either description for one year, or fine of one thousand rupees, or both	Magistrate's Court
435	House-trespass in order to the commission of an offence punishable with death	Same	Same	Not bailable	Not compoundable	Rigorous imprisonment for twenty years, and fine	
436	House-trespass in order to the commission of an offence punishable with imprisonment for ten years	Same	Same	Same	Same	Imprisonment of either description for ten years, and fine	Magistrate's Court
437	House-trespass in order to the commission of an offence punishable with imprisonment for less than ten years	Same	Same	Bailable	Same	Imprisonment of either description for two years, and fine	Magistrate's Court
	If the offence is theft	Same	Same	Not Bailable	Same	Imprisonment of either description for seven years, fine	Magistrate's Court
438	House-trespass, having made preparations for causing hurt, assault, &c	Same	Same	Same	Same	Same	Magistrate's Court
439	Lurking house-trespass or housing-breaking	Same	Same	Same	Same	Imprisonment of either description for two years, and fine	Magistrate's Court

440 ..	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for three years, and fine — Magistrate's Court
	If the offence is theft ..	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for ten years, and fine — Magistrate's Court
441 ..	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, &c.	Same	.. Same	.. Same	.. Same	.. Imprisonment of .. description for ten years, and fine — Magistrate's Court
442 ..	Lurking house-trespass or house-breaking by night.	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for three years, and fine. — Magistrate's Court
443 ..	Lurking house-trespass or house-breaking by night in order to the commission of offence punishable with imprisonment	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for five years, and fine — Magistrate's Court
	If the offence is theft ..	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for fourteen years, and fine — Magistrate's Court
444 .	Lurking house-trespass or house-breaking by night after preparation made for causing hurt, &c.	Same	.. Same	.. Same	.. Same	.. Same .. Magistrate's Court
445 ..	Grievous hurt caused whilst committing lurking house-trespass or house-breaking	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for twenty years, and fine or whipping

1 Section	2 Offence	3 Officer may arrest without warrant or not in first instance	4 Whether a warrant or a summons shall ordinarily issue	5 Whether bailable or not	6 Whether compundable or not	7 Punishment under the Penal Code	8 By what Court other than High Court triable
446	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night &c	May arrest without warrant	Warrant	Not Bailable	Not compoundable	Imprisonment of either description for twenty years, and fine	
447	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property	Same	Same	Bailable	Same	Imprisonment of either description for two years, or fine, or both	Magistrate's Court
448	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same	Same	Same	Same	Same	Imprisonment of either description for three years, or fine, or both	Magistrate's Court
449	Possession of house-breaking implements or offensive weapons	Same	Same	Same	Same	Imprisonment of either description for two years, or fine, or both	Magistrate's Court
450	Being found in building for unlawful purpose	Same	Same	Same	Same	Imprisonment of either description for three months, or fine of fifty rupees, or both	Magistrate's Court
451	Loitering about by reputed thief	Same	Same	Not bailable	Same	Same	Magistrate's Court
	CHAPTER XVII—OFFENCES RELATING TO DOCUMENTS, PROPERTY-MARKS, CURRENCY NOTES AND BANK NOTES						
454	Forgery	Same	Same	Same	Same	Imprisonment of either description for five years, or fine, or both	Magistrate's Court

455 ..	Forgery of a record of a Court of Justice or of a register of births, &c. kept by a public servant	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for seven years, and fine	Magistrate's Court
456 ..	Forgery of a valuable security, will or authority to make or transfer any valuable security or to receive any money, & c	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for twenty years, and fine	Magistrate's Court
457 ..	Forgery, for the purpose of cheating	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for seven years, any fine	Magistrate's Court
459 ..	Using as genuine a forged document which is known to be forged	Same	.. Same	.. Same	.. Same	.. Punishment for forgery	Magistrate's Court
460 ..	Making or counterfeiting a seal, plate, &c. with intent to commit a forgery, punishable under section 456 of the Penal Code, or possessing with like intent any such seal, plate, & c. knowing the same to be counterfeit.	Same	.. Same	.. Same	.. Same	.. Imprisonment of either description for ten years, any fine	Magistrate's Court
461 ..	Making or counterfeiting a seal, plate, &c. with intent to commit a forgery, punishable otherwise than under section 456 of the Penel Code, or possessing swith like intent any eal, plate, &c. knowing the same to be counterfeit	Same	..Same	.. Same	.. Same	Imprisionment of either description for seven years, and fine	Magistrate's Court

1 *Section*	2 *Offence*	3 *Whether Peace Officer may arrest without warrant or not*	4 *Whether a warrant or a summons shall ordinarily issue in first instance*	5 *Whether bailable or not*	6 *Whether compoundable or not*	7 *Punishment under the Penal Code*	8 *By what Court other than High Court triable*
462	Having possession of a document, knowing it to be forged, with intent to use it as genuine, if the document is one of the description mentioned in section 455 of the Penal Code	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment of either description for seven years and fine.	Magistrate's Court
	If the document is one of the description mentioned in section 456 of the Penal Code	Same	Same	Same	Same	Imprisonment of either description for ten years, and fine	Magistrate's Court
463	Counterfeiting a device or mark used for authenticating documents described in section 456 of the Penal Code, or possessing cofnterfeit marked material	Same	Same	Same	Same	Imprisonment of either description for seven years, and fine	Magistrate's Court
464	Counterfeiting a device or mark used for authenticating documents other than those described in section 456 of the Penal Code, or possessing counterfeit marked material	Same	Same	Same	Same	Same	Magistrate's Court
465	Sending false message by telegraph	Same	Same	Same	Same	Imprisonment of either description for one year or fine or both	Magistrate's Court

466 .. Fraudulently destroying or defacing or attempting to destroy or deface, or secreting, a will, &c.	Same	.. Same	.. Same	.. Same	.. Imprisonment either description for seven years, and fine	of Magistrate's Court	
467 .. Falsification of accounts	Same	.. Same	.. Same	.. Same	.. Imprisonment either description for seven years, or fine, or both	of Magistrate's Court	
468 .. Possession of any limitation of any currency note, bank note or coin.	Same	.. Summons	.. Same	.. Same	.. Imprisonment either description for two years, or fine, or both	of Magistrate's Court	
PROPERTY MARKS							
471 .. Using a false property mark, with intent to deceive or injure any person	Same	.. Warrant	.. Bailable	.. Same	.. Imprisonment either description for one year, or fine, or both	of Magistrate's Court	
472 .. Counterfeiting a property-mark used by another with intent to cause damage or injury	Same	.. Same	.. Same	.. Same	.. Imprisonment either description for two years, or fine, or both	of Magistrate's Court	
473 .. Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property	May arrest without warrant	Warrant	.. Bailable	.. Not compoundable	Imprisonment either description for three years, and fine	of Magistrate's Court	
474 .. Fraudulently making or having possession of any die, plate, or other instrument for counterfeiting any public or private property mark	Same	.. Same	.. Same	.. Same	.. Imprisonment either description for three years, or fine, or both	of Magistrate's Court	

1 *Section*	2 *Offence*	3 *Whether Peace Officer may arrest without warrant or not in first instance*	4 *Whether a warrant or a summons shall ordinarily issue*	5 *Whether bailable or not*	6 *Whether compoundable or not*	7 *Punishment under the Penal Code*	8 *By what Court other than High Court triable*
475 ..	Knowingly selling goods marked with a counterfeit property-mark	May arrest without warrant	Warrant ..	Bailable ..	Not compoundable	Imprisonment of either description for one year or fine, or both	Magistrate's Court
476 ..	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods which it does not contain, &c.	Same ..	Same ..	Same ..	Same ..	Imprisonment of either description for three years, or fine, or both	Magistrate's Court
477 ..	Making use of any such false mark	Same ..	Same ..	Same ..	Same ..	Same ..	Magistrate's Court
478 ..	Removing, destroying or defacing any property-mark, with intent to cause injury	Same ..	Same ..	Same ..	Same ..	Imprisonment of either description for one year, or fine, or both	Magistrate's Court
			CURRENT NOTES AND BANK NOTES				
478A	Counterfeiting currency notes or bank notes	Same ..	Same ..	Not bailable ..	Same ..	Imprisonment of either description for twenty years, and fine	
478B	Using as genuine forged or counterfeit currency notes or bank notes	Same ..	Same ..	Same ..	Same ..	Same ..	
478C	Possession of forged or counterfeit currency notes or bank notes	Same ..	Same ..	Same ..	Same ..	Imprisonment of either description for twenty years, or fine, or both	

478 D	.. Making, or possessing instrument or materials for forging or counterfeiting currency notes or bank notes	Same	..	Same	..	Same	..	Same	..	Imprisonment of either description for twenty years, and fine	

CHAPTER XIX—DEFAMATION

480	.. Defamation	.. Shall not arrest without warrant		Warrant	..	Bailable	..	Compoundable	..	Simple imprisonment for two years, or fine, or both, and in the case of previous sentence of twelve months, or upwards, imprisonment of either description for two years, or fine, or both	Magistrate's Court
481	.. Printing or engraving matter knowing it to be defamatory	Same	..	Same	..	Same	..	Same	..	Same	.. Magistrate's Court
482	.. Sale of printed or engraved substance containing defamatory matter, following it to contain such matter	Same	..	Same	..	Same	..	Same	..	Same	.. Magistrate's Court

CHAPTER XX—CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

484	.. Insult intended to provoke breach of the peace	Same	..	Same	..	Same	..	Same	..	Imprisonment of either description for two years or fine, or both	Magistrate's Court
485	.. False statement, rumour &c., circulated with intent to cause mutiny or gffence against the publie peace	Same	..	Same	..	Not bailable	..	Not compoundable		Same	.. Magistrate's Court

1 Section	2 Offence	3 Whether Peace Officer my arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment under the Penal Code	8 By what Court other than High Court triable
486	Criminal intimidation	Shall not arrest without warrant	Warrant	Bailable	Compoundable	Imprisonment of either description for two years, or fine, or both	Magistrate's Court
	If threat be to cause death or grievous hurt, &c.	Same	Same	Same	Same	Imprisonment of either description for seven years, or fine, or both	Magistrate's Court
487	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes	Same	Same	Same	Not compoundable	Imprisonment of either description for two years, in addition to the punishment under above section	Magistrate's Court
488	Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person	May arrest without warrant	Same	Same	Same	Simple imprisonment for one month, or fine of one hundred rupees, of both	Magistrate's Court
	CHAPTER XXI—UNLAWFUL OATHS						
489	Administering or taking, or abetting the taking of an oath to commit an offence punishable with imprisonment for twenty years	Shall not arrest without warrant	Same	Same	Same	Imprisonment of either description for twenty years, or fine, or both	
	If offence is punishable with imprisonment for less than twenty years	Same	Same	Same	Same	Same punishment as for offence to which oath relates	Magistrate's Court

CHAPTER XXII—ATTEMPTS TO COMMIT OFFENCES

490 ..	Attempting to commit offence punishable with imprisonment, and in which attempt doing any act towards the commission of the offence	According as the offence is one in respect of which the police may arrest without warrant or not	According as the offence is one in respect of which a summons or warrant shall ordinarily issue	According as the offence contemplated by the offender is bailable or not	According as offences compoundable or not	Imprisonment not exceeding half of the longest term and of any description provided for the offence, or fine, or both	The Court by which the offence attempted is triable

OFFENCES AGAINST OTHER LAWS

If punishable with death or imprisonment for seven years or upwards	May arrest without warrant	..	Warrant	.. Not bailable	.. Not compoundable	—	According to the provisions of section 11 of this Code
If punishable with imprisonment for three years and upwards, but less than seven	Same	..	Same	.. Same	.. Same ..	—	
If punishable with imprisonment for less than three years	Shall not arrest without warrant		Summons	.. Bailable	.. Same ..	—	
If punishable with fine only	Same	..	Same	.. Same	.. Same ..	—	

SECOND SCHEDULE

FORMS

No. 1

SUMMONS TO AN ACCUSED PERSON

In the Magistrate's Court of Colombo.

To Charles Fernando, of No. 157, Galle Road, Colombo, Boutique Keeper.

Whereas complaint has this day been made before a Magistrate in and for the said division of *Colombo*, for that you did on the ——— day of ——— 19 —— on the highway at *Slave Island*, within the division aforesaid, voluntarily cause hurt to one *Juanis Appu*, of *Slave Island* aforesaid, by striking him with a club, and that you thereby committed an offence punishable under section 314 of the Penal Code.

These are therefore to command you to be and appear in person on *Friday* next, the *11th instant*, at ten o'clock in the forenoon, at the Magistrate's Court at *Hultsdorp, Colombo* to answer to the said complaint, and to be further dealt with according to law.

Given under my hand this ——— day of ——— 19 —— at *Colombo*, in the division aforesaid.

(*Signed*) *X. Y.*
Magistrate/Authorized Officer.

N.B.—If you wish to call any witness who is unwilling to attend, you should apply at once to a Magistrate of this division for a summons to compel him to do so.

No. 2

AFFIDAVIT OF SERVICE OF SUMMONS
(To be endorsed on Summons)

I, *C.D.* of ——— Fiscal's Officer, ——— make oath and say (*or* do solemnly, sincerely, and truly declare and affirm) that I did on the ——— day of ——— 19 —— at ———, serve the within summons on the within named *Charles Fernando* by delivering to him a duplicate thereof/and translation.

Signature of Deponent ———.

Sworn (*or* affirmed) at ——— this ——— day of ——— 19 —— before me (*name and designation of officer administrating the oath*).

No. 3

WARRANT OF ARREST IN DEFAULT OF APPEARANCE TO SUMMONS

In the Magistrate's Court of Colombo.

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

Whereas on the ——— day of ——— last complaint was made before the undersigned, a Magistrate in and for the said division of *Colombo*, for that *Charles Fernando of No. 157, Galle Road, Colombo, Boutique-keeper*, did on the ——— day of ——— 19 ——, on the highway at *Slave Island*, within the division aforesaid voluntarily cause hurt to one *Juanis Appu* of *Slave Island* aforesaid, by striking him with a club, and that he thereby committed an offence punishable under section 314 of the Penal Code:

And whereas I then issued my summons unto the said *Charles Fernando*, commanding him to be and appear in person on *Friday, the 11th instant* at *ten* o'clock in the forenoon, at the Magistrate's Court of *Colombo* at Hulftsdorp to answer to the said complaint, and to be further dealt with according to law :

And whereas the said *Charles Fernando* hath neglected to be and appear at the time and place so appointed in and by the said summons, although it hath now been proved to me upon oath (*or* affirmation) that the said summons hath been duly served upon him ;

These are therefore to command you forthwith to apprehend the said *Charles Fernando* and to bring him before the Magistrate's Court of *Colombo* at *Hultsdorp* aforesaid to answer to the said complaint and to be further dealt with according to law.

Given under my hand this ——— day of ——— 19—— at *Hultsdorp*, in the division aforesaid.

(*Signed*) *X. Y.*

No. 4

WARRANT OF ARREST IN THE FIRST INSTANCE

In the Magistrate's Court of Colombo.

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

Whereas complaint hath this day been made before the undersigned, a Magistrate in and for the said division of *Colombo* for that *Kankanige Carolis Appu*, of *Wellawatte*, in the said division of *Colombo*, *a Labourer employed on the Railway*, did on the night of *Friday* last, the *12th instant*, after sunset and before sunrise, break into the dwelling house of one *Abraham Fernando*, at *Hulftsdorp*, in the said division, in order to commit theft, and thereby committed an offence punishable under section 443 of the Penal Code : and oath being now made before me substantiating the matter of such complaint :

These are therefore to command you forthwith to apprehend the said *Kankanige Carolis Appu* and bring him before the Magistrate's Court of *Colombo* at *Hultsdrop* to answer to the said complaint, and to be further dealt with according to law.

Given under my hand this ——— day of ——— 19— at *Hulftsdorp* in the division aforesaid.

(*Signed*)———.

No. 5

PROCLAMATION REQUIRING THE APPEARANCE OF A PERSON ACCUSED

In the Magistrate's Court of ———

Whereas a warrant was on the———day of ———19———issued by the undersigned, a Magistrate in and for the said division of ———, for the apprehension of *A.B.*, of (*here insert name, place of residence, and occupation*), to answer a complaint that he the said A.B. did on the ——— day of ——— 19— at ———, within the jurisdiction of this court (as in warrant) :

And whereas a return has been made to the said warrant that the said *A.B.* cannot be found :

And whereas it has been shown to my satisfaction that the said *A.B.* has absconded (*or* is concealing himself) and that it is therefore impossible to execute the said warrant :

Proclamation is hereby made that the said *A.B.* is required to appear at the court-house at ——— on the ——— day of ——— 19— at ——— o'clock in the forenoon, to answer the said complaint.

Given under my hand this ——— day of ——— 19— at ——— in the division aforesaid.

(*Signed*) X.Y.———

No. 6

SEARCH WARRANT

(Section 68)

Case No.

In the High Court
sitting at

.....

In the Magistrate's
Court of

Whereas I the undersigned have reason to believe that ground requisite for the issue of a search warrant do exist, I do hereby authorise you

.....
(name of officer authorised)

to search and inspect

.....
(here describe the premises)

and to exercise the powers and perform the duties as set out in that behalf in the Code of Criminal Procedure Act.

You are hereby required to make your return to this warrant on or before ————.

Given under my hand this ———— day ———— 1978.

Sgd : High Court Judge.

————
Magistrate.

No. 7

WARRANT OF COMMITMENT ON A SENTENCE OF IMPRISONMENT OR FINE PASSED BY THE HIGH COURT

Case No. In the High Court.

To : the Superintendent of prison at ————

Whereas on the ———— day of ————, 19— [1]———— the [2]———— accused in Case No.———— was duly convicted before me [3]———— for that he did on the ———— day of ———— 19— at ———— within the jurisdiction of this Court[4]———— and thereby committed an offence punishable under section ———— of the Penal Code, and was sentenced to [5]———— imprisonment, and to pay a fine of Rs.———— or in default of payment to undergo ———— imprisonment, and whereas the said fine has not been paid :

These are therefore to command you and officer of the Department of Prisons to take the said ———— and him safely deliver to the superintendent abovenamed together with this warrant.

And I do hereby command you, the said superintendent of the prison, to receive the said ———— into your custody in the said prison, and there keep him safely until the aforesaid sentence has been carried into execution.

Given under my hand this ———— day of ———— 19— at ————

(*Signed*) X.Y.————
Judge of the High Court.

1. Name of accused.
2. First, second, third, as the case may be.
3. Name and official designation.
4. State the offence or offences concisely.
5. State the punishment fully and distinctly and strike out unnecessary words.

No. 8

In the Magistrate's Court of Colombo.

To *Don Charles Appuhamy of No. 179 Galle Road, Colombo, Boutique Keeper.*

Whereas complaint has been made before the Magistrate's Court of the division of Colombo for that (*here state as in the summons or warrant issued against the accused*), and it has been made to appear to a Magistrate for the said division, that you are likely to give evidence for the prosecution for defence) :

There are therefore to require you to be and appear at the court house at *Hultsdorp, Colombo,* on the ——— day of ——— 19 —— at ten o'clock in the forenoon before such Magistrate as may then be there, to testify what you know concerning the matter of the said complaint, and not to depart thence without leave of the Court : and you are hereby warned that if you shall, without just excuse; neglect or refuse to appear on the said date, a warrant will be issued to compel your attendance.

Given under my hand this ——— day of ——— 19 —— at Hultsdorp, in the division aforesaid.

(*Signed*) *X. Y.*
Magistrate/Authorized Officer.

No. 9

WARRANT OF DETENTION

Case No :———.

In the High Court holden at ———.

In the Magistrate's Court of ———.

To : The Superintendent of the Prison at ———

Whereas on ——— day of ——— 19—, [1] ——— was forwarded to the Magistrate's Court of ——— in terms of the provisions of ——— of the Code of Criminal Procedure Act and it has become necessary to detain the said [2] ——— pending further investigations/trial.

These are therefore to command you, an officer of the Department of Prisons to take the said ——— and him safely deliver to the Superintendent referred to above together with his warrant.

And I do hereby command you the said Superintendent of the said prison to receive the said ——— into your custody in the said prison and there safely keep him until the ——— day of ——— 19—, when you the said Superintendent are required to convey and produce him before the undersigned, a Magistrate/High Court Judge in and for the division/judicial zone of ——— or before such other Magistrate High Court Judge for the said division/judicial zone as may then be there to be further dealt with according to law.

Given under my hand this ——— day of ——— 19—, at ——— in the division/judicial zone of ——— aforesaid.

(Signed).
Magistrate/High Court Judge.

1. Name, residence, designation etc., of accused.

2. Name of accused.

No. 10

WARRANT OF DETENTION AFTER DISCHARGE OF JURY

Case No :————.

In the High Court holden at ————.
To the Superintendent of the prison at ————.

Whereas on the ———— day of ———— 19—[1] ———— was tried before me at ————, for that he did on the ———— day of ———— 19—, at ———— within the jurisdiction of this Court[2] ———— and thereby committed an offence under section ———— of the Penal Code.

And whereas the jury which was empanelled to try the said [3] ———— on the said offence was discharged under the provisions of the Criminal Procedure Code of 1978 and it is therefore necessary for the said [3] ———— to be detained in custody until he can be tried by another jury, he having failed to give security in the sum of Rs. ———— demanded. [4]

These are therefore to command you an officer of the Department of Prisons to take the said ———— and him safely deliver to the Supirintendent referred to above together with this warrant.

And I do hereby command you, the said Superintendent of the said prison to receive the said[3] ———— into your custody in the said prison and there keep him safely until the ———— day of ———— 19 —, when you are hereby required to convey and produce him before the High Court holden at ———— to stand his trial by another jury.

Given under my hand this ———— day of ———— 19 — at ————

(*Signed*) *X. Y.*
Judge of the High Court.

1. Name, residence and designation of accused.
2. State the offence or offences concisely.
3. Name of accused.
4. Strike out any words that are unnecessary.

No. 11

WARRANT OR COMMITMENT FOR TRIAL

Case No.————
In the Magistrate's Court of ————
To the Superintendent of the prison at————

Whereas I have committed [1]———— for trial on the following charges[2] [3]————

These are therefore to command you an officer of the Department o Prisons to take the said [4]———— into your custody in the said prison and there safely keep [5]———— until and during [6]———— trial upon the said charge before the High Court or until thence delivered by due course of law.

These are further to command you the said Superintendent to convey and produce the said [4]———— before the High Court whenever required for the purpose of [6]———— trial before the said court.

Given under my hand this ———— day of ———— 19— at ————

(*Signed*) X.Y.————
Magistrate for the division of

1. Name or names of accused, and his, her or their residence, designation, & c.
2. Or " charges " if more than one.
3. Insert the charge or charges, as the case may be.
4. Name or names of accused.
5. " Him ", " her " or " them ", as the case may be.
6. " His ", " her ", or " their ", as the case may be.

No. 12

WARRANT OF REMAND OR COMMITTAL TO CUSTODY ON POSTPONEMENT OR ADJOURNMENT

Case No————

In the ———— Court at ————

To the Superintendent of the prison at ————

Whereas on the ———— day of ———— 19— complaint was made upon indictment was presented to the ———— Court at ———— that[1]———— did on the ———— day of ———— 19— [2]———— (*if the accused is being tried, add :*—and whereas the said [3]———— has been brought for trial before me) :

And whereas owing to the absence of a material witness[4] it has become necessary to postpone (*or* to adjourn, *as the case may be*) the inquiry into/ trial of the matter of the said complaint/indictment until the ———— day of ———— 19— at ———— o' clock at ———— and it is necessary that the said [3]———— should in the meantime be remanded in custody (*or* committed to custody, *as the case may be*)[5] :

These are therefore to command you an officer of the Department of Prisons to take the said [3]———— and him safely deliver to the Superintendent referred to above together with the warrant and I do hereby command you, the said Superintendent of the said prison to receive the said [3]———— into your custody in the said prison and there safely have him until the day ———— day of ———— 19—, when you, the said Superintendent are hereby required to convey and produce him at the time and place to which the said inquiry/trial is postponed (*or* adjourned, *as the case may be*) before the undersigned, or before such other Magistrate (or High Court Judge, *as the case may be*) as may then be there, to answer further to the said complaint/indictment and to be further dealt with according to law.

(*Signed*)X.Y.————
Magistrate/High Court Judge.

1. State name, residence, disignation, &c. of accused.
2. State the offence or offences as in the summons or warrant.
3. Name of accused.
4. If otherwise, state the cause of the postponement or adjournment
5. If offence bailable, add " he having failed to give security in the sum of Rs.———— demanded ".

No. 13

WARRANT OF COMMITMENT ON A SENTENCE OF IMPRISONMENT PASSED BY A MAGISTRATE

In the Magistrate's Court of Colombo.

To the Superintendent of the Prison at *Welikada*.

Whereas *Charles Fernando* was this day duly convicted before the undersigned, a Magistrate in and for the said division of *Colombo*, for that he on the *11*th of ———— 19— at *Slave Island*, within the said division, voluntarily caused hurt to one *Juanis Appu*, and thereby committed an offence punishable under section 314 of the Penal Code, and was thereby sentenced to one month's rigorous imprisonment.

These are therefore to command you an officer of the Department of Prisons to take the said *Charles Fernando* and him safely deliver to the superintendent referred to above together with this warrant and I do hereby command you, the said Superintendent of the said prison, to receive the said *Charles Fernando* into your custody in the said prison and there carry the aforesaid sentence into execution.

Given under my hand this ———— day of ———— 19— at *Colombo*, in the division aforesaid.

(*Signed*)X.Y.————

No. 14

RECOGNIZANCE OF APPEAL AGAINST A CONVICTION

In the Magistrate's Court of *Colombo*.

Be it remembered that on the ——— day of ——— 19—, *Ferdinando de Silva of No. 159, Kollupitiya, Colombo Boutique Keeper,* and *Don Charles Appuhamy, of No. 239 the Pettah, Colombo aforesaid, Boutique-keeper,* personally came before me, a Registrar in and for the division, and acknowledged themselves to owe the Government of Sri Lanka the sum of rupees [1] ——— each to be levied of their property, movable and immovable to the use of the Government of Sri Lanka if default shall be made in the condition following :

Whereas by a certain conviction under the hand of *William Henry Moor, Esqr.*, a Magistrate for the division aforesaid the said *Charles Fernando* is convicted for that be on (state offence as stated in conviction) :

And whereas the said *Charles Fernando* has preferred an appeal against the said conviction :

Now the condition of this recognizance is such that if the said *Charle Fernando* shall abide the judgment of the Supreme Court and pay such costs (if any) as shall be the said court be awarded, then this recognizance to be void.

(*Signed*) *X. Y.*

Taken and acknowledged before me ———.

1. State amount.

N.B.—Use same form with adaptations as necessary for recognizance on appeal against a conviction in the High Court.

No. 15

FORM OF INDICTMENT

Kankanige Carolis Appu, of *Wellawatta.*

You are indicted at the instance of ——— the Attorney General of the Republic of Sri Lanka and the charge against you is that on the night of ——— the ——— of ——— 19— after sunset and before sunrise, you did break into the dwelling house of one ——— at ——— in the judicial zone of *Colombo*, inorder to commit theft, and thereby committed an offence punishable under section 443 of the Penal Code.

(*Signed*) ———.

List of Productions

1. A crowbar
2. A mammoty
3. Extract from the Information Book kept at the Police Station at Mount Lavinia.

List of Witnesses

1. Maria Fernando of No. 5, Castle Lane, Colombo.
2. Don Charles Appuhamy, Police Vidane of Ratmalana.
3. William Thomas, Police Sergeant at Mount Lavinia.

No. 16

FORM OF PETITION OF APPEAL

In the Court of Appeal of the Republic of Sri Lanka

To the Honourable

the President and the other Judges of the Court of Appeal.

The petition of A.B.

Showeth as follows :

1. Your petitioner*, the abovenamed A.B. was charged with (here describe the charge shortly) and convicted/acquitted** in the Magistrate's Court of ——— held at ——— on the ——— day of ——— 19— and the following judgment was passed thereon.

Here state shortly the substance of the judgment

2. Your petitioner* is dissatisfied with the said judgment on the grounds following :

(*Here state the grounds of appeal on which the petitioner relies, numbering them consecutively*)

3. Your petitioner* prays that such judgment may be reversed or that such order may be made as justice may require.

(*Signed*) ————.

*If the attorney-General is the appellant, omit the words " Your petitioner ".
**Delete whatever is not applicable.

N.B.—This form may be used with suitable modifications when the appeal or application for leave to appeal is from a judgment or order of the High Court.

No. 17

FORM OF SPECIAL CASE

In the Court of Appeal of the Republic of Sri Lanka.

In the matter of

a complaint in which *A.B.* was complainant and *G.H.* defendant.

Case stated by the undersigned under the provisions of Chapter XXIX of the Code of Criminal Procedure Act.

At the Magistrate's Court/High Court of ———— held at ———— before the undersigned on the ———— day of ———— 19— G.H. the above-named defendant, was charged as follows :

(*here state the charge or indictment as the case may be*)

At the hearing of the said charge/indictment it was proved (*here set out so much of the facts proved as is necessary to raise the question or questions of law intended to be admitted*).

It was thereupon contended on the part of the defendant (*here state the legal objection taken*).

But I being of opinion that (*here state the ground on which the court decided the case*) held that (*here state the decision and judgment of the court*).

The question for the opinion of this court is whether the said determination was correct in point of law, and what should be done in the premises.

Dated this ———— day of ———— 19 —.

(*Signed*) X. Y.

No. 18

FORM OF OATH TO BE TAKEN BY OFFICER TO WHOSE CHARGE A JURY IS COMMITTED

You shall suffer none to speak to them, not shall you speak to them yourself without the leave of the Judge, except only to ask them whether they are agreed.