

PART I
PRELIMINARY
DIVISION CHAPTER I

Short title.

1. This Act may be cited as the Criminal Procedure Code and is generally referred to in this Act as this Code.

Interpretation.

2. In this Code, unless there is something repugnant in the subject or context —

"advocate" means an advocate and solicitor lawfully entitled to practise in Singapore;

"bailable offence" means an offence shown as bailable in Schedule A or which is made bailable by any other law for the time being in force, and "non-bailable offence" means any other 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 or is guilty of an offence;

"fine" includes any fine, pecuniary penalty or forfeiture or compensation adjudged upon any conviction of any crime or offence or for the breach of any law for the time being in force by any court;

"Health Sciences Authority" means the Health Sciences Authority established under the Health Sciences Authority Act 2001;

"inquiry" includes every inquiry conducted under this Code before a Magistrate's Court;

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

"Magistrate" means a Magistrate appointed by the Chief Justice under the Subordinate Courts Act;

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"non-seizable offence" means an offence for which and "non-seizable case" means a case in which a police officer may not ordinarily arrest without warrant according to the third column of Schedule A;

"offence" means any act or omission made punishable by any law for the time being in force;

"place" includes a house, building, tent and vessel;

"police officer" means a person employed for police duties under any written law in force in Singapore relating to the raising or maintenance of a police force or invested under such written law with the powers of a police officer thereunder;

"Registrar" means the Registrar of the Supreme Court and includes a Deputy or an Assistant Registrar;

"seizable offence" means an offence for which and "seizable case" means a case in which a police officer may ordinarily arrest without warrant according to the third column of Schedule A;

"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;

"youthful offender" includes any child convicted of any offence punishable by fine or imprisonment who in the absence of legal proof to the contrary is above the age of 7 and under the age of 16 years in the opinion of the court before which the child is convicted;

words which refer to acts done extend also to illegal omissions;

all words and expressions used herein and defined in the Penal Code and not hereinbefore defined shall be deemed to have the meanings respectively attributed to them by that Code;

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the marginal notes or section headings of this Code shall not affect the construction thereof.

Trial of offences under Penal Code or against other laws.

3. All offences under the Penal Code shall be inquired into and tried according to the provisions of this Code; and all offences under any other law shall be inquired into and tried according to the same provisions, subject, however, to any written law for the time being in force regulating the manner or place of inquiring into or trying those offences.

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Saving of powers of High Court and law officers.

4. Nothing in this Code shall be construed as derogating from the powers or jurisdiction of the High Court or the Court of Criminal Appeal or of the Judges thereof or of the Attorney-General or of the Solicitor-General.

Laws of England, when applicable.

5. As regards matters of criminal procedure for which no special provision has been made by this Code or by any other law for the time being in force in Singapore the law relating to criminal procedure for the time being in force in England shall be applied so far as the procedure does not conflict or is not inconsistent with this Code and can be made auxiliary thereto.

PART II
CONSTITUTION AND POWERS OF CRIMINAL COURTS
CHAPTER II
COURTS IN GENERAL

Courts.

6. The courts for the administration of criminal justice within Singapore shall be as follows:

- (a) the High Court;
- (b) District Courts;
- (c) Magistrates' Courts.

Criminal jurisdiction of District Courts.

7. —(1) Subject to this Code, every District Court shall have jurisdiction to try all offences for which the maximum term of imprisonment provided by law does not exceed 10 years or which are punishable with fine only.

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(2) Notwithstanding subsection (1), a District Court may try any offence, other than an offence punishable with death, if —

- (a) the Public Prosecutor applies to such Court to try such offence; and
- (b) the accused consents, or, if more than one are charged together with the same offence, all such accused consent to be tried by such Court.

(3) Every District Court shall have in the exercise of its jurisdiction all the powers which belong to and are exercised by a Magistrate's Court.

Criminal jurisdiction of Magistrates' Courts.

8. —(1) Subject to this Code, every Magistrate's Court shall have cognizance of and power and authority to —

- (a) hear, try, determine and dispose of in a summary way prosecutions for offences for which the maximum term of imprisonment provided by law does not exceed 3 years or which are punishable with fine only;
- (b) inquire into offences committed or alleged to have been committed with a view to committal for trial by the High Court;
- (c) inquire into complaints of offences and summon and examine witnesses touching such offences, and summon and apprehend and issue warrants for the apprehension of criminals and offenders, and deal with them according to law;
- (d) issue warrants to search or to cause to be searched 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 require persons to furnish security for the peace or for their good behaviour according to law; and
- (e) do all other matters and things which a Magistrate's Court is empowered to do by any Act.

(2) The jurisdiction and powers conferred upon any Magistrate's Court under subsection (1) (a) and (b) shall be exercised by any Magistrate, sitting in a court house of such Magistrate's Court.

(3) The jurisdiction and powers conferred upon a Magistrate's Court under subsection (1) (c), (d) and (e) may be exercised by a Magistrate at any place within Singapore.

Offences under the Penal Code.

9. Subject to the other provisions of this Code —

- (a) any offence under the Penal Code may be tried by the High Court or by any other court by which the offence is shown to be triable in the 8th column of Schedule A;

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Offences under other laws.

(b) any offence under any law other than the Penal Code may be tried by the High Court or by any other court mentioned in that behalf by that law;

(c) when no court is so mentioned such offence may be tried by the High Court or by any court constituted under this Code:

Provided that —

(i) no District Court shall try any such offence which is punishable with imprisonment for a term which may exceed 10 years;

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(ii) no Magistrate's Court shall try any offence which is punishable with imprisonment for a term which may exceed 3 years.

Enlargement of powers of Magistrate's Court.

10. When under section 9 an offence is triable by a District Court but not by a Magistrate's Court the Public Prosecutor may, nevertheless, if he considers it desirable, by writing under his hand, authorise a Magistrate's Court in any particular case to try the offence, but that authorisation shall not enlarge the powers conferred on the Magistrate's Court by section 11 (5).

Sentences.

11. —(1) The High Court may pass any sentence authorised by law provided that in no case shall the 3 punishments of imprisonment, fine and caning be inflicted on any person for the same offence.

(2) When a person having been convicted whether in Singapore or elsewhere of an offence punishable with imprisonment for a term of 2 years or upwards is convicted of any other offence also punishable with imprisonment for a term of 2 years or upwards, the High Court may, in addition to any other punishment to which it may sentence him, direct that he shall be subject to the supervision of the police for a period of not more than 3 years commencing immediately after the expiration of the sentence passed on him for the last of those offences.

(3) A District Court may pass any of the following sentences:

(a) imprisonment for a term not exceeding 7 years;

(b) fine not exceeding \$10,000;

(c) caning up to 12 strokes;

(d) any lawful sentence combining any of the sentences which it is authorised by law to pass;

(e) reformatory training:

Provided that where a District Court has convicted any person and it appears that by reason of any previous conviction or of his antecedents, a punishment in excess of that prescribed in this subsection should be awarded, then the District Court may sentence that person to imprisonment for a term not exceeding 10 years and shall record its reason for so doing.

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(4) When a person having been convicted whether in Singapore or elsewhere of an offence punishable with imprisonment for a term of 2 years or upwards is convicted of any other offence also punishable with imprisonment for a term of 2 years or upwards, a District Court may, in addition to any other punishment to which it may sentence him, direct that he shall be subject to the supervision of the police for a period of not more than 2 years, commencing immediately after the expiration of the sentence passed on him for the last of such offences.

(5) A Magistrate's Court may pass any of the following sentences:

(a) imprisonment for a term not exceeding 2 years;

(b) fine not exceeding \$2,000;

(c) caning up to 6 strokes;

(d) any lawful sentence combining any of the sentences which it is authorised by law to pass;

Provided that where a Magistrate's Court has convicted any person and it appears that, by reason of any previous conviction or of his antecedents, a punishment in excess of that prescribed by this subsection should be awarded, then the Magistrate's Court may award the full punishment authorised by law for the offence for which that person has been convicted and shall record its reason for so doing.

(6) When a person having been convicted whether in Singapore or elsewhere of an offence punishable with imprisonment for a term of 2 years or upwards is convicted of any other offence also punishable

with imprisonment for a term of 2 years or upwards, a Magistrate's Court may, in addition to any other punishment to which it may sentence him, direct that he shall be subject to the supervision of the police for a period of not more than one year commencing immediately after the expiration of the sentence passed on him for the last of such offences.

(7) Notwithstanding anything in this Code where by any law for the time being in force jurisdiction is given to a District Court or Magistrate's Court to award punishment for any offence in excess of the power prescribed by this section for a District Court or Magistrate's Court respectively the District Court or Magistrate's Court may award the full punishment authorised by that law.

Corrective training and preventive detention.

12. —(1) Where a person who is not less than 18 years of age —

(a) is convicted before the High Court or a District Court of an offence punishable with imprisonment for a term of 2 years or upwards, and has been convicted on at least two previous occasions since he attained the age of 16 years of offences punishable with such a sentence; or

(b) is convicted at one trial before the High Court or a District Court of 3 or more distinct offences punishable with imprisonment for a term of 2 years or upwards, and has been convicted and sentenced to imprisonment for a term of not less than one month since he attained the age of 16 years of an offence punishable with imprisonment for a term of 2 years or upwards,

then, if the Court is satisfied that it is expedient with a view to his reformation and the prevention of crime that he should receive training of a corrective character for a substantial period of time, followed by a period of supervision if released before the expiration of his sentence, the Court, unless it has special reasons for not so doing, shall pass, in lieu of any sentence of imprisonment, a sentence of corrective training for such term of not less than 5 nor more than 14 years as the court may determine.

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(2) Where a person who is not less than 30 years of age —

(a) is convicted before the High Court or a District Court of an offence punishable with imprisonment for a term of 2 years or upwards, and has been convicted on at least 3 previous occasions since he attained the age of 16 years of offences punishable with such a sentence, and was on at least two of those occasions sentenced to imprisonment or corrective training; or

(b) is convicted at one trial before the High Court or a District Court of 3 or more distinct offences punishable with imprisonment for a term of 2 years or upwards, and has been convicted and sentenced to imprisonment for a term of not less than one month since he attained the age of 16 years of an offence punishable with imprisonment for a term of 2 years or upwards,

then, if the Court is satisfied that it is expedient for the protection of the public that he should be detained in custody for a substantial period of time, followed by a period of supervision if released before the expiration of his sentence, the Court, unless it has special reasons for not so doing, shall pass, in lieu of any sentence of imprisonment, a sentence of preventive detention of such term of not less than 7 nor more than 20 years as the Court may determine.

(3) Before sentencing any offender to corrective training or preventive detention the Court shall consider the physical and mental condition of the offender and his suitability for such a sentence.

(4) A person sentenced to corrective training or preventive detention shall be detained in a prison for the term of his sentence subject to his release on licence in accordance with Schedule C, and while so detained shall be treated in such manner as may be prescribed by rules made under section 407.

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Reformative training.

13. —(1) Where a person is convicted by the High Court or a District Court of an offence punishable with imprisonment and that person —

(a) is, on the day of his conviction, not less than 16 but under 21 years of age; or

(b) is, on the day of his conviction, not less than 14 but under 16 years of age and has, prior to his conviction, been dealt with by a court in connection with another offence and had, in respect of that other offence, been ordered to be sent to an approved school established under section 62 of the Children and Young Persons Act (Cap. 38),

and the High Court or District Court (as the case may be) is satisfied, having regard to his character and previous conduct and to the circumstances of the offence of which he is convicted, that it is expedient

with a view to his reformation and the prevention of crime that he should undergo a period of training in a reformatory training centre, that Court may, in lieu of any other sentence, pass a sentence of reformatory training.

(2) Where a person is convicted by a Magistrate's Court of an offence punishable with imprisonment and that person —

(a) is, on the day of his conviction, not less than 16 but under 21 years of age; or

(b) is, on the day of his conviction, not less than 14 but under 16 years of age and has, prior to his conviction, been dealt with by a court in connection with another offence and had, in respect of that other offence, been ordered to be sent to an approved school established under section 62 of the Children and Young Persons Act (Cap. 38),

and the Magistrate's Court is satisfied of the matters mentioned in subsection (1), the Court may commit him in custody for sentence to a District Court.

(3) Where a person is so committed for sentence the District Court shall inquire into the circumstances of the case and may —

(a) if satisfied of the matters mentioned in subsection (1), sentence him to reformatory training; or

(b) in any case, deal with him in any manner in which the Magistrate's Court might have dealt with him.

(4) Where a person has been ordered by a Juvenile Court under the Children and Young Persons Act to be brought before a District Court, then the District Court shall inquire into the circumstances of the case and may —

(a) if satisfied that it is expedient with a view to his reformation that he should undergo a period of training in a reformatory training centre, sentence him to reformatory training; or

(b) in any case, deal with him in any manner in which the Juvenile Court might have dealt with him.

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(5) Before a sentence of reformatory training is passed under this section, and before a person is committed for sentence under subsection (2), the Court shall consider any report or representations made by or on behalf of the Director of Prisons on the offender's physical and mental condition and his suitability for the sentence; and if the Court has not received such a report or representations it shall remand the offender in custody for such a period or periods, not exceeding 3 weeks in the case of any single period, as the Court thinks necessary to enable the report or representations to be made.

(6) A copy of any report or representations in writing made to the Court by the Director of Prisons for the purposes of subsection (5) shall be given by the Court to the offender or his advocate.

(7) A person sentenced to reformatory training shall be detained subject to his release in accordance with Schedule D and while so detained shall be treated in such manner as may be prescribed by rules made under section 407.

Requirements from persons subject to supervision.

14. —(1) Every person directed to be subject to the supervision of the police who is at large in Singapore shall —

(a) personally present himself and notify the place of his residence to the officer in charge of the police division in which his residence is situated;

(b) whenever he changes his residence within the same police division, personally present himself and notify the change of residence to the officer in charge of that police division;

(c) whenever he changes his residence within Singapore from one police division to another, personally present himself and notify such change of the residence to the officer in charge of the police division which he is leaving and to the officer in charge of the police division into which he goes to reside;

(d) whenever he changes his residence to a place outside Singapore, personally present himself and notify the change of residence and the place to which he is going to reside to the officer in charge of the police division which he is leaving;

(e) if, having changed his residence to a place outside Singapore, he subsequently returns to Singapore, personally present himself and notify his return and his place of residence in Singapore to the officer in charge of the police division in which his residence is situated; and

(f) if he intends to be absent from his last notified residence for more than 48 hours without changing his place of residence, personally present himself and notify his intention, the place to which he intends

to go and the period of his intended absence to the officer in charge of the police division in which his residence is situated.

(2) Every person subject to the supervision of the police shall, at intervals not exceeding 30 days, report himself at such time and place and to such police officer as may be appointed by the Commissioner of Police, and such police officer may upon each occasion of such report being made take or cause to be taken the fingerprints of the person so reporting.

Penalty for non-compliance with section 14.

15. —(1) If any person subject to the supervision of the police who is at large in Singapore —

(a) remains in any place for 48 hours without personally presenting himself and notifying the place of his residence to the officer in charge of the police division in which such place is situated;

(b) fails to comply with the requirements of section 14 on the occasion of any change of residence;

(c) is absent from his notified place of residence for more than 48 hours without having complied with the requirements of section 14 (1) (f); or

(d) fails to comply with the requirements of section 14 as to reporting himself at intervals not exceeding 30 days,

he shall in every such case, unless he proves to the satisfaction of the court before which he is tried that he did his best to act in conformity with the law, be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding one year.

(2) If any person is convicted of an offence under this section, the court before which he is convicted may in addition to any other punishment to which it may sentence him direct that he shall be subject to the supervision of the police for a period of not more than one year commencing immediately after the expiration of the sentence passed on him by that court, or immediately after the expiration of the period of supervision by the police in respect of which the offence was committed, whichever is the later.

(3) When any person subject to the supervision of the police is, while still subject to such supervision, sentenced to a term of imprisonment for any offence, any term spent in prison may be excluded from such period of supervision.

Application of law to orders for police supervision made in the States of Malaya.

16. Sections 14 and 15 shall apply to every person who, by reason of an order made under the law for the time being in force in the States of Malaya, would be subject to the supervision of the police if he were at large within the States of Malaya, and who is at large in Singapore.

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

17. When a person is convicted at one trial of any two or more distinct offences the court may sentence him for such offences to the several punishments prescribed therefor which such court is competent to inflict; such punishments when consisting of imprisonment to commence the one after the expiration of the other in such order as the court directs or to run concurrently if the court so directs, but it shall not be necessary for the court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of one single offence, to send the offender for trial before a higher court:

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

Consecutive sentences in certain cases.

18. Where at one trial a person is convicted and sentenced to imprisonment for at least 3 distinct offences, the court before which he is convicted shall order that the sentences for at least two of those offences shall run consecutively.

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District Judge to hear cases under Extradition Act.

19. Every District Judge is a Magistrate by this Code provided to exercise jurisdiction to hear a case and commit a fugitive to prison to await his return under the Extradition Act.

PART III
GENERAL PROVISIONS
CHAPTER III

AID AND INFORMATION TO MAGISTRATES AND POLICE AND PERSONS MAKING ARRESTS

Public, when to assist Magistrates, Justices of the Peace and police.

20. Every person is bound to assist a Magistrate, Justice of the Peace or police officer reasonably demanding his aid —

- (a) in the taking of any other person whom the Magistrate, Justice of the Peace or police officer is authorised to arrest;
- (b) in the prevention of a breach of the peace or of any injury attempted to be committed to any railway, airport, dock, wharf, canal, telegraph or public property; or
- (c) in the suppression of a riot or an affray.

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Aid to person other than police officer executing warrant.

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

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Public to give information of certain matters.

22. —(1) Every person aware —

(a) of the commission of or the intention of any other person to commit any seizable offence punishable under Chapters VI, VII, VIII (except section 160), XII and XVI of the Penal Code or under any of the following sections of the Penal Code:

161, 162, 163, 164, 170, 171, 211, 212, 216, 216A, 226, 270, 281, 285, 286, 382, 384, 385, 386, 387, 388, 389, 392, 393, 394, 395, 396, 397, 399, 400, 401, 402, 430A, 435, 436, 437, 438, 440, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 489A, 489B, 489C, 489D and 506; or

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(b) of any sudden or unnatural death or death by violence or of any death under suspicious circumstances or of the body of any person being found dead without its being known how that 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 officer in charge of the nearest police station or to a police officer of the commission or intention or of the sudden, unnatural or violent death or death under suspicious circumstances or of the finding of the dead body, as the case may be.

(2) If any person discovers any dead body and he has reason to believe that the deceased met with his death through an unlawful act or omission he shall not remove or in any manner alter the position of the body except so far as is necessary for its safety.

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Police officer bound to report certain matters.

23. Every police officer shall forthwith communicate to the nearest inspector of police any information which he may have or obtain respecting —

- (a) the occurrence of any sudden or unnatural death or of any death under suspicious circumstances; or
- (b) the finding of the dead body of any person without its being known how the person came by death.

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DIVISION CHAPTER IV ARREST, ESCAPE AND RETAKING Arrest Generally

Arrest how made.

24. —(1) In making an arrest the police officer or other person making the arrest shall actually touch or confine the body of the person to be arrested unless there is a submission to the custody by word or action.

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

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Search of place entered by person sought to be arrested.

25. —(1) If any person acting under a warrant of arrest or any police officer having authority to arrest has reason to believe that any person to be arrested has entered into or is within any place, the person residing in or in charge of the place shall, on demand of the person so acting or the police officer, allow him free ingress to the place and afford all reasonable facilities for search in it.

(2) If ingress to that place cannot be obtained under subsection (1) it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue but cannot be obtained without affording the person to be arrested an opportunity of escape for a police officer to enter the place and search in it, and in order to effect an entrance into the 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.

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Search of persons in place searched.

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 in it may be lawfully detained until the search is completed, and they may, if the thing sought is in its nature capable of being concealed on the person, be searched for it by or in the presence of a Magistrate or Justice of the Peace or a police officer not below the rank of sergeant.

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

27. Any police officer or other person authorised to make an arrest may break open any place in order to liberate himself or any other person who having lawfully entered for the purpose of making an arrest is detained in it.

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No unnecessary restraint.

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

Mode of searching women.

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

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Search of persons arrested.

29. —(1) Whenever a person is arrested —

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

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

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

(2) A police officer investigating into a seizable offence in the exercise of his powers under Chapter XIII may enter the house or other place of abode of any person who is under arrest in connection with the offence and search such premises for any evidence of the offence.

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Power to seize offensive weapons.

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

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Search of person for name and address.

31. Every person lawfully in custody, who by reason of incapacity from intoxication, illness, idiocy, lunacy or infancy is unable to give a reasonable account of himself, may be searched for the purpose of ascertaining his name and place of abode.

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Arrest Without A Warrant

When police may arrest without warrant.

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

- (a) any person who has been concerned in any seizable 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;
- (b) any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of housebreaking;
- (c) any person who has been proclaimed under section 51;
- (d) any person in whose possession anything is found which may reasonably be suspected to be stolen or fraudulently obtained property, and who may reasonably be suspected of having committed an offence with reference to that thing;
- (e) any person who obstructs a police officer while in the execution of his duty or who has escaped or attempts to escape from lawful custody;
- (f) any person reasonably suspected of being a deserter from any force referred to in section 140B of the Penal Code or to which Chapter VII of that Code may be extended;

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- (g) any person found taking precautions to conceal his presence under circumstances which afford reason to believe that he is taking those precautions with a view to committing a seizable offence;
- (h) any person who has no ostensible means of subsistence or who cannot give a satisfactory account of himself;
- (i) any person who is by repute an habitual robber, housebreaker or thief, or an habitual receiver of stolen property knowing it to be stolen, or who by repute habitually commits extortion or in order to commit extortion habitually puts or attempts to put persons in fear of injury;
- (j) any person in the act of committing in his presence a breach of the peace; or
- (k) any person subject to the supervision of the police who has failed to comply with any of the requirements of this Code.

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

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Refusal to give name and residence.

33. —(1) When any person in the presence of a police officer commits or is accused of committing a non-seizable offence and refuses on the demand of a police officer to give his name and residence or gives a name or residence which the officer has reason to believe to be false, he may be arrested by that police officer in order that his name or residence may be ascertained, and he shall, within 24 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 he shall be forthwith released on his executing a bond with or without sureties for his appearance before a Magistrate's Court, if so required.

(2) When any person is thus taken before a Magistrate's Court, the Court may either require him to execute a bond with or without a surety for his appearance before a Magistrate's Court if so required, or may order him to be detained in custody until he can be tried.

Naming a residence outside Singapore.

(3) When any person in the presence of a police officer commits or is accused of committing a non-seizable offence, and on the demand of a police officer to give his name and residence gives as his residence a place not within Singapore, he may be arrested by the police officer and shall be taken forthwith before 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 if so required, or may order him to be detained in

custody until he can be tried or shall be taken before a police officer not below the rank of inspector who may require him to execute a bond with or without a surety for his appearance before a Magistrate's Court, if required.

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Arrest by private persons. Procedure in such cases.

34. —(1) Any private person may arrest any person who, in his view, commits a non-bailable and seizable offence, or who has been proclaimed under section 51, and shall, without unnecessary delay, hand over the person so arrested to the nearest police officer or, in the absence of a police officer, take that person to the nearest police station.

(2) If there is reason to believe that such person comes under section 32 a police officer shall rearrest him.

(3) If there is reason to believe that he has committed a non-seizable offence and he refuses on the demand of a police officer to give his name and residence or gives a name or residence which the officer has reason to believe to be false or gives a residence which is not within Singapore he shall be dealt with under section 33.

(4) If there is no reason to believe that he has committed any offence he shall be at once released.

(5) Any person who commits an offence on or with respect to the person or property of another may, if his name and residence are unknown, be apprehended by the person injured or by any person who is using the property to which the injury is done, or by the employee of either of those persons or by any person authorised by or acting in aid of either of those persons, and may be detained until he gives his name and address and satisfies such person that the name and address so given are correct or until he can be delivered into the custody of a police officer.

(6) If any person lawfully apprehended under subsection (5) assaults or forcibly resists the person by whom he is so apprehended or any person acting in his aid, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100.

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How person arrested is to be dealt with.

35. A police officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein as to bail or previous release, take or send the person arrested before a Magistrate's Court.

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Person arrested not to be detained more than 48 hours.

36. —(1) No police officer shall detain in custody a person arrested without a warrant for a longer period than under all the circumstances of the case is reasonable.

(2) Such period shall not exceed 48 hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

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Release of person arrested.

37. No person who has been arrested by a police officer shall be released except on his own bond or on bail or under the special order in writing of a Magistrate or of a police officer not below the rank of sergeant.

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Offence committed in Magistrate's presence.

38. When any offence is committed in the presence of a Magistrate or Justice of the Peace, he may himself arrest or authorise any person to arrest the offender, and may thereupon, subject to the provisions herein as to bail, commit the offender to custody.

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Arrest by or in presence of Magistrate.

39. Any Magistrate may at any time arrest or authorise the arrest in his presence of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

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Power on escape to pursue and retake.

40. 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 within Singapore and deal with that person as he might have done on the original taking.

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Provisions of sections 25 and 27 to apply to arrests under section 40.

41. Sections 25 and 27 shall apply to arrests under section 40, although the person making the arrest is not acting under a warrant and is not a police officer having authority to arrest.

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***DIVISION CHAPTER V
PROCESSES TO COMPEL APPEARANCE
Summons***

Form of summons.

42. —(1) Every summons to appear issued by a court under this Code shall be in writing and signed by a Magistrate or District Judge, as the case may be, or in the case of the High Court by a Judge of that Court or by the Registrar, and shall bear the seal of the court.

Forms 1 and 30.

Summons by whom served.

(2) Such summons may be served by a police officer or by an officer of a Magistrate's Court or District Court, and, if the summons is in connection with an offence under an Act which it is the duty of a Government department to enforce, by an officer of that Government department. The court issuing the summons may, if it sees fit, direct it to be served by any other person.

(3) Every such summons shall remain in force until it is cancelled by the court or until the person summoned is discharged therefrom by a court.

(4) When a summons cannot be served within such time as will give reasonable notice to the person summoned to attend the court on the date stated therein, the court may in writing substitute some later date for the date so stated.

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Summons how served.

43. —(1) The summons shall, if practicable, be served personally on the person summoned by showing him the original summons and by tendering or delivering to him a copy thereof under the seal of the court.

(2) Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt for the copy thereof on the back of the original summons.

(3) In the case of a corporation the summons may be served on the secretary or other like officer of the corporation.

(4) Where the person to be summoned cannot, by the exercise of due diligence, be found the summons may be served by leaving a copy thereof for him with some adult member of his family or with his employee residing with him.

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Procedure when personal service cannot be effected.

44. When the person to be summoned cannot, by the exercise of due diligence, be found and service cannot be effected as directed by section 43 (4) the serving officer shall affix a copy of the summons to some conspicuous part of the house or place in which the person summoned ordinarily resides, and in such case the summons, if the court so directs either before or after such affixing, shall be deemed to have been duly served.

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Proof of service.

45. When a summons issued by a court is served an affidavit of such service purporting to be made before an officer duly authorised to administer an oath shall be admissible in evidence.

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Warrant Of Arrest

Form of warrant of arrest.

46. —(1) Every warrant of arrest issued by a court under this Code shall be in writing and signed by a Magistrate or District Judge or a Coroner, as the case may be, or in the case of the High Court by a Judge of the High Court or by the Registrar, and shall bear the seal of the court.

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

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Form2.

Court may direct by endorsement on warrant security to be taken.

47. —(1) Any court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant that, if that person executes a bond with sufficient sureties for his attendance before the court at the next sitting of the court following the day of arrest and thereafter until otherwise directed by the court, the officer to whom the warrant is directed shall take such security and shall release that person from custody.

(2) The endorsement shall state —

(a) the number of sureties; and

(b) the amount in which they and the person for whose arrest the warrant is issued shall be respectively bound.

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

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Form2.

Warrants to whom directed.

48. —(1) A warrant of arrest shall ordinarily be directed to the Commissioner of Police and all other police officers of Singapore, and any police officer may execute the warrant.

(2) The court issuing a warrant may direct it to any person by name not being police officers, and all or any one or more of such persons may execute the warrant.

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

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Notification of substance of warrant.

49. The police officer or other person executing a warrant of arrest shall notify the substance thereof to the person arrested and, if so required, shall show him the warrant or a copy thereof under the seal of the court issuing the warrant.

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Person arrested to be brought before court without delay.

50. The police officer or other person executing a warrant of arrest shall, subject to section 47 as to security, without unnecessary delay bring the person arrested before the court before which he is required by law to produce that person.

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Proclamation And Attachment

Proclamation for person absconding.

51. —(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 the warrant cannot be executed, the court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than 30 days from the date of publishing the proclamation.

Forms 4 and 5.

(2) The proclamation shall be published as follows:

(a) it shall be publicly read in some conspicuous place of the town, village or kampong in or near which that person ordinarily resides;

(b) it shall be affixed to some conspicuous part of the house or place in which that person ordinarily resides or on some conspicuous place of the town, village or kampong; and

(c) a copy thereof shall be affixed to some conspicuous part of the court house.

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

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Attachment of property of person proclaimed.

52. —(1) The court may, after issuing a proclamation under section 51, order the attachment of any property movable or immovable, or both, belonging to the proclaimed person.

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

(a) by seizure;

(b) by the appointment of a receiver;

(c) by an order in writing prohibiting the delivery of the 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.

(3) If the property ordered to be attached is immovable the attachment under this section shall, in the case of land paying revenue to the State, be made through the Collector of Land Revenue of the district in which the land is situate, and in all other cases —

(a) by taking possession;

(b) by the appointment of a receiver;

(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.

(4) The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed by the High Court under its civil jurisdiction.

(5) No attachment of land under this section shall take effect until the order of attachment is duly registered under the Registration of Deeds Act.

Cap 269.

(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 Government, but it shall not be sold until the expiration of 6 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) Any person, other than the person proclaimed, may appear before the court which made the order of attachment and claim upon oath, stating his title thereto, the property, or any part thereof, attached or ordered to be attached, provided that the claim is made within 3 months from the date of the order of attachment.

(8) The court shall record the claim so made and shall cause a copy thereof to be served upon the Deputy Public Prosecutor, together with a notice requiring him to attend before the court on a day and at a time to be stated therein to show cause why the property, if attached, should not be released, or why the order of attachment should not be cancelled so far as it relates to the property so claimed.

(9) At the hearing the court shall proceed to inquire into the truth and justice of the claim so made and to take such evidence as appears necessary.

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

(11) The court shall, if satisfied of the truth and justice of the claim, direct such property to be released or such order to be cancelled, or, if satisfied, as aforesaid, as to part only of the claim, shall direct such part to be released or so much of such order as relates thereto to be cancelled.

(12) The court may in its discretion award costs and such advocate's fees as it thinks proper to the claimant, which shall be paid out of the Consolidated Fund.

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Form 6.

Restoration of attached property.

53. If within two years from the date of the attachment any person whose property is or has been at the disposal of the Government under section 52 (6) appears voluntarily or is apprehended and brought before the court by whose order the property was attached and proves to the satisfaction of the 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, the property or, if the property 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.

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Other Rules Regarding Summonses To Appear And Warrants Of Arrest

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

54. A criminal court may, in any case in which it is empowered to issue a summons for the appearance of any person, issue, after recording its reasons in writing, a warrant for his arrest —
(a) if either before the issue of the summons or after the issue of the summons 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.

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Form 7.

Service of summons: reciprocal arrangements with Malaysia and Brunei Darussalam.

55. —(1) Where under the provisions of any law in force in Malaysia or Brunei Darussalam a Magistrate or a Magistrate's Court has issued a warrant or summons authorising the arrest of a person or requiring any person to appear before any court in Malaysia or Brunei Darussalam, and that person is or is believed to be in Singapore, a Magistrate in Singapore, if satisfied that the warrant or summons was duly issued in Malaysia or Brunei Darussalam, may endorse the warrant or summons, and the warrant or summons may then be executed or served, as the case may be, on that person as if it were a warrant or summons lawfully issued in Singapore under the provisions of this Code.

(2) Where under the provisions of any law in force in Malaysia or Brunei Darussalam corresponding to subsection (1) a warrant or summons issued by a Magistrate or a Magistrate's Court in Singapore has been endorsed by a Magistrate in Malaysia or Brunei Darussalam and executed or served on the person named in the warrant or summons, the warrant or summons shall for the purposes of this Code be deemed to have been as validly executed or served as if the execution or service had been effected in Singapore.

(3) Where a warrant has been executed in Singapore pursuant to subsection (1), the person arrested shall be produced as soon as possible before a Magistrate in Singapore, who shall, if satisfied that he is the person specified in the warrant, direct that the arrested person be transferred forthwith in custody to the appropriate court in Malaysia or Brunei Darussalam; and any such person shall while in such custody, be deemed for all purposes to be in lawful custody:

Provided that such Magistrate may, if for reasons to be recorded by him he is satisfied that it is in the interests of justice to do so and if the case is one in which bail may lawfully be granted, release the person arrested on bail conditional on his appearing before the appropriate court in Malaysia or Brunei Darussalam at a time to be specified in the bond and bail bond.

(4) Where any person has been served with a summons pursuant to subsection (1), he shall attend at the appropriate court at the time specified in the summons, unless he can satisfy the court that he cannot reasonably do so.

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9/84.

Detention of offenders attending in court.

56. Any person attending a criminal court, although not under arrest or upon a summons, may be detained by the court for the purpose of examination for any offence of which the court can take

cognizance and which from the evidence he appears to have committed and may be proceeded against as though he had been arrested or summoned.

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Miscellaneous

Proceedings against corporations.

57. —(1) Where a corporation is charged whether alone or jointly with some other person with any offence, the corporation may appear by its representative and the representative may on behalf of the corporation do any act or thing which an accused person may under the provisions of this Code do on his own behalf.

(2) No proceedings shall be deemed to be invalid by reason only of the non-appearance of an accused corporation or of the omission to do anything which under the provisions of this Code is directed to be done, if the omission is a necessary consequence of the non-appearance.

(3) In this section "representative", in relation to a corporation, means a person duly appointed by the corporation to represent it for the purpose of doing any act or thing which the representative of a corporation is by this section authorised to do, but a person so appointed shall not, by virtue only of being so appointed, be qualified to act on behalf of the corporation before any court for any other purpose.

(4) A representative for the purposes of this section need not be appointed under the seal of the corporation, and a statement in writing purporting to be signed by a managing director of the corporation, or by any person (by whatever name called) having, or being one of the persons having, the management of the affairs of the corporation, to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this section shall be admissible without further proof as prima facie evidence that that person has been appointed.

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DIVISION CHAPTER VI PROCESSES TO COMPEL THE PRODUCTION OF DOCUMENTS AND OTHER MOVABLE PROPERTY AND FOR THE DISCOVERY OF PERSONS WRONGFULLY CONFINED Summons To Produce

Summons to produce document or other thing.

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

Provided that in the case of bankers' books no police officer below the rank of inspector shall exercise any of the powers conferred by this section or order the production of such books save at the place of business of the bank.

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

(3) Nothing in this section shall be deemed to affect any of the provisions of the Evidence Act or to apply to any book, letter, postcard, telegram or other document in the custody of the Telecommunication Authority of Singapore.

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Cap. 97.

Procedure as to letters, etc.

59. —(1) If any such book, letter, postcard, telegram or other document is in the opinion of the High Court or a District Court wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Code, the Court may require the Telecommunication Authority of Singapore to deliver that document to such person as the Court directs.

(2) If any such document is in the opinion of the Public Prosecutor wanted for any such purpose, he may require the Telecommunication Authority of Singapore to cause search to be made for and to detain that document pending the orders of the High Court or a District Court.

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Sections 42, 43, 44 and 45 to apply.

60. Sections 42, 43, 44 and 45 shall apply in relation to summonses under this Chapter.

Search Warrants

When search warrant may be issued.

61. —(1) Where —

(a) any court has reason to believe that a person to whom a summons under section 58 or a requisition under section 59 (1) has been or might be addressed will not or would not produce the document or other thing as required by the summons or requisition;

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

(c) the court considers that the purposes of justice or of any inquiry, trial or other proceeding under this Code will be served by a general search or inspection,

it may issue a search warrant, and the person to whom the warrant is directed may search or inspect in accordance with the warrant and with this Code.

Form 8.

(2) Nothing herein shall authorise any court other than the High Court to grant a warrant to search for a document in the custody of the Telecommunication Authority of Singapore or its agent.

(3) A search warrant shall ordinarily be directed to the Commissioner of Police and to some other police officers to be designated by name therein, and all or any of those police officers may execute the warrant.

(4) The court issuing a search warrant may direct it to any person or persons by name, not being police officers, and all or any one or more of those persons may execute the warrant.

Power to restrict warrant.

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

Magistrate issuing search warrant may attend at its execution.

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

(7) 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.

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Search of house suspected to contain stolen property, forged documents, or forged or counterfeited trade marks.

62. If a Magistrate's Court upon information and after such inquiry as it thinks necessary has reason to believe that any place is used —

(a) for the deposit or sale of stolen property or of property unlawfully obtained or of goods in respect of which an offence has been committed under section 46, 47, 48, 49 or 52 of the Trade Marks Act 1998 or sections 4, 5 and 6 of the Consumer Protection (Trade Descriptions and Safety Requirements) Act;

Cap. 53.

(b) for the deposit or sale or manufacture of forged documents, false seals or counterfeit stamps or coin or forged or counterfeited trade marks or instruments or materials for counterfeiting coin or stamps or for forging; or

(c) for the concealing, keeping or depositing of any stolen property or property unlawfully obtained, forged documents, false seals or counterfeit stamps or coin or forged or counterfeited trade marks or instruments or materials used for counterfeiting coin or stamps or for forging,

the Court may by warrant authorise the person to whom it is directed to —

Form 9.

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

(ii) search it in the manner, if any, specified in the warrant;

(iii) take possession of any goods, property, documents, seals, stamps, coins or trade marks found in it which he reasonably suspects to be the subject of an offence committed under section 46, 47, 48, 49 or 52 of the Trade Marks Act 1998 or sections 4, 5 and 6 of the Consumer Protection (Trade Descriptions and Safety Requirements) Act or to be stolen, unlawfully obtained, forged, false or counterfeit and also of any such instruments and materials as aforesaid;

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(iv) convey such goods, property, documents, seals, stamps, coins, trade marks, 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) take into custody and produce before a Magistrate's Court every person found in that place who appears to have been privy to the deposit, sale or manufacture or keeping of any such goods, property, documents, seals, stamps, coins, trade marks, instruments or materials knowing or having reasonable cause to suspect the goods to have been the subject of an offence committed under section 46, 47, 48, 49 or 52 of the Trade Marks Act 1998 or sections 4, 5 and 6 of the Consumer Protection (Trade Descriptions and Safety Requirements) Act or the property to have been stolen or otherwise unlawfully obtained, or the documents, seals, stamps, coins, trade marks to have been forged, falsified or counterfeited or the instruments or materials to have been or to be intended to be used for counterfeiting coin or stamps or for forging.

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Cap. 53.

Form of search warrant.

63. —(1) Every search warrant issued by a court under this Code shall be in writing signed by a Magistrate or District Judge, or in the case of the High Court by a Judge of the High Court or by the Registrar, and shall bear the seal of the court.

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

(3) Search warrants issued under this Code may be executed in any part of Singapore.

Search for persons wrongfully confined.

64. —(1) 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.

(2) The person to whom the warrant is directed may search for the person so confined.

(3) The search shall be made in accordance with the warrant and the person, if found, shall be immediately taken before the Court which shall make such order as in the circumstances of the case seems proper.

(4) If information is given to any police officer not below the rank of inspector that there is reasonable cause for suspecting that any person is confined in any house or place under such circumstances that the confinement amounts to an offence and he has good grounds for believing that by reason of the delay in obtaining a search warrant the rescue of the person so confined and the arrest of the persons responsible for his confinement are likely to be adversely affected that officer may forthwith enter and search any such house or place.

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Persons in charge of closed place to allow search.

65. —(1) Whenever any place liable to search or inspection under this Chapter is closed, any person residing in or being in charge of that place shall, on demand of the officer or other person executing the warrant and on production of the warrant, allow him free ingress to it and afford all reasonable facilities for a search in it.

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

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List of all things seized to be made and signed.

66. —(1) A list of all things seized in the course of a search made under this Chapter and of the places

in which they are respectively found shall be prepared by such officer or other person making the search and signed by him.

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

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Miscellaneous

Power of court to impound document or other thing produced.

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

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Powers of police to seize property suspected to be stolen.

68. —(1) Any police officer may seize any property which is alleged or suspected to have been stolen or which is found under circumstances which create suspicion of the commission of any offence.

(2) Such police officer, if subordinate to the officer in charge of a police station, shall forthwith report the seizure to that officer.

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When search may be made without warrant.

69. —(1) If information is given to any police officer not below the rank of sergeant that there is reasonable cause for suspecting that any stolen property is concealed or lodged in any dwelling-house or other place and he has good grounds for believing that by reason of the delay in obtaining a search warrant the property is likely to be removed, that officer by virtue of his office may search for specific articles alleged to have been stolen in the house or place specified.

(2) A list of the articles stolen or missing shall be delivered or taken down in writing with a declaration stating that a robbery or theft has been committed and that the informant has good ground for believing that the property is deposited in that house or place.

(3) The person who lost the goods or his representative shall accompany the officer in the search unless that person or his representative cannot be found without unreasonable delay.

(4) In this section, "stolen property" has the meaning given to it in section 410 of the Penal Code.

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Summary search.

70. —(1) Any police officer may, under the circumstances mentioned in this section, be authorised in writing by the Commissioner of Police to enter and, if so authorised, may enter any house, shop, warehouse, yard, grounds or other premises in search of stolen property and search and seize and secure any property which he believes to have been stolen in the same manner as he would be authorised to do if he had a warrant and the property seized, if any, corresponded to the property described in the search warrant.

(2) Whenever any property is seized under this section the person on whose premises it was at the time of seizure or the person from whom it was taken, if other than the person on whose premises it was, shall, unless previously charged with receiving the property knowing it to have been stolen, be summoned before a Magistrate's Court to account for his possession of the property, and the Court shall make such order respecting the disposal of the property and may award such costs as the justice of the case requires.

(3) The Commissioner of Police may give such authority as aforesaid in the following cases or either of them:

(a) when the premises to be searched are, or within the preceding 12 months have been, in the occupation of or used by any person who has been convicted of receiving stolen property or of harbouring thieves;

(b) when the premises to be searched are in the occupation of or used by any person who has been convicted of any offence involving fraud or dishonesty and punishable with imprisonment.

(4) It shall not be necessary for the Commissioner of Police on giving such authority to specify any particular property but he may give the authority if he has reason to believe generally that those premises are being made a receptacle for stolen goods.

PART IV
PREVENTION OF OFFENCES
DIVISION CHAPTER VII
SECURITY FOR KEEPING THE PLACE AND FOR GOOD BEHAVIOUR
Security For Keeping The Peace On Conviction

Security for keeping the peace on conviction.

71. —(1) Whenever any person accused of —

(a) rioting, assault or other breach of the peace or abetting the same;

(b) an offence under section 143, 144, 145, 153, 504 or 510 of the Penal Code or under section 13(f) of the Minor Offences Act;

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(c) assembling armed men or taking other unlawful measures with the evident intention of committing the same; or

(d) committing criminal intimidation by threatening injury to person or property, is convicted of such offence, and the court before which the person is convicted is of opinion that it is necessary to require that person to execute a bond for keeping the peace, the court may, at the time of passing sentence on that person or in lieu of any sentence, 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 6 months, if the sentence or order is by a Magistrate's Court, or 2 years, if the sentence or order is by a District Court.

Form 10.

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

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Security for keeping the peace by complainant.

72. —(1) If during or after the trial of a case the court is of opinion that the conduct of a complainant is or has been such that it is necessary to call upon him to show cause why he should not enter into a bond to keep the peace for such period not exceeding 6 months as the court thinks fit to fix, the court may summarily call upon him to do so and in the event of his failing to do so may order him to execute such a bond.

(2) The evidence upon which the court decides to call on a person to show cause under this section shall be read to the person so called on, but it shall not be necessary to recall any witness unless the person called upon desires to cross-examine the witness.

(3) The case to show cause under this section may, as the court sees fit, proceed as either part of the case out of which it has arisen or as a separate proceeding.

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Security For Keeping The Peace In Other Cases And Security For Good Behaviour

Security for keeping the peace in other cases.

73. Whenever it appears to a Magistrate's Court that any person residing or being within Singapore is likely to commit a breach of the peace or to do any wrongful act that may probably occasion a breach of the peace, the Magistrate's Court may, in the manner hereinafter provided, require that 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 6 months as the Court thinks fit to fix.

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Security for good behaviour from suspected persons and vagrants, etc., and from persons disseminating seditious matter.

74. —(1) Whenever it appears to a Magistrate's Court receiving information that —

- (a) any person is taking precautions to conceal his presence within Singapore and that there is reason to believe that that person is taking those precautions with a view to committing an offence;
- (b) there is within Singapore a person who has no ostensible means of subsistence or who cannot give a satisfactory account of himself; or
- (c) there is within Singapore any person who either orally or in writing disseminates or attempts to disseminate or in any way abets the dissemination of —
 - (i) any seditious matter, that is to say, any matter the publication of which is punishable under the Sedition Act; or

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- (ii) any matter concerning a Judge which amounts to criminal intimidation or defamation under the Penal Code,

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the Court may, in the manner hereinafter provided, require that 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 6 months as the Court thinks fit to fix and in the event of his failing to do so may order him to execute such a bond.

Form 11.

- (2) No proceedings shall be taken under subsection (1) (c) against the editor, proprietor, printer or publisher of any book registered under any law relating to the registration of books, except by the order or under the authority of the Minister.

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Security for good behaviour from habitual offenders.

75. Whenever it appears to a District Court or Magistrate's Court that any person —

- (a) is a habitual robber, housebreaker or thief or a habitual receiver of stolen property;
- (b) habitually commits extortion or in order to commit extortion habitually puts or attempts to put persons in fear of injury;
- (c) habitually protects or harbours thieves;
- (d) is a habitual aider in the concealment or disposal of stolen property;
- (e) is a notorious bad liver or is a dangerous character; or
- (f) habitually consorts with robbers, housebreakers, thieves, prostitutes or persons who have no visible means of subsistence,

the Court may, in the manner hereinafter provided, require that person to show cause why he should not be ordered to execute a bond with sureties for his good behaviour for such period not exceeding one year as such District Court thinks fit to fix or not exceeding 6 months as such Magistrate's Court thinks fit to fix.

[4

Form 11.

Order to be made.

76. When a court acting under section 73, 74 or 75 considers it necessary to require any person to show cause under the section, it shall make an order in writing setting forth —

- (a) the substance of the information received;
- (b) the amount of the bond to be executed;
- (c) the term for which it is to be in force; and
- (d) the number, character and class of sureties, if any, required.

[5

Form 12.

Procedure in respect of person present in court.

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

[6

Summons or warrant in case of person not so present.

78. —(1) If that person is not present in court, the court shall issue a summons requiring him to appear

or when such person is in custody a warrant directing the officer in whose custody he is to bring him before the court.

(2) Whenever it appears to the court upon the report of a police officer or upon other information, the substance of which report or information shall be recorded by the court, 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 that person the court may at any time issue a warrant for his arrest.

[7

Form 13.

Copy of order issued under section 76 to accompany summons or warrant.

79. Every summons or warrant issued under section 78 shall be accompanied by a copy of the order made under section 76 and the copy shall be delivered by the officer serving or executing the summons or warrant to the person served with or arrested under it.

[8

Power to dispense with personal attendance.

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

[9

Inquiry as to the truth of information.

81. —(1) When an order under section 76 has been read or explained under section 77 to a person present in court or when a person appears or is brought before a court in compliance with or in execution of a summons or warrant issued under section 78, the court shall proceed to inquire into the truth of the information upon which it has acted and to take such further evidence as appears necessary.

(2) The inquiry shall be made as nearly as is practicable in the manner prescribed in this Code for conducting trials in summary cases before Magistrates' Courts except that no charge need be framed.

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

[0

Order to give security.

82. 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 court shall make an order accordingly:

Provided that —

(a) no person shall be ordered to give security of a nature different from or of an amount larger than or for a period longer than that specified in the order made under section 76;

(b) the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive but shall be such as to afford the person against whom the order is made a fair chance of complying with it; and

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

[1

Discharge of person informed against.

83. If on an inquiry under section 81 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 court shall make an entry on the record to that effect and, if that person is in custody only for the purposes of the inquiry, shall release him or, if he is not in custody, shall discharge him.

[2

Proceedings In All Cases Subsequent To Order To Furnish Security

Commencement of period for which security is required.

84. —(1) If any person in respect of whom an order requiring security is made under section 71 or 82 is, at the time the order is made, sentenced to or undergoing a sentence of imprisonment, the period for which the security is required shall commence on the expiration of that sentence.

(2) In other cases the period shall commence on the date of the order.

[3]

Contents of bond.

85. 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 of or attempt to commit or the abetment of any offence punishable with imprisonment, wherever it is committed, is a breach of the bond.

[4]

Power to reject sureties.

86. A court may in its discretion refuse to accept any particular person or persons offered as surety for good behaviour under this Chapter.

[5]

Imprisonment in default of security.

87. If any person ordered to give security under section 71 or 82 does not give the security on or before the date on which the period for which the security is to be given commences, he shall be committed to prison or, if he is already in prison, be detained in prison until the expiration of such term as the court may direct or until within that term he gives the security to the court which made the order requiring it or to the officer in charge of the prison in which the person so ordered is detained:

Provided that the term, if any, for which any person is imprisoned for failure to give security shall not exceed the period for which security is ordered to be given.

[6]

Forms 14, 15 and 16.

Power to release person imprisoned for failing to give security.

88. —(1) When a court is of opinion that any person imprisoned for failure to give security under this Chapter may be released without hazard to the community or to any other person, the court may order that person to be released.

Form 16.

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

[7]

Magistrate to report to superior court and such court may order release.

89. Whenever a Magistrate is of opinion that any person imprisoned for failing to give security under this Chapter as ordered by the High Court or a District Court may be released without the hazard mentioned in section 88, the Magistrate shall make an immediate report of the case for the order of the High Court or a District Court, as the case may be, and such Court may, if it thinks fit, order that person to be discharged.

[8]

Discharge of sureties.

90. —(1) Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a Magistrate's Court to cancel any bond executed under this Chapter.

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

(3) When that person appears or is brought before the Magistrate's Court, the Court shall cancel the bond and shall order that person to give for the unexpired portion of the term of the bond fresh security of the same description as the original security.

(4) Every such order shall for the purposes of sections 85, 86, 87 and 88 be deemed to be an order made under section 71 or 82, as the case may be.

[9]

***DIVISION CHAPTER VIII
UNLAWFUL ASSEMBLIES***

Who may order unlawful assembly to disperse.

91. A Magistrate or any police officer may command any unlawful assembly or any assembly of 5 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 the assembly to disperse accordingly.

[0

When unlawful assembly may be dispersed by use of civil force.

92. —(1) 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, a Magistrate, or any police officer may proceed to disperse the assembly by force and may require the assistance of any male civilian for the purpose of dispersing the assembly and, if necessary, arresting and confining the persons who form part of it in order to disperse the assembly or that they may be punished according to law.

(2) For the purposes of this section, a "civilian" means any person other than an officer, sailor, soldier or airman in the Singapore Armed Forces.

(3) The President may, by notification in the *Gazette*, declare what forces shall be deemed to be Singapore Armed Forces for the purposes of this section.

[1

Use of military force.

93. If any such assembly cannot be otherwise dispersed and it is necessary for the public security that it should be dispersed, the Minister or the senior Magistrate who is present or the Commissioner of Police or a Deputy Commissioner of Police may cause it to be dispersed by military force.

[2

Magistrate may require any officer in command of troops to disperse unlawful assembly.

94. —(1) When the Minister or a Magistrate or the Commissioner of Police or a Deputy Commissioner of Police determines to disperse any such assembly by military force he may require any commissioned or non-commissioned officer in command of any sailors, soldiers or airmen in the Singapore Armed Forces or in any visiting force lawfully present in Singapore to disperse the assembly by military force and to arrest and confine the persons forming part of it as the Minister or Magistrate or Commissioner of Police or the Deputy Commissioner of Police directs or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law.

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

[3

When a commissioned officer may disperse unlawful assembly by military force.

95. When the public security is manifestly endangered by any such assembly and when neither the Minister nor a Magistrate nor the Commissioner of Police nor a Deputy Commissioner of Police can be communicated with any commissioned officer in the Singapore Armed Forces or in any visiting force lawfully present in Singapore may disperse such assembly by military force and may arrest and confine the persons forming part of it as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law, but if while he is acting under this section it becomes practicable for him to communicate with the Minister, a Magistrate, the Commissioner of Police or a Deputy Commissioner of Police, he shall do so and thenceforward obey the instructions of the Minister, the Magistrate, the Commissioner of Police or the Deputy Commissioner of Police as to whether he shall or shall not continue the action.

[4

Protection against prosecution for acts done under this Chapter.

96. No prosecution against the Minister or any Magistrate or any police officer or officer, sailor, soldier or airman in the Singapore Armed Forces or in any visiting force lawfully present in Singapore for any act purporting to be done under this Chapter shall be instituted in any criminal court except with the sanction of the President; and —

(a) no Magistrate or police officer acting under this Chapter in good faith;

(b) no officer acting under section 95 in good faith;

(c) no person doing any act in good faith in compliance with a requisition under section 92 or 94; and

(d) no inferior officer, sailor, soldier or airman or member of any of the Singapore Armed Forces or of any visiting force lawfully present in Singapore doing any act in obedience to any order which under naval, military or air force law he was bound to obey, shall be deemed thereby to have committed an offence.

[5

DIVISION CHAPTER IX PUBLIC NUISANCES

District Court may make conditional order for removal of nuisance, etc.

97. —(1) Whenever a District Court considers on receiving a report or other information and on taking such evidence, if any, as it thinks fit, that —

- (a) 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;
 - (b) any trade or occupation or the keeping of any goods or merchandise, by reason of its being injurious to the health or physical comfort of the community, should be suppressed or removed or prohibited;
 - (c) the construction of any building or the disposal of any substance, as likely to occasion conflagration or explosion, should be prevented or stopped;
 - (d) any building is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence its removal, repair or support is necessary; or
 - (e) 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,
- the Court may make a conditional order requiring the person or corporation causing the obstruction or nuisance or carrying on the trade or occupation or keeping any such goods or merchandise, or owning, possessing or controlling such building, substance, tank, well or excavation within a time to be fixed in the order to —

Form 17.

- (i) remove the obstruction or nuisance;
 - (ii) suppress or remove the trade or occupation;
 - (iii) remove the goods or merchandise;
 - (iv) prevent or stop the construction of the building;
 - (v) remove, repair or support it;
 - (vi) alter the disposal of the substance;
 - (vii) fence the tank, well or excavation, as the case may be; or
 - (viii) appear before the Court at a time and place to be fixed by the order and move to have the order set aside or modified in the manner hereinafter provided.
- (2) No order duly made by a court under this section shall be called in question in any court except by way of appeal.
- (3) For the purposes of this section, "public place" includes property belonging to the State and grounds left unoccupied for sanitary or recreative purposes.

[6

Order to be served or notified.

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

(2) If the order cannot be so served it shall be notified by proclamation published in the *Gazette* and a copy of it shall be affixed to such place or places as may be fittest for conveying the information to that person or corporation.

[7

Person against whom order is made to obey or appear and show cause.

99. The person or corporation against whom such order is made shall —

- (a) perform within the time specified in the order the act directed by it; or
- (b) appear in accordance with the order and show cause against it.

[8

Consequence of his failing to do so.

100. —(1) If such person does not perform such act or appear and show cause as required by section 99 he shall be liable to the penalty prescribed in that behalf in section 188 of the Penal Code and the order shall be made absolute.

Cap. 224.

(2) If such corporation does not perform such act or appear and show cause as provided by section 99 the court may impose a fine of such amount as the court considers necessary to secure obedience to its order or process and the order shall be made absolute.

[9

Procedure where he appears to show cause.

101. —(1) If such person or corporation appears and shows cause against the order the court shall take evidence in the matter.

(2) If the court is satisfied that the order is not reasonable and proper no further proceedings shall be taken in the case.

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

[00

Procedure on order being made absolute.

102. When an order has been made absolute under section 100 or 101 the court shall give notice of it to the person or corporation against whom the order was made and shall further require him or it to perform the act directed by the order within a time to be fixed in the notice and inform him or it that in case of disobedience he or it will be liable to the penalty provided by section 100.

[01

Form 18.

Consequence of disobedience to order.

103. —(1) If such act is not performed within the time fixed the court may cause it to be performed and may recover the costs of performing it either by sale of the building, goods or other property removed by its order or by the distress and sale of any other movable property of such person or corporation.

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

[02

Injunction pending final decision.

104. —(1) If the court making an order under section 97 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public it may issue such an injunction to the person or corporation against whom the order was made as is required to obviate or prevent such danger or injury pending the final decision of the case.

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

(3) No suit shall lie in respect of anything done in good faith by a District Judge under this section.

[03

Form19.

Power to prohibit repetition or continuance of nuisance.

105. A District Court may order any person not to repeat or continue a public nuisance as defined in the Penal Code or any other law for the time being in force.

[04

Form 20.

Cap. 224.

DIVISION CHAPTER X
TEMPORARY ORDERS IN URGENT CASES OF NUISANCE

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

106. —(1) In cases where in the opinion of a Magistrate's Court immediate prevention or speedy remedy is desirable that Court may, by a written order stating the material facts of the case and served in the manner provided in section 98, direct any person or corporation to abstain from a certain act or to take certain order with certain property in his or its possession or under his or its management, if the

Court considers that the direction is likely to prevent or tends to prevent obstruction, annoyance or injury to any persons lawfully employed or danger to human life, health or safety or a riot or any affray.

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

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

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

(5) No order under this section shall remain in force for more than 7 days from the making of it.

[05
Form21.

DIVISION CHAPTER XI DISPUTES AS TO IMMOVABLE PROPERTY

Procedure where dispute concerning land, etc., is likely to cause breach of peace.

107. —(1) Whenever a Magistrate's Court is satisfied from a police report or other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof it shall make an order in writing stating the grounds of its being so satisfied and requiring the parties concerned in the dispute to attend a District Court in person or by advocate within a time to be fixed by the Magistrate's Court and to put in written statements of their respective claims regarding the fact of actual possession of the subject of dispute.

(2) For the purposes of this section and of section 109, "land or water" includes building, markets, fisheries, crops or other produce of land, and the rents or profits of any such property.

(3) A copy of the order shall be served in the manner provided by this Code for the service of a summons upon such person or persons as the Magistrate's Court directs and at least one copy shall be published by being affixed to some conspicuous place at or near the subject of dispute.

(4) The District Court shall then, without reference to the merits of the claims of any of the parties to a right to possess the subject of dispute, peruse the statements so put in, hear the parties, receive the evidence produced by them respectively, consider the effect of such evidence, take such further evidence, if any, as it thinks necessary and, if possible, decide whether any and which of the parties is then in actual possession of the subject of dispute:

Provided that —

(a) if it appears to the District Court that any party has within two months next before the date of the order been forcibly and wrongfully dispossessed it may treat the party so dispossessed as if he had been in possession at that date;

(b) if the District Court considers the case one of emergency it may at any time attach the subject of dispute pending its decision under this section.

(5) Nothing in this section shall preclude any party so required to attend from showing that no such dispute as aforesaid exists or has existed and in that case the District Court shall cancel the order and all further proceedings on it shall be stayed.

(6) If the District Court decides that one of the parties is then in actual possession of the subject of dispute it shall issue an order declaring that party to be entitled to retain possession of it until evicted from it in due course of law and forbidding all disturbance of such possession until such eviction.

Form 22.

(7) Proceedings under this section shall not abate by reason only of the death of any of the parties thereto.

[06

Power to attach subject of dispute.

108. —(1) If the District Court decides that none of the parties is then in actual possession or is unable to satisfy itself as to which of them is then in actual possession of the subject of dispute it may attach it until a competent civil court has determined the rights of the parties to it or the person entitled to possession of it.

Form 23.

When the District Court attaches the subject of dispute it may, if it thinks fit, appoint a receiver thereof who shall, subject to the control of the District Court, have all the powers of a receiver appointed by the High Court.

[07]

Dispute concerning easements, etc.

109. —(1) Whenever a District Court is satisfied as aforesaid that a dispute likely to cause a breach of the peace exists concerning the right to do or prevent the doing of anything in or upon any land or water it may inquire into the matter and may, if it appears to it that the right exists, make an order permitting that thing to be done or directing that it shall not be done, as the case may be, until the person objecting to that thing being done or claiming that it may be done obtains the decision of a competent civil court adjudging him to be entitled to prevent the doing of or to do that thing, as the case may be.

Form 24.

(2) No order shall be made under this section permitting the doing of anything where the right to do that thing is exercisable at all times of the year unless the right has been exercised within 3 months next before the institution of the inquiry, or where the right is exercisable only at particular seasons unless the right has been exercised during the season next before the institution of the inquiry.

[08]

Order as to costs.

110. When any costs have been incurred by any party to a proceeding under this Chapter for witnesses or advocates' fees or both the court giving a decision under section 107, 108 or 109 may direct by whom the costs shall be paid whether by that party or by any other party to the proceeding and whether in whole or in part or proportion.

[09]

***DIVISION CHAPTER XII
PREVENTIVE ACTION OF THE POLICE***

Police to prevent offences.

111. Every police officer may interpose for the purpose of preventing and shall to the best of his ability using all lawful means prevent the commission of any offence.

[10]

Information of design to commit offences.

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

[11]

Arrest to prevent seizable offences.

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

[12]

Prevention of injury to public property.

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

PART V

**INFORMATION TO POLICE AND THEIR POWERS TO INVESTIGATE
*DIVISION CHAPTER XIII***

Information of offences.

115. —(1) When information is received at a police station relating to the commission of an offence, being an offence of which it appears that no previous information has been received in the station, the officer in charge of the police station or any police officer whose duty it is to receive reports shall proceed according to one of the following subsections.

(2) If the information is in writing, he shall forthwith mark on it the date and time of receipt, and, if practicable, the name and address of the person (other than a postal messenger) by whom it was delivered, and if it purports to be signed by the informant, he shall file it as a report.

(3) If the information is given orally and he considers it practicable to reduce it to writing forthwith, he shall record or cause to be recorded in a book kept for this purpose a report containing the name and address of the informant, the date and time of his arrival at the station, the substance of the information and such other particulars as the nature of the case may require, and the report shall be signed by the informant, by the recording officer, and by the interpreter, if any.

(4) If the information is given orally and it appears to him impracticable to proceed forthwith under subsection (3) he shall immediately make a note of first information in the station diary, and if the offence is seizable as soon thereafter as circumstances permit, a fuller statement by the informant shall be recorded under section 121.

(5) For the purposes of this section, the office of any branch or sub-branch of the Criminal Investigation Department or the Radio Division of the Singapore Police Force shall be deemed to be a police station.

[14

Information in non-seizable cases.

116. —(1) When the information so received or recorded under section 115 relates to a non-seizable offence the case shall thereupon be investigated or the informant shall, by order of a police officer, be referred to a Magistrate.

(2) No police officer shall in a non-seizable case exercise any of the special powers relating to police investigations given by sections 120, 121, 125 and 126 without the order of the Public Prosecutor or a Magistrate.

(3) Any police officer receiving such order may exercise the same powers in respect of the investigation, except the power to arrest without warrant, as that police officer may exercise without an order in a seizable case.

(4) Any informant referred to a Magistrate shall be supplied with a copy of any report filed or recorded under section 115 on which shall be endorsed the name of the police station at which the information was received.

[15

Admission of certified copy of information as evidence of original entry.

117. —(1) In any proceeding under this Code, a copy of a report received or recorded under section 115

(2) or (3) or of a note made under section 115 (4) and in each case purporting to be certified as a true copy by a police officer not below the rank of inspector in charge of the police station where the information was received shall be admissible as evidence of the contents of the original and of the date, time and place at which the information was received.

(2) Any court may in its discretion permit or require the production of the original of such report or note.

[16

Investigation in seizable cases.

118. —(1) Any police officer may, without the order of the Public Prosecutor, exercise all or any of the special powers relating to police investigations given by sections 120, 121, 125 and 126 in any seizable case.

(2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one in which that officer was not empowered under this section to exercise the special powers of police investigations given by sections 120, 121, 125 and 126.

[17

Procedure where seizable offence suspected.

119. —(1) If from information received or otherwise a police officer has reason to suspect the commission of a seizable offence he shall forthwith proceed in person or shall depute one of his subordinate officers to proceed 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, where not inexpedient, arrest of the offender and shall report the same to the Public Prosecutor:

Provided that —

(a) where any information as to the commission of any such offence is given against any person by name and the case is not of a serious nature the police officer receiving the information need not proceed in person or depute a subordinate officer to make an investigation on the spot;

(b) if it appears to the police officer receiving the information that there is no sufficient ground for proceeding or further proceeding in the matter, he shall not do so.

(2) In each of the cases mentioned in paragraphs (a) and (b) of the proviso to subsection (1) the police officer receiving the information shall state in his report his reason for not fully complying with subsection (1).

(3) Where a police officer not below the rank of inspector exercises the power of deputation given by subsection (1) the subordinate officer so deputed shall not be entitled to use any of the powers given by sections 120, 121, 125 and 126:

Provided that the Commissioner of Police with the written approval of the Attorney-General may authorise by name and in writing any police officer below the rank of inspector to use in seizable cases all or any of the powers referred to in this Chapter in such circumstances as may be stated in the written authority.

[18

Police officer's power to require attendance of witnesses.

120. —(1) A police officer making a police investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of Singapore who from the information given or otherwise appears to be acquainted with the circumstances of the case and that person shall attend as so required:

Provided that no person shall be required under this section to attend at any place distant more than 11 kilometres from his usual place of abode.

S 267/85.

(2) If any such person fails to attend as so required such police officer may report such failure to a Magistrate who may thereupon in his discretion issue a warrant to secure the attendance of that person as required by such order.

[19

Examination of witnesses by police.

121. —(1) A police officer making a police 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.

(2) Such person shall be bound to state truly the facts and circumstances with which he is acquainted concerning the case except only that he may decline to make with regard to any fact or circumstance a statement 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 under this section shall be read over to him and shall, after correction if necessary, be signed by him.

[20

Admissibility of statements to police.

122. —(1) Except as provided in this section, no statement made by any person to a police officer in the course of a police investigation made under this Chapter shall be used in evidence other than a statement that is a written statement admissible under section 141.

(2) When any witness is called for the prosecution or for the defence, other than the accused, the court shall, on the request of the accused or the prosecutor, refer to any statement made by that witness to a police officer in the course of a police investigation under this Chapter and may then, if the court thinks it expedient in the interests of justice, direct the accused to be furnished with a copy of it; and the statement may be used to impeach the credit of the witness in the manner provided by the Evidence Act.

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(3) Nothing in this section shall be deemed to apply to any statement made in the course of an identification parade or falling within section 27 or 32 (a) of the Evidence Act.

(4) When any person is charged with any offence in relation to the making or contents of any statement made by him to a police officer in the course of a police investigation made under this Chapter, that statement may be used as evidence in the prosecution.

(5) Where any person is charged with an offence any statement, whether it amounts to a confession or not or is oral or in writing, made at any time, whether before or after that person is charged and whether in the course of a police investigation or not, by that person to or in the hearing of any police officer of or above the rank of sergeant shall be admissible at his trial in evidence and, if that person tenders himself as a witness, any such statement may be used in cross-examination and for the purpose of impeaching his credit:

Provided that the court shall refuse to admit such statement or allow it to be used as aforesaid if the making of the statement appears to the court to have been caused by any inducement, threat or promise having reference to the charge against such person, proceeding from a person in authority and sufficient, in the opinion of the court, to give such person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

(6) Where any person is charged with an offence or officially informed that he may be prosecuted for it, he shall be served with a notice in writing, which shall be explained to him, to the following effect:

You have been charged with/informed that you may be prosecuted for —
(set out the charge).

Do you wish to say anything in answer to the charge? If there is any fact on which you intend to rely in your defence in court, you are advised to mention it now. If you hold it back till you go to court, your evidence may be less likely to be believed and this may have a bad effect on your case in general. If you wish to mention any fact now, and you would like it written down, this will be done.

(7) No statement made by an accused person in answer to a written notice served on him pursuant to subsection (6) shall be construed as a statement caused by any inducement, threat or promise as is described in the proviso to subsection (5), if it is otherwise voluntary.

(8) In subsection (6), "officially informed" means informed by a police officer or any other person charged with the duty of investigating offences or charging offenders.

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Circumstances in which inferences may be drawn from accused's failure to mention particular facts when charged, etc.

123. —(1) Where in any criminal proceedings against a person for an offence evidence is given that the accused, on being charged with the offence or officially informed that he might be prosecuted for it, failed to mention any such fact, being a fact which in the circumstances existing at the time he could reasonably have been expected to mention when so charged or informed, as the case may be, the court, in determining whether to commit the accused for trial or whether there is a case to answer, and the court, in determining whether the accused is guilty of the offence charged, may draw such inferences from the failure as appear proper; and the failure may, on the basis of those inferences, be treated as, or as capable of amounting to, corroboration of any evidence given against the accused in relation to which the failure is material.

(2) In subsection (1), "officially informed" means informed by a police officer or any other person charged with the duty of investigating offences or charging offenders.

(3) Nothing in subsection (1) or (2) shall in any criminal proceedings —

(a) prejudice the admissibility in evidence of the silence or other reaction of the accused in the face of anything said in his presence relating to the conduct in respect of which he is charged, in so far as evidence thereof would be admissible apart from those subsections; or

(b) be taken to preclude the drawing of any inference from any such silence or other reaction of the accused which could be drawn apart from those subsections.

(4) Subsections (1) and (2) shall not apply as regards a failure to mention a fact if the failure occurred before 1st January 1977.

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10/76.

Power to record statements and confessions.

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

(2) Any such statement or confession shall be recorded in full and any question asked by the Magistrate and any answer given to it shall be clearly shown as being a question and answer.

(3) No Magistrate shall record any such statement or confession unless upon questioning the person making it he has reason to believe that it was made voluntarily and shall make a memorandum at the foot of such record to the following effect:

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

(Signed) A.B.

Magistrate

(4) If the person making the statement or confession does not understand English the proceedings shall be interpreted to him in his own language or in a language which he understands and the memorandum referred to in subsection (3) shall be signed by the Magistrate and by the interpreter.

(5) The taking and recording of any statement or confession shall not disqualify a Magistrate who has so taken and recorded it from inquiring into or trying the case.

Procedure when confession irregularly taken.

(6) If any court before which a confession or other statement of an accused person recorded under this section is tendered in evidence finds that the provisions of the section have not been fully complied with by the Magistrate recording the statement, it shall take evidence that that person duly made the statement recorded and, if it is satisfied of that, the statement shall be admitted if the error has not injured the accused as to his defence on the merits.

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Search by police officer.

125. —(1) Whenever a police officer making a police investigation in a seizable case considers that the production of any document or other thing is necessary to the conduct of an investigation into any offence which he is authorised to investigate and there is reason to believe that a person to whom a summons or order under section 58 has been or might be issued will not or would not produce the document or other thing as directed in the summons or order or when the document or other thing is not known to be in the possession of any person, the officer may search or cause a search to be made for it in any place.

(2) That officer 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 officer subordinate to him to make the search and he shall deliver to the subordinate officer an order in writing specifying the document or other thing for which search is to be made and the place to be searched and the subordinate officer may then search for the thing in that place.

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

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Police officer may require bond for appearance of complainant and witnesses.

126. —(1) If upon a police investigation under this Chapter it appears to the officer making the investigation that there is sufficient evidence or reasonable ground of suspicion to justify the commencement or continuance of criminal proceedings for a seizable offence against any person, the officer shall require the complainant, if any, and so many of the persons who appear to the officer to be acquainted with the circumstances of the case as he thinks necessary, to execute a bond to appear before a court and give evidence in the matter of the charge against the accused.

Form 25.

(2) The officer in whose presence the bond is executed shall send it to the court.

(3) If any complainant or witness refuses to execute the bond, that officer shall report the matter to the court which may then in its discretion issue a warrant or summons to secure the attendance of the complainant or witness before itself to give evidence in the matter of the charge against the accused.

[25

Diary of proceedings in investigation.

127. —(1) Every police officer making a police investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary setting forth —

- (a) the time at which the order, if any, for investigation reached him;
- (b) the times at which he began and closed his investigation;
- (c) the place or places visited by him; and
- (d) a statement of the circumstances ascertained through his investigation.

(2) Notwithstanding anything in the Evidence Act, an accused person shall not be entitled, either before or in the course of any inquiry or trial, to call for or to inspect any such diary:

Provided that if the police officer who made the investigation refers to the diary for the purposes of section 161 or 162 of that Act, such entries only as the officer has referred to shall be shown to the accused, and the court shall at the request of the officer cause any other entries to be concealed from view or obliterated

PART VI
PROCEEDINGS IN PROSECUTIONS
DIVISION CHAPTER XIV
CONDITIONS REQUISITE FOR INITIATION OF PROCEEDINGS

Cognizance of offences by Magistrate's Court.

128. —(1) Subject to this Code, a Magistrate's Court may take cognizance of an offence —

- (a) upon receiving a complaint as defined by this Code;
- (b) upon the knowledge or suspicion of a Magistrate that an offence has been committed;
- (c) whenever it appears to the Attorney-General that an offence has been committed and he, by his warrant under his hand, requires a Magistrate to inquire into the offence and that Magistrate receives the warrant; or
- (d) on any person being brought before the Court in custody without process accused of having committed an offence which the Court has jurisdiction either to inquire into or to try.

(2) When a Magistrate's Court takes cognizance of an offence under subsection (1) (b) 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 Magistrate's Court has taken cognizance of the case but shall either be tried by another Magistrate or committed for trial.

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Sanction required for prosecution for certain offences.

129. —(1) No court shall take cognizance —

- (a) of any offence punishable under sections 172 to 188 of the Penal Code, except with the previous sanction of the Public Prosecutor or on the complaint of the public servant concerned or of some public servant to whom he is subordinate;
- (b) of any offence punishable under section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 or 228 of the Penal Code, or section 14 of the Oaths and Declarations Act 2000, except with the previous sanction of the Public Prosecutor; or
- (c) of any offence described in section 463 or punishable under section 471, 475 or 476 of the Penal Code, except with the previous sanction of the Public Prosecutor.

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(2) Subsection (1) with reference to the offences named therein applies also to the abetment of such offences and attempts to commit them.

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

(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.

(5) No such sanction shall remain in force unless acted upon within one month from the date on which it was given.

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Where complaint by Attorney-General is necessary.

130. No court shall take cognizance of any offence punishable under Chapter VA or VI of the Penal Code, except section 127, or punishable under section 108A or 505 of that Code unless upon complaint made by the Attorney-General or by some officer empowered by him in that behalf.

[29]

Where complaint by person aggrieved.

131. No court shall take cognizance of an offence falling under Chapter XXI of the Penal Code except upon a complaint made by the Attorney-General or by some person aggrieved by the offence.

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Where complaint by husband.

132. No court shall take cognizance of an offence under section 498 of the Penal Code except upon a complaint made by the Attorney-General or by the husband of the woman.

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DIVISION CHAPTER XV
COMPLAINTS TO MAGISTRATES

Examination of complainant.

133. —(1) When a Magistrate takes cognizance of an offence on complaint he shall at once examine the complainant upon oath.

(2) The substance of the examination shall be reduced to writing and shall be signed by the complainant and also by the Magistrate.

(3) This section shall not apply to —

(a) a complaint made by a police officer or by a public servant as defined in the Penal Code acting in his public capacity in respect of an offence punishable with imprisonment for a period not exceeding 6 months or with fine only; or

(b) a complaint by a public officer in respect of any offence against any law relating to local government or any by-laws or rules made thereunder for the time being in force, provided that the complaint is in writing and signed by the police officer or public servant.

[32]

Postponement of process.

134. —(1) If the Magistrate sees reason to doubt the truth of a complaint of an offence of which he is authorised to take cognizance, he may record his reason for doubting the truth of the complaint and may then postpone the issue of process for compelling the attendance of the person complained against and either inquire into the case himself or direct some police officer to make inquiries for the purpose of ascertaining the truth or falsehood of the complaint and report to him the result of those inquiries. Dismissal of complaint.

(2) The Magistrate may dismiss the complaint if after examining the complainant and recording his examination and considering the result of the inquiry, if any, there is in his judgment no sufficient ground for proceeding.

(3) The Magistrate, if he dismisses the complaint, shall record his reason for so doing.

[33]

Power to compel restoration of abducted persons.

135. Upon complaint made to a Magistrate on oath of the abduction or unlawful detention of a woman or of an infant for any unlawful purpose he may make an order for the immediate restoration of the woman to her liberty or of the infant to the parent, guardian or other person having lawful charge of the infant and may compel compliance with the order using such force as is necessary.

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DIVISION CHAPTER XVI
COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES' COURTS

Issue of summons or warrant.

- 136.** —(1) If in the opinion of a Magistrate taking cognizance of an offence there is sufficient ground for proceeding and the case appears to be one in which according to the fourth column of Schedule A a summons should issue in the first instance, he shall issue a summons for the attendance of the accused.
- (2) If the case appears to be one in which according to that column a warrant should issue in the first instance, he may issue a warrant or, if he thinks fit, a summons for causing the accused to be brought or to appear at a certain time before a Magistrate's Court.
- (3) Nothing in this section shall be deemed to affect section 54.

[35]

Personal attendance of accused may be dispensed with.

- 137.** —(1) Whenever a Magistrate issues a summons, he may, at his discretion, by endorsement thereon or footnote thereto, dispense with the personal attendance of the accused and permit him to appear by advocate.
- (2) In any case relating to an offence punishable by fine or by imprisonment not exceeding 3 months or by both and in which a Magistrate has issued a summons, an accused person desiring to plead guilty and be convicted and sentenced in his absence may appear by advocate, or may by letter addressed to the court plead guilty and submit to pay any fine which may be imposed in respect of that offence, and the court may thereupon record a plea of guilty and convict him according to law, and may sentence him to a fine with or without a sentence of imprisonment in default of payment of the fine.

Act 31/96 wef 1.11.96 vide S 467/96.

- (3) In case of a plea of guilty by letter the accused shall give in the letter an adequate postal address and the court shall inform the accused by letter sent by registered post to that address of the sentence imposed. Any fine so imposed shall be paid by the accused within 7 days from the date on which the court's letter was posted.
- (4) The court inquiring into or trying the case may in its discretion at any stage of the proceedings direct the personal attendance of the accused, and if necessary enforce the attendance in the manner hereinbefore provided.
- (5) A sentence of imprisonment without the option of a fine shall not be pronounced in the absence of the accused, but the court, if it intends to pass such a sentence, shall direct and enforce the personal attendance of the accused and upon the attendance may, subject to subsection (6), pass sentence according to law.
- (6) Upon the accused appearing as aforesaid the court shall, if the accused desires to withdraw his plea of guilty and claim trial, and notwithstanding any order of conviction made in his absence, permit the accused to withdraw his plea and shall thereupon hear and determine the case and, if the accused is convicted, pass sentence according to law.
- (7) Nothing in this section shall affect the powers of the court conferred by section 180 (p).

[36]

Pleading guilty by electronic means.

- 137A.** —(1) An accused who is alleged to have committed a prescribed offence may plead guilty to the prescribed offence without appearing before a Magistrate in the manner provided in subsection (2) if he is eligible to do so by regulations made under subsection (6) and if he pays the prescribed fee.
- (2) An accused who wishes to plead guilty to a prescribed offence without appearing before a Magistrate must —
- (a) enter a plea of guilty at a computer terminal designated by the Registrar for that purpose within the prescribed time; and
- (b) pay in advance the fine fixed by the supervising Magistrate as the sentence to be imposed on an accused who pleads guilty to that offence in the manner provided in this subsection.
- (3) The Registrar shall thereafter cause a record of the plea of guilty to the prescribed offence and of the fine paid in advance by the accused to be transmitted to the supervising Magistrate.

(4) The supervising Magistrate shall, upon satisfying himself that the fine fixed under subsection (2) (b) has been paid by the accused, convict the accused in absentia of the prescribed offence to which he pleaded guilty and record the fine paid as the sentence passed for that prescribed offence.

(5) The supervising Magistrate may, in his discretion, at any stage of the proceedings direct the personal attendance of the accused, and if necessary enforce the attendance in the manner provided in section 136.

(6) The Minister may make regulations to prescribe —

(a) any offence punishable by fine or by imprisonment not exceeding 3 months or by both as an offence to which this section applies;

(b) the class of persons who are qualified to plead guilty under this section;

(c) the fee to be paid for the use of the computer terminal referred to in subsection (2) (a);

(d) the mode of payment of fines and fees payable under this section;

(e) the time within which an accused may plead guilty under this section; and

(f) all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this section.

(7) For the purposes of this section —

"prescribed offence" means an offence to which this section applies and which is specified in regulations made under subsection (6);

"Registrar" means the Registrar of the Subordinate Courts;

"supervising Magistrate" means the Magistrate who is for the time being responsible for the operation of the computer terminal referred to in subsection (2) (a).

Act 31/96 wef 1.11.96 vide S 467/96.

DIVISION CHAPTER XVII

PRELIMINARY INQUIRIES INTO CASES TRIABLE BY HIGH COURT

Procedure in inquiries preparatory to commitment.

138. —(1) The following procedure and no other procedure shall be adopted in inquiries before a Magistrate (referred to in this Chapter as the examining Magistrate) where the inquiry is held with a view to committal for trial to the High Court.

(2) Whenever from any cause an examining Magistrate making an inquiry preliminary to committal for trial is unable conveniently to complete the proceedings of the inquiry himself another examining Magistrate may complete the case and proceed as if he had heard and recorded all the evidence himself.

[37]

Committal for trial where accused wishes to plead guilty.

139. Where an accused who is brought before an examining Magistrate states that he wishes to plead guilty to the charge preferred against him, the Magistrate shall record the facts of the case presented by the prosecution and if the facts disclose sufficient grounds for committing the accused, he shall satisfy himself that the accused understands the nature of the charge and intends to admit without qualification the offence alleged against him and, on being so satisfied, shall commit the accused for trial for the offence.

[38]

Committal for trial on written statements.

140. An examining Magistrate making an inquiry preliminary to committal for trial may, where he is satisfied —

(a) that all the evidence before the court, whether for the prosecution or the defence, consists of written statements tendered to the court under section 141, with or without exhibits; and

(b) that the statements disclose sufficient evidence to put an accused upon his trial, commit the accused for trial for the offence.

[39]

Written statements before examining Magistrate.

141. —(1) In preliminary inquiries conducted under this Chapter, a written statement by any person shall, if the conditions mentioned in subsection (2) are satisfied, be admissible as evidence to the like extent as oral evidence to the like effect by that person.

(2) The said conditions are —

- (a) the statement purports to be signed by the person who made it;
 - (b) the statement contains a declaration by that person to the effect that it is true to the best of his knowledge and belief and that he made the statement knowing that, if it were tendered in evidence, he would be liable to prosecution if he wilfully stated in it anything which he knew to be false or did not believe to be true;
 - (c) before the statement is tendered in evidence, a copy of the statement is given, by or on behalf of the party proposing to tender it, to each of the other parties to the proceedings not less than 7 days before the date of hearing; and
 - (d) none of the other parties, before the statement is tendered in evidence at the preliminary inquiry, objects to the statement being so tendered under this section.
- (3) The following provisions shall also have effect in relation to any written statement tendered in evidence under this section:
- (a) if the statement is made by a person under the age of 21 years, it shall give his age;
 - (b) if it is made by a person who cannot read it, it shall be read to him before he signs it and shall be accompanied by a declaration by the person who so read the statement to the effect that it was so read; and
 - (c) if it refers to any other document as an exhibit, the copy given to any other party to the proceedings under subsection (2) (c) shall be accompanied by a copy of that document or by such information as may be necessary in order to enable the party to whom it is given to inspect that document or a copy thereof.
- (4) Notwithstanding that a written statement made by any person may be admissible in preliminary inquiries by virtue of this section, the court before which the proceedings are held may, of its own motion or on the application of any party to the proceedings, require that person to attend before the court and give evidence.
- (5) So much of any statement as is admitted in evidence by virtue of this section shall, unless the court otherwise directs, be read aloud at the hearing, and where the court so directs an account shall be given orally of so much of any statement as is not read aloud.
- (6) Any document or object referred to as an exhibit and identified in a written statement tendered in evidence under this section shall be treated as if it had been produced as an exhibit and identified in court by the maker of the statement.
- (7) Section 368 shall apply to any written statement tendered in evidence in preliminary inquiries under this section, as it applies to a deposition taken in such proceedings.

[40

When accused person to be discharged.

- 142.** —(1) When the written statements and all the other evidence, if any, in support of the prosecution have been received in evidence, the examining Magistrate shall, if he finds that there are not sufficient grounds for committing the accused person for trial, discharge him.
- (2) If after taking the evidence for the prosecution as aforesaid, the examining Magistrate is of the opinion that there are sufficient grounds for committing the accused, but that the offence disclosed by the evidence is such as might more properly be tried summarily, he may either —
- (a) frame a charge or charges in writing and call upon the accused to plead thereto; or
 - (b) order the accused to be tried before any other Magistrate's Court or before a District Court.
- (3) If the examining Magistrate proceeds under subsection (2) (a), the case shall proceed as a summary trial.
- (4) Nothing in this section shall be deemed to prevent an examining Magistrate from discharging the accused at any previous stage of the case if for reasons to be recorded by the examining Magistrate, he considers the charge to be groundless.
- (5) When the examining Magistrate is of the opinion that there are peculiar difficulties or circumstances connected with the case or whenever he is so directed by the Public Prosecutor, he shall remand the accused or admit him to bail and shall forthwith transmit the evidence before the court to the Public Prosecutor in order that he may give such instructions as to him appear requisite.

[41

When charge to be framed.

143. —(1) If after taking the written statements and all the other evidence, if any, in support of the prosecution, the examining Magistrate is of the opinion that on the evidence as it stands the accused should be committed for trial, he shall frame a charge under his hand declaring with what offence or offences the accused is charged.

(2) As soon as the charge has been framed, it shall be read and explained to the accused and the examining Magistrate shall say to him these words or words to the like effect:

Having heard the evidence do you wish to say anything in answer to the charge? You have nothing to hope from any promise of favour and nothing to fear from any threat which may have been held out to you to induce you to make any confession of your guilt. You are not bound to say anything unless you desire to do so but whatever you say will be taken down in writing and may be given in evidence at your trial.

[42

Committal when defence reserved.

144. If the accused elects to reserve his defence, he shall forthwith be committed for trial before the High Court.

[43

Defence of accused.

145. —(1) If the accused elects to make his defence before the examining Magistrate instead of making a written statement under section 141, the statement made by the accused, if any, shall be taken down in writing and read over to him and shall be signed by the examining Magistrate and kept with the written statements made under section 141 and depositions, if any, and transmitted with them as hereinafter mentioned.

(2) The evidence of the accused if he tenders himself as a witness in his own behalf in lieu of making a statement under subsection (1) or section 141 and of any witnesses whom he may desire to call shall then be taken.

(3) Notwithstanding anything in the Evidence Act, the accused shall be a competent witness in his own behalf in all inquiries under this Chapter.

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Discharge or committal after defence.

146. When section 145 has been complied with, the examining Magistrate shall —

(a) if he finds that there are not sufficient grounds for committing him for trial, discharge the accused; or

(b) if he finds that there are sufficient grounds for committing him for trial, commit the accused for trial before the High Court.

[45

List of witnesses for defence on trial.

147. —(1) When the accused has been committed for trial under section 140, 144, or 146 the examining Magistrate shall require the accused to give orally or in writing a list of the names and so far as practicable the addresses of the persons, if any, whom he wishes to be summoned to give evidence on his trial and shall record that he has so done.

(2) If the examining Magistrate thinks that any witness is included in the above list for the purpose of vexation or delay or of defeating the ends of justice, he may require the accused to satisfy him that there are reasonable grounds for believing that the evidence of that witness is material, and if he is not so satisfied may remove the name of that witness from the list, recording his reason for such action, or may require such sum to be deposited as the examining Magistrate thinks necessary to defray the expense of obtaining the attendance of that witness at the trial.

(3) The list of witnesses, as finally determined, shall be included in the record.

(4) The accused or any person on his behalf may at any time before his trial give to the Registrar or the officer in charge of the prison in which he is kept, a further list of persons whom he wishes to give evidence on his behalf at the trial:

Provided that such list is accompanied by a concise statement of the facts to be proved by those witnesses and if given to the officer in charge of the prison it shall be forwarded by him to the Registrar.

(5) The Registrar on receiving such list and statement shall forthwith transmit the same to the Public Prosecutor and shall also issue subpoenas to compel the attendance of those witnesses at the trial.

(6) If any of such subpoenas cannot be served, the Registrar shall forthwith inform the Public Prosecutor and the accused or his advocate and solicitor.

[46

Bonds of witnesses.

148. —(1) Witnesses for the prosecution and the defence whose attendance before the High Court is necessary and who have appeared before the Magistrate's Court pursuant to section 141 (4) or whose written statements have been admitted by the Court under that section shall execute before it bonds binding themselves to be in attendance when called upon at the High Court to give evidence.

(2) If any witness refuses to execute such bond, the Magistrate's Court may commit him to prison until the trial or until he gives satisfactory security that he will give evidence at the trial.

[47

Attendance at trial of person making report.

149. —(1) Where any document has been used as evidence in the inquiry in accordance with section 283 (2) or 369 (1), the examining Magistrate shall then inform the accused that he has the right to require the attendance of the person under whose hand the document is made as a witness at the trial, and that he may, to this end, give notice at any time before the trial to the Registrar, or to the officer in charge of the prison in which he is kept, of his wish that that person be required to attend at the trial.

(2) On receiving any such notice from the accused, the officer in charge of the prison shall notify the Registrar.

(3) The Registrar on receipt of such notice from the accused or from the officer in charge of the prison shall forthwith issue a summons to compel the attendance of that person at the trial.

(4) Nothing in this section shall render such report inadmissible in evidence when the person who made it is dead or cannot be found or is incapable of giving evidence, or if his presence cannot be obtained without an amount of delay or expense which under the circumstances of the case the court considers unreasonable.

[48

Procedure after committal of accused for trial.

150. —(1) When the accused is committed for trial, the Magistrate's Court shall send a copy of the record of the proceedings to the Public Prosecutor and to the accused and, when it receives an order from the Public Prosecutor to do so, the original record and any document, weapon or other thing which is to be produced in evidence to the Registrar.

(2) Any such thing which from its bulk or otherwise cannot conveniently be forwarded to the Registrar may remain in the custody of the police.

(3) A list of all exhibits with a note of their distinguishing marks and showing which of those exhibits are forwarded with the record and which remain in the custody of the police shall be sent to the Registrar with the record.

(4) The record shall comprise the following particulars:

(a) the serial number;

(b) the date of the commission of the offence;

(c) the date of the complaint, if any;

(d) the name and residence of the complainant, if any;

(e) the name, residence, if known, and nationality of the accused;

(f) the offence complained of and the offence, if any, proved and the value of the property, if any, in respect of which the offence has been committed;

(g) the date of the summons or warrant and of the return day of the summons, if any, or on which the accused was first arrested;

(h) the date on which the accused first appeared or was brought before the Magistrate's Court;

(i) the date of the making of each adjournment or postponement, if any, and the date to which the adjournment or postponement was made and the grounds of making the same;

- (j) the date on which the proceedings terminated;
- (k) the order made;
- (l) the depositions;
- (m) the statement or evidence of the accused under section 145, if any;
- (n) the charge; and
- (o) the list of witnesses given by the accused.

[49]

Power to summon supplementary witnesses.

151. —(1) The Magistrate's Court may summon and examine supplementary witnesses after the commitment and before the commencement of the trial and bind them over in the manner hereinbefore provided to appear and give evidence.

(2) Such witnesses shall be examined in the presence of the accused who shall have the right to cross-examine them.

[50]

Custody of accused pending trial.

152. —(1) The Magistrate's Court shall, subject to the provisions of this Code regarding the taking of bail, commit the accused by warrant to custody until and during the trial.

(2) This section shall not apply where the accused is a corporation.

[51]

Addresses.

153. —(1) In preliminary inquiries under this Chapter, the accused or his advocate and solicitor may at the end of the prosecution case and, if the accused has elected to make his defence, at the end of the defence case, address the court on a submission that there is insufficient evidence to put the accused on trial for the offence of which he is charged, and the officer or other person conducting the prosecution shall have the right of reply.

[52]

Restrictions on reports of preliminary inquiries.

154. —(1) Except as provided by subsections (2) and (3), it shall not be lawful to publish in Singapore a written report, or to broadcast in Singapore a report, of any preliminary inquiry in Singapore containing any matter other than that permitted by subsection (4).

(2) A Magistrate's Court shall, on an application for the purpose made with reference to any preliminary inquiry by the accused person or one of the accused persons, as the case may be, order that subsection (1) shall not apply to reports of those proceedings.

(3) It shall not be unlawful under this section to publish or broadcast a report of any preliminary inquiry containing any matter other than that permitted by subsection (4) —

(a) where the examining Magistrate determines not to commit the accused person or the accused persons for trial, after it so determines;

(b) where an examining Magistrate commits the accused person or any of the accused persons for trial, after the conclusion of his trial or, as the case may be, the trial of the last to be tried, and where at any time during the inquiry, an examining Magistrate proceeds to try summarily the case of one or more of the accused persons under section 142 (2), while committing the other accused person or one or more of the other accused persons for trial, it shall not be unlawful under this section to publish or broadcast as part of a report of the summary trial, after the court determines to proceed as aforesaid, a report of so much of the preliminary inquiry proceedings containing any such matter as takes place before the determination.

(4) The following matters may be contained in a report of preliminary inquiries published or broadcast without an order under subsection (2) before the time authorised by subsection (3):

(a) the identity of the court and the name of the examining Magistrate;

(b) the names, addresses and occupations of the parties and witnesses and the ages of the accused person or persons and witnesses;

(c) the offence or offences, or a summary of them, with which the accused person or persons is or are charged;

(d) the names of advocates and solicitors engaged in the proceedings;

- (e) any decision of the court to commit the accused person or any of the accused persons for trial, and any decision of the court on the disposal of the case of any accused persons not committed;
 - (f) where the court commits the accused person or any of the accused persons for trial, the charge or charges, or a summary of them, on which he is committed;
 - (g) where the preliminary inquiry is adjourned, the date to which it is adjourned;
 - (h) any arrangements as to bail on committal or adjournment.
- (5) If a report is published or broadcast in contravention of this section, the following persons, that is to say:
- (a) in the case of a publication of a written report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;
 - (b) in the case of a publication of a written report otherwise than as part of a newspaper or periodical, the person who publishes it;
 - (c) in the case of a broadcast of a report, any body corporate which transmits or provides the programme in which the report is broadcast and any person having functions in relation to the programme corresponding to those of the editor of a newspaper or periodical, shall be liable on summary conviction to a fine not exceeding \$5,000.
- (6) Proceedings for an offence under this section shall not be instituted otherwise than by or with the consent of the Public Prosecutor.
- (7) Subsection (1) shall be in addition to, and not in derogation of, the provisions of any other written law with respect to the publication of reports and proceedings of Magistrates' and other courts.
- (8) In this section —
- "broadcast" means broadcast by wireless telegraphy sounds or visual images intended for general reception;
- "publish" , in relation to a report, means publish the report, either by itself or as part of a newspaper or periodical, for distribution to the public.

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Notice of alibi.

- 155.** —(1) On a trial before the High Court, the accused shall not without the leave of the court adduce evidence in support of an alibi unless, before the end of the prescribed period, he gives notice of particulars of the alibi.
- (2) Without prejudice to subsection (1), on any such trial the accused shall not without the leave of the court call any other person to give such evidence unless —
- (a) the notice under subsection (1) includes the name and address of the witness or, if the name or address is not known to the accused at the time he gives the notice, any information in his possession which might be of material assistance in finding the witness;
 - (b) if the name or the address is not included in that notice, the court is satisfied that the accused, before giving the notice, took and thereafter continued to take all reasonable steps to secure that the name or address would be ascertained;
 - (c) if the name or the address is not included in that notice, but the accused subsequently discovers the name or address or receives other information which might be of material assistance in finding the witness, he forthwith gives notice of the name, address or other information, as the case may be; and
 - (d) if the accused is notified by, or on behalf of, the Public Prosecutor that the witness has not been traced by the name or at the address given, he forthwith gives notice of any such information which is then in his possession or, on subsequently receiving any such information, forthwith gives notice of it.
- (3) Any evidence tendered to disprove an alibi may, subject to any directions by the court as to the time it is to be given, be given before or after evidence is given in support of the alibi.
- (4) Any notice purporting to be given under this section on behalf of the accused by his advocate shall, unless the contrary is proved, be deemed to be given with the authority of the accused.
- (5) A notice under subsection (1) shall either be given in court during, or at the end of, the proceedings before the examining Magistrate or be given in writing to the Public Prosecutor or to the officer in charge of the prison where the accused is kept for him to forward to the Public Prosecutor, and a notice under subsection (2) (c) or (d) shall be given in writing to the Public Prosecutor.

(6) A notice required by this section to be given to the Public Prosecutor may be given by delivering it to him, or by leaving it at his office, or by sending it through the post by a registered letter addressed to him at his office.

(7) If the Public Prosecutor interviews any witness who is named in a notice given under this section, the accused or his advocate shall be entitled to be present at the interview.

(8) The court shall not refuse leave under this section if it appears that no advocate has been instructed to act for the accused at any time prior to the hearing of the preliminary inquiry and if it is satisfied that the accused was not aware of this section.

(9) In this section —

"evidence in support of an alibi" means evidence tending to show that by reason of the presence of the accused at a particular place or in a particular area at a particular time he was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission;

"prescribed period" means the period of 14 days from the end of the proceedings before the examining Magistrate.

[54]

Provisions of this Chapter to prevail.

156. If a conflict arises between the provisions of this Chapter and any other provisions of this Code or of any other written law, the provisions of this Chapter shall prevail.

[55]

Rules.

157. The Minister may make rules for the carrying into effect of the purposes or provisions of this Chapter.

[56]

DIVISION CHAPTER XVIII ***THE CHARGE***

Form of charge.

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

Form 27.

(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 to give the accused notice of the matter with which he is charged.

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

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

(6) If the accused has been previously convicted of any offence and it is intended to prove that previous conviction for the purpose of affecting the punishment which the court is competent to award, the fact, date and place of the previous conviction shall be stated in the charge. If the statement is omitted the court may add it at any time before sentence is passed.

[57]

(a) *A* is charged with the murder of *B*. This is equivalent to a statement that *A*'s act fell within the definition of murder given in sections 299 and 300 of the Penal Code; that he did not come within any of the general exceptions of that Code, and that it did not fall within any of the 5 exceptions to section 300 or that, if it did fall within exception 1, one or other of the 3 provisos to that exception applied to it.

(b) *A* is charged under section 326 of the Penal Code with voluntarily causing grievous hurt to *B* by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 335 of the Penal Code and that the general exceptions did not apply to it.

(c) *A* is accused of murder, cheating, theft, extortion, 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; but the sections under which the offence is punishable must in each instance be referred to in the charge.

(d) A is charged under section 184 of the Penal Code with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

Particulars as to time, place and person or thing.

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

(2) When the accused is charged with criminal breach of trust or dishonest misappropriation of money, it shall be sufficient to specify the gross sum in respect of which the offence is alleged to have been committed and the dates between which the offence is alleged to have been committed without specifying particular items or exact dates and the charge so framed shall be deemed to be a charge of one offence:

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

[58]

When manner of committing offence must be stated.

160. When the nature of the case is such that the particulars mentioned in sections 158 and 159 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.

[59]

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.

Form 27.

Sense of words used in charge to describe offence.

161. 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 that offence is punishable.

[60]

Effect of errors.

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

[61]

Illustrations

(a) A is charged under section 242 of the Penal Code with "having been in possession of counterfeit coin having known at the time when he became possessed of it that the 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 those facts that the omission to set out the manner of the cheating was in this case a material error.

(d) A is charged with the murder of John Smith on 6th June 1891. In fact the murdered person's name was James Smith and the date of the murder was 5th June 1891. A was never charged with any murder but one and had heard the inquiry before the Magistrate which referred exclusively to the case of James Smith. The court may infer from these facts that A was not misled and that the error in the charge was immaterial.

(e) A was charged with murdering James Smith on 5th June 1891 and John Smith, who tried to arrest him for that murder, on 6th June 1891. When charged for the murder of James Smith he was tried for the murder of John Smith. The witnesses present in his defence were witnesses in the case of James Smith. The court may infer from this that A was misled and that the error was material.

Court may alter charge.

163. —(1) Any court may alter any charge or frame a new charge, whether in substitution for or in addition to an existing charge at any time before judgment is given.

(2) Every such new or altered charge shall be read and explained to the accused.

[62]

When trial may proceed immediately after alteration.

164. —(1) If a charge is framed or alteration made under section 163 the court shall forthwith call upon the accused to plead thereto and to state whether he is ready to be tried on such new or altered charge.

(2) If the accused declares that he is not ready, the court shall duly consider the reasons he may give and, if 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 the charge or alteration has been framed or made, proceed with the trial as if the new or altered charge had been the original charge.

[63]

When new trial may be directed or trial suspended.

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

[64]

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

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

[65]

Recall of witnesses when charge is framed or altered.

167. Whenever a charge is framed or altered by the court after the commencement of the trial, the prosecutor and the accused shall be allowed to recall or resubmit and examine with reference to the new or altered charge any witness who may have been examined.

[66]

Separate charges for distinct offences.

168. 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 169, 170, 172 and 176.

[67]

Illustration

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

Joinder of similar offences.

169. When a person is accused of more offences than one he may be charged with and tried at one trial

for any number of those offences if they form or are a part of a series of offences of the same or a similar character.

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Trial for more than one offence.

170. —(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.

Offences 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 those offences.

Acts constituting one offence but constituting when combined a different offence.

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

(4) Nothing in this section shall affect section 71 of the Penal Code.

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Cap. 224.

To subsection (1)

(a) *A* rescues *B*, a person in lawful custody, and in doing so causes grievous hurt to *C*, a constable in whose custody *B* was. *A* may be charged with and tried for offences under sections 225 and 333 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 466 of the Penal Code. *A* may be separately charged with and convicted of the possession of each seal under section 473 of the Penal Code.

(c) With intent to cause injury to *B*, *A* institutes a criminal proceeding against him knowing that there is no just or lawful ground for the proceeding; and also falsely accuses *B* of having committed an offence knowing that there is no just or lawful ground for the charge. *A* may be separately charged with and convicted of two offences under section 211 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 the charge. On the trial *A* gives false evidence against *B* intending thereby to cause *B* to be convicted of a capital offence. *A* may be separately charged with and convicted of offences under sections 211 and 194 of the Penal Code.

(e) *A* with 6 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 145, 325 and 152 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 3 offences under section 506 of the Penal Code.

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

To subsection (2)

(g) *A* wrongfully strikes *B* with a cane. *A* may be separately charged with and convicted of offences under section 352 and 323 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 sections 411 and 414 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 317 and 304 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 167 of the Penal Code. A may be separately charged with and convicted of offences under sections 471 (read with 466) and 196 of the Penal Code.

To subsection (3)

(k) A commits robbery on B, and in doing so voluntarily causes hurt to him. A may be separately charged with and convicted of offences under sections 323, 392 and 394 of the Penal Code.

Separate trial when accused prejudiced.

171. Where before a trial or at any stage of a trial the court is of opinion that an accused person may be prejudiced or embarrassed in his defence by reason of being charged with and tried at one trial for more than one offence under either section 169 or 170 the court may order that he shall be charged and tried separately in respect of any one or more of the offences.

[70]

Where it is doubtful what offence has been committed.

172. If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of those offences and any number of the charges may be tried at once or he may be charged in the alternative with having committed some one of those offences.

[71]

Illustrations

(a) A is accused of an act which may amount to theft or receiving stolen property or criminal breach of trust or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust and cheating, or he may be charged with having committed theft or receiving stolen property or criminal breach of trust or cheating.

(b) A states on oath before the committing Magistrate that he saw B hit C with a club. Before the High Court A states on oath that B never hit C. A may be charged in the alternative and convicted of intentionally giving false evidence although it cannot be proved which of these contradictory statements was false.

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

173. If in the case mentioned in section 172 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 that section, he may be convicted of the offence which he is shown to have committed although he was not charged with it.

[72]

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 that offence.

Conviction of attempt or abetment.

174. When the accused is charged with an offence, he may be convicted of having attempted to commit that offence or of having abetted the commission of that offence, although neither the attempt nor the abetment is separately charged.

[73]

When offence proved is included in offence charged.

175. —(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 the combination is proved but the remaining particulars are not proved, he may be convicted of the minor offence though he was not charged with it.

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

(3) Nothing in this section shall be deemed to authorise a conviction of any offence referred to in section 131 or 132 when no complaint has been made as required by those sections respectively.

[74]

(a) *A* is charged under section 407 of the Penal Code with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under section 406 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 406.

(b) *A* is charged under section 325 of the Penal Code with causing grievous hurt. He proves that he acted on grave and sudden provocation. He may be convicted under section 335 of the Penal Code.

What persons may be charged jointly.

176. When more persons than one are accused of the same offence or of different offences committed in the same transaction, or of more than one offence falling within section 169 or when one person is accused of committing any offence and another of abetment of or attempt to commit that offence or when one person is accused of the offence of theft or extortion or criminal misappropriation or cheating, or criminal breach of trust, and another of receiving or retaining or assisting in the disposal or concealment of the subject-matter of that 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 the charges.

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Illustrations

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

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

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

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

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

Withdrawal of remaining charges on conviction on one of several charges.

177. —(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 or other person 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 the charge or charges.

(2) Such withdrawal shall have the effect of an acquittal on such charge or charges unless the conviction is set aside, in which case the 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.

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Outstanding offences.

178. —(1) Where in any criminal proceedings instituted by or on behalf of the Public Prosecutor the accused is found guilty of an offence, the court, in determining and in passing sentence, may, with the consent of the prosecutor and the accused, take into consideration any other outstanding offence or offences which the accused admits to have committed:

Provided that, if any criminal proceedings are pending in respect of any such outstanding offence or offences and those proceedings were not instituted by or on behalf of the Public Prosecutor, the court shall first be satisfied that the person or authority by whom those proceedings were instituted consents to that course.

(2) When consent is given as in subsection (1) and an outstanding offence is taken into consideration, the court shall enter or cause an entry to that effect to be made on the record and upon sentence being pronounced the accused shall not, unless the conviction which has been had is set aside, be liable to be charged or tried in respect of any such offence so taken into consideration.

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Charge to be in form given in Schedule B.

179. All charges upon which persons are tried before the High Court shall be brought in the name of the

Public Prosecutor and be in accordance with the form in Schedule B, and shall be signed by the Public Prosecutor or by some person authorised by him in that behalf and in the latter case the words "By authority of the Public Prosecutor" shall be prefixed to the signature.

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Form 28.

DIVISION CHAPTER XIX

SUMMARY TRIALS BY MAGISTRATES' COURTS OR DISTRICT COURTS

Procedure in summary trials.

180. The following procedure shall be observed by Magistrates' Courts and District Courts in summary trials:

(a) when the accused appears or is brought before the court, a charge containing the particulars of the offence of which he is accused shall be framed and read and explained to him and he shall be asked whether he is guilty of the offence charged or claims to be tried;

(b) if the accused pleads guilty to a charge whether as originally framed or as amended, the plea shall be recorded and he may be convicted on it:

Provided that before a plea of guilty is recorded the court shall ascertain that the accused understands the nature and consequences of his plea and intends to admit without qualification the offence alleged against him;

(c) if the accused refuses to plead or does not plead or claims to be tried, the court shall proceed to hear the complainant, if any, and to take all such evidence as is produced in support of the prosecution;

(d) when the court thinks it necessary, it shall obtain from the complainant or otherwise the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution and shall summon to give evidence before itself such of them as it thinks necessary;

(e) the accused shall be allowed to cross-examine all the witnesses for the prosecution;

(f) if upon taking all the evidence referred to in paragraph (c) and paragraph (d), (if any) the court finds that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the court shall record an order of acquittal;

(g) nothing in paragraph (f) shall be deemed to prevent the court from acquitting the accused at any previous stage of the case if, for reasons to be recorded by the court, it considers the charge to be groundless;

(h) if when such evidence has been taken the court is of opinion that there are grounds for presuming that the accused has committed the offence charged or some other offence which that court is competent to try and which in its opinion it ought to try, it shall consider the charge recorded against the accused and decide whether it is sufficient and, if necessary, shall amend it;

(i) the charge, if amended, shall be read to the accused as amended and he shall be again asked whether he is guilty or has any defence to make;

(j) if the accused does not plead guilty to the charge as amended or if no amendment is made, the accused shall then be called upon to enter upon his defence;

(k)

(i) before any evidence is called for the defence, the court shall tell the accused that he will be called upon by the court to give evidence in his own defence and shall tell him in ordinary language what the effect will be if, when so called upon, he refuses to be sworn or affirmed; and thereupon the court shall call upon the accused to give evidence;

(ii) if any accused person elects to give evidence his evidence shall be taken before that of other witnesses for the defence;

(iii) any accused person who elects to give evidence may be cross-examined on behalf of any other accused person;

(l) any accused person shall, at any time while he is making his defence, be allowed to recall and cross-examine any witness present in the court or its precincts;

(m)

(i) if the accused applies to the court to issue any process for compelling the attendance of any witness, whether he has or has not been previously examined in the case, for the purpose of examination or cross-examination or the production of any document or other thing, the court shall issue the process

unless it considers that the application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice, in which case that ground shall be recorded by it in writing;

Form 30.

(ii) the court may, before summoning any witness on such application, require that his reasonable expenses incurred in attending for the purposes of the trial shall be deposited in court;

(n)

(i) if the court finds the accused not guilty, the court shall record an order of acquittal, and shall, provided no other charge is pending against him, forthwith release the accused;

(ii) if the court finds the accused guilty or a plea of guilty is recorded against him, it shall record a conviction and pass sentence according to law either forthwith or on such day as the court may appoint;

Form 29.

(o) when the proceedings have been instituted upon the complaint of some person upon oath under section 133 and upon any day fixed for the hearing of the case the complainant is absent and the offence may lawfully be compounded, the court may, in its discretion notwithstanding anything hereinbefore contained, discharge the accused at any time before calling upon him to enter upon his defence;

(p) if the accused does not appear at the time and place mentioned in the summons and it appears to the court on oath that the summons was duly served a reasonable time before the time appointed in it for appearing and no sufficient ground is shown for an adjournment, the court may either proceed ex parte to hear and determine the complaint or may postpone the hearing to a future day.

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Addresses.

181. In summary trials under this Chapter —

(a) the officer or other person conducting the prosecution need not open his case, but may forthwith produce his evidence;

(b) when the accused is called upon to enter on his defence, he or his advocate may before producing his evidence 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, and if the accused gives evidence or witnesses are examined on his behalf may sum up his case; and

(c) the officer or other person conducting the prosecution shall have the right of reply on the whole case if the accused or his advocate has summed up his case.

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Notice of alibi.

182. —(1) In any summary trial, the accused shall not without the leave of the court adduce evidence in support of an alibi unless, before the end of the prescribed period, he gives notice of particulars of the alibi.

(2) Without prejudice to subsection (1), on any such trial the accused shall not without the leave of the court call any other person to give such evidence unless —

(a) the notice under subsection (1) includes the name and address of the witness or, if the name or address is not known to the accused at the time he gives the notice, any information in his possession which might be of material assistance in finding the witness;

(b) if the name or the address is not included in that notice, the court is satisfied that the accused, before giving the notice, took and thereafter continued to take all reasonable steps to secure that the name or address would be ascertained;

(c) if the name or the address is not included in that notice, but the accused subsequently discovers the name or address or receives other information which might be of material assistance in finding the witness, he forthwith gives notice of the name, address or other information, as the case may be; and

(d) if the accused is notified by, or on behalf of, the Public Prosecutor that the witness has not been traced by the name or at the address given, he forthwith gives notice of any such information which is then in his possession or, on subsequently receiving any such information, forthwith gives notice of it.

(3) Any evidence tendered to disprove an alibi may, subject to any directions by the court as to the time it is to be given, be given before or after evidence is given in support of the alibi.

- (4) Any notice purporting to be given under this section on behalf of the accused by his advocate shall, unless the contrary is proved, be deemed to be given with the authority of the accused.
- (5) A notice under subsection (1) shall either be given in court during, or at the end of, the proceedings before the Magistrate on the occasion that the accused is charged in court for the first time with the offence in respect of which he is raising the defence of an alibi, or be given in writing to the Public Prosecutor or to the officer in charge of the prison where the accused is kept for him to forward to the Public Prosecutor, and a notice under subsection (2) (c) or (d) shall be given in writing to the Public Prosecutor.
- (6) A notice required by this section to be given to the Public Prosecutor may be given by delivering it to him, or by leaving it at his office, or by sending it in a registered letter addressed to him at his office.
- (7) If the Public Prosecutor or any investigating officer interviews any witness who is named in a notice given under this section, the accused or his advocate shall be entitled to be present at the interview.
- (8) The court shall not refuse leave under this section if it appears that no advocate has been instructed to act for the accused at any time prior to the trial of the accused and if it is satisfied that the accused was not aware of the provisions of this section.
- (9) In this section —
- "evidence in support of an alibi" means evidence tending to show that by reason of the presence of the accused at a particular place or in a particular area at a particular time he was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission;
- "prescribed period" means the period of 14 days from the end of the proceedings before the Magistrate on the occasion that the accused is charged in court for the first time with the offence in respect of which he is raising the defence of an alibi.

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Particulars to be recorded.

183. In proceedings under this Chapter the court shall keep a record of the particulars of each case, so far as practicable, as follows:

- (a) in a book to be called the "Charge Book" to be kept by the usher of the court —
- (i) the serial number;
 - (ii) the date of the commission of the offence;
 - (iii) the date of the complaint, if any;
 - (iv) the name and residence of the complainant, if any;
 - (v) the name, residence and nationality of the accused;
 - (vi) the offence of which he is accused, the offence, if any, proved and the value of the property, if any, in respect of which the offence has been committed;
 - (vii) the date of the summons or warrant and of the return day of the summons, if any, or on which the accused was first arrested; and
 - (viii) the sentence or other final order; and
- (b) in a book to be called the "District Judge's Note Book" or the "Magistrate's Note Book", as the case may be —
- (i) the plea of the accused and his examination, if any;
 - (ii) the date when the accused first appeared or was brought before the court;
 - (iii) the date of the making of each adjournment or postponement, if any, and the date to which the adjournment or postponement was made and the grounds of making it;
 - (iv) the date on which the proceedings terminated;
 - (v) the finding;
 - (vi) the sentence or other final order; and
 - (vii) the evidence of the witnesses.

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Public Prosecutor may decline further to prosecute at any stage of summary trial.

184. —(1) At any stage of any summary trial before judgment has been delivered, the Public Prosecutor may, if he thinks fit, inform the court that he will not further prosecute the defendant upon the charge

and thereupon all proceedings on the charge against the defendant shall be stayed and he shall be discharged from and of the same.

(2) Such discharge shall not amount to an acquittal unless the court so directs except in cases coming under section 177.

DIVISION CHAPTER XX TRANSFER OF CASES

High Court's power to transfer cases.

185. —(1) Whenever it is made to appear to the High Court that —

- (a) a fair and impartial inquiry or trial cannot be had in any criminal court subordinate to it;
- (b) some question of law of unusual difficulty is likely to arise;
- (c) a view of the place in or near which any offence has been committed may be required for the satisfactory inquiry into or trial of the offence;
- (d) an order under this section will tend to the general convenience of the parties or witnesses; or
- (e) such an order is expedient for the ends of justice or is required by any provision of this Code, it may order that —

iany particular criminal case shall be transferred from a criminal court subordinate to its authority to any other such criminal court of equal or superior jurisdiction; or

ii any particular criminal case shall be transferred to and tried before the High Court.

(2) Any application for the exercise of the power conferred by this section may be made and order granted at any stage of any criminal proceeding before the trial or inquiry is finished and shall be made by motion which shall, except when the applicant is the Attorney-General or Solicitor-General, be supported by affidavit.

(3) When an accused person makes an application under this section, the High Court may, if it thinks fit, direct him to execute a bond with or without sureties conditioned that he will, if convicted, pay the costs of the prosecution.

(4) Every accused person making any such application shall give to the Public Prosecutor notice in writing of the application, together with a copy of the grounds on which it is made, and no order shall be made on the merits of the application unless at least 24 hours have elapsed between the giving of the notice and the hearing of the application.

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Transfer of cases by other courts.

186. —(1) In any trial before a Magistrate's Court in which it appears at any stage of the proceedings that from any cause the case is one which the Magistrate's Court is not competent to try or one which in the opinion of that Court ought to be tried by a District Court or by the High Court, or if before or during the trial application is made by the Public Prosecutor, the Court shall stay proceedings and transfer the case to a District Court or proceed under Chapter XVII with a view to the committal of the accused for trial by the High Court and shall record its order on the proceedings.

(2) In any trial before a District Court in which it appears at any stage of the proceedings that from any cause the case is one which the District Court is not competent to try or one which in the opinion of that Court ought to be tried by the High Court, or if before or during the trial application is made by the Public Prosecutor, the Court shall stay proceedings and order the accused to be brought before a Magistrate's Court with a view to his committal for trial by the High Court and shall record its order on the proceedings.

(3) The powers conferred by subsections (1) and (2), other than the power of a Magistrate's Court to transfer a case to a District Court, shall not be exercised except upon the application as aforesaid or with the consent of the Public Prosecutor.

(4) If in a trial before a Magistrate's Court or a District Court the accused, when charged, has refused to plead or has not pleaded or has claimed to be tried, and no further step has been taken in the proceedings, the Court may, if it thinks fit, stay the proceedings and transfer the case to another Magistrate's Court or District Court, as the case may be, and shall record its order on the proceedings.

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DIVISION CHAPTER XXI TRIALS BEFORE HIGH COURT

Commencement of trial.

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

(2) If the accused pleads guilty the plea shall be recorded, and he may be convicted on it.

(3) If the accused refuses to plead or does not plead, or if he claims to be tried, the court shall —

(a) proceed to try the case; or

(b) if the accused was committed for trial under section 139, order him to be brought before an examining Magistrate for a preliminary inquiry.

[86

Opening case for prosecution.

188. —(1) The counsel for the Public Prosecutor shall 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.

(2) He shall then examine his witnesses, who may in turn be cross-examined for the defence and, if necessary, re-examined.

(3) A person who has not given evidence at a preliminary inquiry shall not be called as a witness by the prosecution at any trial before the verdict is given, unless the accused person or his advocate and the Registrar have been previously served with a notice in writing of the intention to call the person stating the person's name and address and the substance of the evidence intended to be given.

[87

Procedure after conclusion of case for prosecution.

189. —(1) When the case for the prosecution is concluded the court, if it finds that no case against the accused has been made out which if unrebutted would warrant his conviction, shall record an order of acquittal or, if it does not so find, shall call on the accused to enter on his defence.

(2) Before any evidence is called for the defence, the court shall tell the accused that he will be called upon by the court to give evidence in his own defence and shall tell him in ordinary language what the effect will be if, when so called upon, he refuses to be sworn or affirmed, and thereupon the court shall call upon the accused to give evidence.

[88

Defence.

190. —(1) The accused or his advocate 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.

(2) He may then examine his witnesses, if any, and after their cross-examination and re-examination, if any, may sum up his case.

(3) If any accused person elects to be called as a witness, his evidence shall be taken before that of other witnesses for the defence.

(4) Any accused person who elects to be called as a witness may be cross-examined on behalf of any other accused person.

(5) The accused shall be allowed to examine any witness not previously named by him under the provisions of this Code if that witness is in attendance.

[89

Reply.

191. In all cases the counsel for the Public Prosecutor shall have the right to reply on the whole case, whether the accused adduces evidence or not.

[90

Finding and sentence.

192. —(1) If the court finds the accused not guilty the court shall record an order of acquittal.

(2) If the court finds the accused guilty or if a plea of guilty has been recorded and accepted the court shall pass sentence according to law.

[91

Public Prosecutor may decline further to prosecute at any stage.

193. —(1) At any stage of any trial before the High Court before the return of the verdict, the Public Prosecutor may, if he thinks fit, inform the court that he will not further prosecute the accused upon the

charge and thereupon all proceedings on the charge against the accused shall be stayed and he shall be discharged from and of the same.

(2) Such discharge shall not amount to an acquittal unless the presiding Judge so directs except in cases coming under section 177.

[92]

Trial before a single Judge.

194. Every trial before the High Court under this Chapter shall be heard and disposed of before a single Judge of the High Court.

Act 13/92 wef 18.4.92 vide S 175/92.

DIVISION CHAPTER XXII
GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS

Right of accused to be defended.

195. Every person accused before any criminal court may of right be defended by an advocate.

[94]

Accused not to make a statement without being sworn or affirmed.

196. —(1) In any criminal proceedings except an inquiry preliminary to committal for trial, the accused shall not be entitled to make a statement without being sworn or affirmed, and accordingly, if he gives evidence, he shall do so on oath or affirmation and be liable to cross-examination; but this subsection shall not affect the right of the accused, if not represented by an advocate, to address the court otherwise than on oath or affirmation on any matter on which, if he were so represented, the advocate could address the court on his behalf.

(2) If the accused —

(a) after being called upon by the court to give evidence or after he or the advocate representing him has informed the court that he will give evidence, refuses to be sworn or affirmed; or

(b) having been sworn or affirmed, without good cause refuses to answer any question, the court, in determining whether the accused is guilty of the offence charged, may draw such inferences from the refusal as appear proper.

(3) Nothing in this section shall be taken to render the accused compellable to give evidence on his own behalf, and he shall accordingly not be guilty of contempt of court by reason of a refusal to be sworn or affirmed in the circumstances described in subsection (2) (a).

(4) For the purposes of this section, a person who, having been sworn or affirmed, refuses to answer any question shall be taken to do so without good cause unless —

(a) he is entitled to refuse to answer the question by virtue of section 122 (4) of the Evidence Act or of any other written law or on the ground of privilege; or

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(b) the court in the exercise of its discretion excuses him from answering it.

(5) Nothing in subsection (2) shall apply to an accused if it appears to the court that his physical or mental condition makes it undesirable for him to be called upon to give evidence.

[95]

Procedure where accused does not understand proceedings.

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

[96]

Power to postpone or adjourn proceedings.

198. —(1) If from the absence of a witness or any other reasonable cause it becomes necessary or advisable to do so the court may, by order, postpone the commencement of or adjourn any inquiry or trial on such terms as it thinks fit for such time as it considers reasonable and may, if the accused is not on bail, by a warrant remand the accused in such custody as the court thinks fit.

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(2) No Magistrate's Court shall remand an accused person to custody under this section for a term exceeding 8 days at a time.

(3) Every order made under this section by a court other than the High Court shall be in writing signed by the Magistrate or District Judge and shall state the reasons for it.

[97

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

Compounding of offences.

199. —(1) The offences punishable under the Penal Code shown in the sixth column of Schedule A as being compoundable may be compounded by the person mentioned in that column provided that when an arrest has been effected or an application has been made for the issue of a warrant of arrest or summons the consent of a Magistrate or, if the offence is not triable by a Magistrate's Court, of a District Judge, shall first be obtained.

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(2) When any offence is compoundable under this section the abetment of the offence, or an attempt to commit the offence when the 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 lunatic, any person competent to contract on his behalf may compound the offence.

(4) The composition of an offence under this section shall have the effect of an acquittal of the accused.

[98

Change of District Judge or Magistrate during trial.

200. Whenever any District Judge or Magistrate after having heard and recorded the whole or any part of the evidence in a trial ceases to exercise jurisdiction in it and is succeeded by another District Judge or Magistrate who has and who exercises such jurisdiction, the District Judge or 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 resubmit the witnesses and recommence the trial:

Provided that —

(a) the accused may, when the second District Judge or Magistrate commences his proceedings, demand that the witnesses or any of them shall be resubmitted and reheard and the District Judge or Magistrate shall thereupon resubmit and rehear any such witness unless the witness is dead or cannot be found or is incapable of giving evidence or is kept out of the way by the accused or his presence cannot be obtained without an amount of delay or expense which in the circumstances of the case the court considers unreasonable;

(b) the High Court may set aside any conviction had on evidence not wholly recorded by the District Judge or Magistrate before whom the conviction was had, if that Court is of opinion that the accused has been materially prejudiced thereby and may order a new trial.

[99

Detention of offenders attending in court.

201. When a person is proceeded against under section 56 during the course of an inquiry under Chapter XVII or after a trial has been begun, the proceedings in respect of that person shall be commenced afresh and the witnesses reheard.

[00

***DIVISION CHAPTER XXIII
MODE OF TAKING AND RECORDING EVIDENCE IN ENQUIRIES AND
TRIALS***

Evidence to be taken in presence of accused.

203. Except as otherwise expressly provided all evidence taken under Chapters XVII, XIX and XXI shall be taken in the presence of the accused or, when his personal attendance is dispensed with, in the presence of his advocate.

[02

Recording of evidence.

204. In inquiries and trials under this Code by or before a Magistrate's Court or a District Court the evidence of the witnesses shall be recorded in the manner provided by this Chapter.

[03]

Manner of recording evidence.

205. The evidence of each witness shall be taken down in legible handwriting in English by the Magistrate or District Judge.

[04]

Evidence recorded to be signed.

206. Evidence taken down under section 205 shall be signed by the Magistrate or District Judge and shall form part of the record.

[05]

Record to be in narrative form.

207. —(1) Evidence taken under section 205 shall not ordinarily be taken down in the form of question and answer but in the form of a narrative.

(2) The Magistrate or District Judge may, in his discretion, take down any particular question and answer.

[06]

Reading over evidence and correction.

208. —(1) The evidence of each witness taken in inquiries under Chapters XI and XVII shall be read over to him and shall, after correction if necessary, be signed by him.

(2) If the witness denies the correctness of any part of the evidence when it is read over to him, the Magistrate may, instead of correcting the evidence, make a memorandum on it 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 English the evidence so taken down shall be interpreted to him in the language in which it was given or in a language which he understands.

(4) The substance of any correction made and of any memorandum made by the Magistrate shall be explained to the accused.

[07]

Interpretation of evidence to accused.

209. —(1) Whenever any evidence is given in a language not understood by the accused and he is present in person, it shall be interpreted to him forthwith in a language which he understands.

(2) When documents are put in for the purpose of formal proof, it shall be in the discretion of the court to interpret as much of them as appears necessary.

[08]

Remarks as to demeanour of witness.

210. A Magistrate or District Judge recording the evidence of a witness may, at the conclusion of the evidence and at the foot of the notes of it, record such remarks, if any, as he thinks material respecting the demeanour of the witness while under examination.

[09]

Judge to take notes of evidence.

211. In all criminal cases tried before the High Court the presiding Judge shall take down in writing notes of the evidence adduced.

[10]

***DIVISION CHAPTER XXIV
JUDGMENT***

Mode of delivering judgment.

212. —(1) The judgment in every trial in any criminal court of original jurisdiction shall be pronounced in open court either immediately or at some subsequent time of which due notice shall be given to the parties or their advocates.

(2) The accused shall, if in custody, be brought up or, if not in custody, shall be required to attend to hear judgment delivered except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only.

(3) In the case of trials in any criminal court, if it appears to the court expedient, the court instead of pronouncing judgment may direct that the accused shall be released on his entering into a bond with or without sureties, and during such period as the court directs to appear and receive judgment, if and when called upon, and in the meantime to keep the peace and be of good behaviour.

[11

No sentence of death against person under 18 years.

213. Sentence of death shall not be pronounced on or recorded against a person convicted of an offence if it appears to the court that at the time when the offence was committed he was under the age of 18 years but instead of that the court shall sentence him to be detained during the President's pleasure, and, if so sentenced, he shall be liable to be detained in such place and under such conditions as the President directs, and while so detained shall be deemed to be in legal custody.

[12

Sentence of death not to be passed on pregnant woman.

214. —(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 fit, the question whether or not the woman is pregnant shall, before sentence is passed on her, be determined by the court.

(2) If the woman is found to be pregnant, a sentence of imprisonment for life shall be passed on her.

(3) If the woman is found not to be pregnant, she may appeal under the Supreme Court of Judicature Act to the Court of Criminal Appeal against such finding, and that Court, if satisfied that for any reason the finding should be set aside, shall quash the sentence passed on her, and instead of it pass on her a sentence of imprisonment for life.

[13

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Judgment in the alternative.

215. In all cases in which judgment is given that a person is guilty of one of several offences under any written law, but that it is doubtful of which of those offences he is guilty, the court shall record a conviction in the alternative, distinctly specifying those offences, and the offender shall be punished for the offence for which the lowest punishment is provided if the same punishment is not provided for all.

[14

Judgment of death.

216. When any person is sentenced to death, the sentence shall direct that he shall be hanged by the neck till he is dead but shall not state the place where nor the time when the sentence is to be carried out.

[15

Judgment not to be altered.

217. —(1) No court other than the High Court, when it has recorded its judgment, shall alter or review the judgment.

(2) A clerical error may be rectified at any time and any other mistake may be rectified at any time before the court rises for the day.

[16

Judgment to be explained to accused and copy supplied.

218. The judgment shall be explained to the accused and, on his application, a copy of the judgment or, when he so desires, a translation in his own language, if practicable, shall be given to him without delay.

[17

Judgment to be filed with record.

219. The original judgment shall be entered on and, if written, filed with the record of proceedings.

[18

DIVISION CHAPTER XXV
SENTENCES AND THE CARRYING OUT THEREOF

Provisions as to execution of sentences of death.

220. With regard to sentences of death the following provisions shall take effect:

(a) after sentence has been pronounced a warrant under the seal of the court shall be made out for the commitment of the person sentenced to the custody of the Director of Prisons in accordance with the form in Schedule B;

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(b) such warrant shall be full authority to the Director of Prisons or any officer appointed by him for that purpose for receiving into his custody and detaining the person so sentenced until the further warrant or order of the court;

(c) in cases in which notice of appeal or notice of an application for leave to appeal is not given within the prescribed period, the Judge who presided at the trial shall, as soon as conveniently may be after that period has elapsed, forward to the Minister a copy of the notes of evidence taken at the trial, together with a report in writing signed by him stating whether, in his opinion, there are any reasons (and, if so, what reasons) why the sentence of death should or should not be carried out;

(d) in cases in which notice of appeal or notice of an application for leave to appeal is given, the Judge who presided at the trial shall, as soon as conveniently may be after receiving notification from the Registrar of the Supreme Court that the notice has been given, forward to the Court of Criminal Appeal the notes of evidence and report referred to in paragraph (c); and if the Court of Criminal Appeal dismisses the appeal or the application for leave to appeal, as the case may be, the Chief Justice or other presiding Judge shall, as soon as conveniently may be after the dismissal, forward to the Minister the notes of evidence and report together with an intimation of the decision of the Court of Criminal Appeal and also such report, if any, on the case as that Court may think fit to make, signed by the Chief Justice or other presiding Judge;

(e) the President, acting in accordance with section 8 of the Republic of Singapore Independence Act shall communicate to the High Court a copy under his hand and seal of any order which he makes, which order, if the sentence is to be carried out, shall state the time and place when and where the execution is to be held, and, if the sentence is commuted into any other punishment, shall so state and, if the person sentenced is pardoned, shall so state;

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(f)

(i) on receiving the copy of the President's order the court shall cause the effect of the order to be entered on the calendar of sentences and, if the sentence is to be carried out, shall cause a warrant under the seal of the court and the hand of a Judge to be issued, setting out the time and place when and where the execution is to be held as prescribed in the order of the President;

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(ii) the President may order a respite of the execution of the warrant and afterwards appoint some other time or other place for its execution;

(iii) such warrant shall be directed to the Director of Prisons who shall carry the sentence into effect in accordance with law;

(g)

(i) there shall be present at the execution of the sentence the superintendent of the prison, a medical officer of the prison, and such other officers of the prison as the Director of Prisons requires;

(ii) there may also be present any minister of religion in attendance at the prison and such other persons as the Director of Prisons thinks proper to admit;

(iii) as soon as possible after judgment of death has been executed a 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 of death and deliver it to the Director of Prisons;

(iv) a Coroner shall, within 24 hours after the execution, hold an inquiry as provided for by this Code and shall inquire into and satisfy himself of the identity of the body and whether judgment of death was duly executed on it;

(v) a copy of the verdict shall be forwarded to and filed in the Registry of the Supreme Court and another shall be forwarded to and filed in the office of the Minister;

(h) where a sentence of death is avoided by the escape of the person sentenced to death, execution of the sentence shall be carried into effect at such other time after his recapture as the High Court orders;

(i) no omission or error as to time and place and no defect in form in any order or warrant given under this section and no omission to comply with paragraph (g) shall be held to render illegal any execution carried into effect under the order or warrant or intended so to have been carried into effect or shall render any execution illegal which would otherwise have been legal.

[19

Provisions as to execution of sentences of High Court other than sentences of death.

221. 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 each assizes a copy of the calendar of sentences under the hand of a Judge and the seal of the court shall be sent to the Director of Prisons and another similar copy to the Minister who shall file it;
- (b) the calendar shall be a sufficient warrant and full authority for receiving and detaining all prisoners and for carrying into effect all sentences described in it;
- (c) in the event of a calendar kept by the Director of Prisons being destroyed or lost the Director shall forthwith report the loss to the Minister who shall apply to the court for a fresh copy which shall be issued as above required;
- (d) the copy certified as a true copy under the hand of the Registrar and under the seal of the court shall have the same effect as the one first given to the Director of Prisons;
- (e) at the end of each day's sittings of the High Court at assizes the Registrar shall draw up a certificate in the form in Schedule B of all sentences passed by the court during the day, setting out the names of the persons sentenced and the sentences passed on them, and shall sign it and hand it to the Director of Prisons or an officer appointed by him for that purpose who shall thereupon receive into his custody the persons named in the certificate;

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(f) the certificate shall be full authority to the Director of Prisons or such other officer as before mentioned for receiving into his custody all prisoners named in it and for carrying out all sentences named in it until the calendar of sentences of the assizes is delivered.

[20

Provisions as to execution of sentences of inferior courts.

222. With regard to sentences passed by any court other than the High Court, the following provisions shall take effect:

- (a) where the accused is sentenced to imprisonment the court passing sentence shall forthwith forward a warrant to the prison in which the imprisonment is to be served and, unless the accused is already confined in that prison, shall forward him to that prison with the warrant;
- (b) every such warrant shall be directed to the Director of Prisons and shall be handed to him or to an officer appointed by him for that purpose;
- (c) every such warrant shall be full authority for receiving and detaining the accused and for carrying into effect the sentence described in it.

[21

Date of commencement of sentence.

223. Subject to the provisions of this Code and of the Supreme Court of Judicature Act, every sentence of imprisonment to which section 221 or 222 apply shall take effect from the date on which it was passed, unless the court passing the sentence or when there has been an appeal the appellate court otherwise directs.

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Provisions as to sentence of fine.

224. 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 the fine in such law, the following provisions shall apply:

- (a) where no sum is 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 in which the offender is sentenced to pay a fine the court passing the sentence may, at any time before the fine has been paid in full in its discretion, do all or any of the following things:

(i) allow time for the payment of the fine and grant extensions of the time so allowed;

(ii) direct payment of the fine to be made by instalments:

Provided that before allowing time for payment of a fine or directing payment of a fine to be made by instalments the court may require the offender to execute a bond with or without sureties conditioned upon payment of the fine or of the instalments, as the case may be, on the day or days directed and in the event of the fine or any instalment not being paid as ordered the whole of the fine remaining unpaid shall become due and payable and the court may issue a warrant for the arrest of the offender;

(iii) issue a warrant for the levy of the amount by distress and sale of any property belonging to the offender;

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(iv) direct 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 be sentenced or to which he may be liable under a commutation of a sentence;

(v) direct that the person be searched, and that any money found on him when so searched or which, in the event of his being committed to prison, may be found on him when taken to prison, shall be applied towards the payment of such fine, the surplus, if any, being returned to him:

Provided that the money shall not be so applied if the court is satisfied that the money does not belong to the person on whom it was found;

(c) the term for which the court directs the offender to be imprisoned in default of payment of a fine shall be as follows:

(i) if the offence is punishable with imprisonment for any term exceeding 6 months it shall not exceed one half of the term of imprisonment which is the maximum fixed for the offence;

(ii) if the offence is punishable with imprisonment for any term not exceeding 6 months it shall not exceed the term of imprisonment which is the maximum fixed for the offence;

(iii) if the offence is not punishable with imprisonment it shall not exceed the following scale:

(A) when the fine does not exceed \$50 the imprisonment in default of payment may be for any term not exceeding 2 months;

(B) when the fine exceeds \$50 but does not exceed \$100, for any term not exceeding 4 months;

(C) in any other case for any term not exceeding 6 months;

(d) the imprisonment which the court imposes in default of payment of a fine may be additional to a sentence of imprisonment for the maximum term awardable by the court under section 11 provided that the aggregate punishment of imprisonment passed on an offender at one trial shall not exceed the limits prescribed by section 17;

(e) the imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law;

(f) if before the expiration of the time of imprisonment fixed in default of payment such a proportion of the fine is paid or levied that the time of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate;

(g) the fine or any part thereof which remains unpaid may be levied at any time within 6 years after the passing of the sentence and, if under the sentence the offender is liable to imprisonment for a longer period than 6 years, then at any time previous to the expiration of that period, and the death of the offender does not discharge from the liability any property which would after his death be legally liable for his debts.

[23

Suspension of execution in certain cases.

225. 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 224, 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 that court on the day appointed for the return of the warrant, such day not being more than 15 days from the time of executing the bond, and in the

event of the fine not having been realised the court may direct the sentence of imprisonment to be carried into execution at once.

[24]

Warrant by what Judge, District Judge or Magistrate issuable.

226. Every warrant for the execution of any sentence may be issued either by the Judge, District Judge or Magistrate who passed the sentence or by his successor or other Judge, District Judge or Magistrate acting in his place.

[25]

Place for executing sentence of caning.

227. When the accused is sentenced to caning only, the sentence shall be executed at such place and time as the court directs, and the sentence shall authorise his detention for such time as is reasonably necessary for the carrying out of the sentence.

[26]

Time of executing such sentence.

228. —(1) When the accused is sentenced to caning in addition to imprisonment the caning shall not be inflicted until after the expiration of 10 days from the date of the sentence or, if an appeal is made within that time, until the sentence is confirmed by the appellate court.

(2) The caning shall be inflicted as soon as practicable after the expiration of the 10 days or, in case of an appeal, as soon as practicable after the receipt of the order of the appellate court confirming the sentence.

[27]

Mode of executing such sentence.

229. —(1) When the accused is sentenced to caning the number of strokes shall be specified in the sentence. In no case shall the caning awarded at any one trial exceed 24 strokes in the case of an adult or 10 strokes in the case of a youthful offender, anything in any Act to the contrary notwithstanding.

S 267/85.

(2) Caning shall be inflicted on such part of the person as the Minister from time to time generally directs.

(3) The rattan shall be not more than 1.27 centimetres in diameter.

(4) In the case of a youthful offender caning shall be inflicted with a light rattan.

[28]

Conviction for two or more offences punishable with caning.

230. When a person is convicted at one trial of any two or more distinct offences any two or more of which are legally punishable by caning the combined sentence of caning awarded by the court for any such offences shall not, anything in any Act to the contrary notwithstanding, exceed a total number of 24 strokes in the case of adults or 10 strokes in the case of youthful offenders.

[29]

Execution of sentence of caning in certain cases forbidden.

231. No sentence of caning shall be executed by instalments and none of the following persons shall be punishable with caning:

(a) women;

(b) males sentenced to death;

(c) males whom the court considers to be more than 50 years of age.

[30]

Medical officer's certificate required.

232. —(1) The punishment of caning shall not be inflicted unless a medical officer is present and certifies that the offender is in a fit state of health to undergo such punishment.

(2) If during the execution of a sentence of caning a medical officer certifies that the offender is not in a fit state of health to undergo the remainder of the sentence the caning shall be finally stopped.

[31]

Procedure if punishment cannot be inflicted under section 232.

233. —(1) In any case in which under section 232 a sentence of caning is wholly or partially prevented from being executed, the offender shall be kept in custody till the court which passed the sentence can

revise it, and that court may at its discretion either remit the sentence, or sentence the offender instead of caning, or instead of so much of the sentence of caning as was not executed, to imprisonment for any term which may extend to 12 months, which may be in addition to any other punishment to which he has been sentenced for the same offence.

(2) Nothing in this section shall be deemed to authorise any court to inflict imprisonment for a term exceeding that to which the accused is liable by law or which that court is competent to inflict.

[32

Commencement of sentence of imprisonment on prisoner already undergoing imprisonment.

234. —(1) When a person who is an escaped convict or is undergoing a sentence of imprisonment is sentenced to imprisonment the latter sentence of imprisonment shall commence either immediately or at the expiration of the imprisonment to which he was previously sentenced as the court awarding the sentence directs.

(2) A sentence of death shall be executed notwithstanding the pendency of any sentence of imprisonment.

(3) Nothing in subsection (1) shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

[33

Youthful offender may be dealt with in manner provided by the Children and Young Persons Act, instead of being imprisoned.

235. When any youthful offender is convicted before any criminal court of an offence punishable by fine or imprisonment or by both, and whether or not the law under which the conviction is had provides that fine or imprisonment or both shall be imposed upon the person so convicted, that court may, instead of sentencing the youthful offender to pay a fine or awarding any term of imprisonment in default of payment of the fine, or of passing a sentence of imprisonment of any kind, deal with the youthful offender in the manner provided by the Children and Young Persons Act.

[34

Cap. 38.

Return of warrant.

236. When a sentence has been fully executed, the officer executing it shall return the warrant to the court from which it issued with an indorsement under his hand, certifying the manner in which the sentence has been executed.

[35

DIVISION CHAPTER XXVI

SUSPENSIONS, REMISSIONS AND COMMUTATIONS OF SENTENCES

Power to suspend or remit sentence.

237. —(1) When any person has been sentenced to punishment for an offence, the President, acting in accordance with section 8 of the Republic of Singapore Independence Act 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.

Vol. 1.

(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 to state his opinion as to whether the application should be granted or refused and the Judge shall state his opinion accordingly.

(3) If any condition on which a sentence has been suspended or remitted is, in the opinion of the President, not fulfilled the President may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any police officer without warrant and remanded to undergo the unexpired portion of the sentence.

[36

Power to commute punishment.

238. The President, acting in accordance with section 8 of the Republic of Singapore Independence Act may, without the consent of the person sentenced, commute any one of the following sentences for any other mentioned after it:

- (a) death;
- (b) imprisonment;
- (c) fine.

[37
Vol. 1.

DIVISION CHAPTER XXVII PREVIOUS ACQUITTALS OR CONVICTIONS

Person once convicted or acquitted not to be tried again for offence on same facts.

239. —(1) A person who has once been tried by a court of competent jurisdiction for an offence and convicted or acquitted of that offence shall, while the conviction or acquittal remains in force, not be liable to be tried again for the same offence nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 172 or for which he might have been convicted under section 173 or 174.

(2) A person acquitted or convicted of any offence may be afterwards tried for any distinct offence for which a separate charge might have been made against him on the former trial under section 170 (1).

(3) A person convicted of any offence constituted by any act causing consequences which together with that act constituted a different offence from that of which he was convicted may be afterwards tried for that different 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 the 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.

[38

The dismissal of a complaint or the discharge of the accused is not an acquittal for the purposes of this section.

Illustrations

(a) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards, while the acquittal remains in force, be charged upon the same facts with theft as a servant or 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 tried 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 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).

Plea of previous acquittal or conviction.

240. —(1) The plea of 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 accused says that by virtue of section 239 of the Criminal Procedure Code he is not liable to be tried.

(2) Such plea may be pleaded together with any other plea, but the issue raised by the 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 APPEALS, POINTS RESERVED AND REVISION DIVISION CHAPTER XXVIII

APPEALS

Cases in which appeal lies.

241. No appeal shall lie from a judgment, sentence or order of a criminal court except as provided for by this Code or by any other law for the time being in force.

[40]

242.

Deleted by Act 2/94 wef 8.4.94 vide S 173/94.

Orders on appeal; action thereon.

243. The High Court and all courts from which an appeal is taken in any criminal matter shall, in all cases of appeal to the Judicial Committee, conform to, execute and carry into immediate effect such judgments and orders as the Judicial Committee makes thereupon in such manner and by such procedure as any original judgment, decree or order of such court can or may be executed.

[42]

When plea of guilty limited right of appeal.

244. When an accused person has pleaded guilty and been convicted by a District Court or Magistrate's Court on that plea there shall be no appeal except as to the extent or legality of the sentence.

[43]

Appeal against acquittal.

245. When an accused person has been acquitted by a District Court or Magistrate's Court there shall be no appeal except by the Public Prosecutor.

[44]

Copy of record to be supplied.

246. —(1) The complainant or the accused in any criminal prosecution in a District Court or Magistrate's Court may, upon lodging a notice of appeal in accordance with section 247 and upon payment of a fee of \$5, obtain a copy of the record of the case or matter unless the court for some special reason thinks fit to furnish it free of cost.

(2) An application for a copy of the record and of the grounds of decision may be made at any time by the Public Prosecutor, by whom no fee shall be payable.

[45]

Procedure for appeal.

247. —(1) Subject to sections 242, 244 and 245 any person who is dissatisfied with any judgment, sentence or order pronounced by any District Court or Magistrate's Court in a criminal case or matter to which he is a party may prefer an appeal to the High Court against that judgment, sentence or order in respect of any error in law or in fact or, in an appeal against sentence, on the ground that the sentence imposed is manifestly excessive or inadequate by lodging, within 10 days from the time of the judgment, sentence or order being passed or made, with the Registrar of the Subordinate Courts at the court house at which the trial was held, a notice of appeal in triplicate addressed to the High Court.
Notice of appeal.

(2) Every notice of appeal shall contain an address at which any notices or documents connected with the appeal may be served upon the appellant or upon his advocate.

(3) When a notice of appeal has been lodged the court appealed from shall make a signed copy of the grounds of decision in the case and cause it to be served upon the appellant or his advocate by leaving it at the address mentioned in the notice of appeal, or by posting it by registered post addressed to the appellant at that address.

Petition of appeal.

(4) Within 10 days after the copy of the grounds of decision has been served as provided in subsection (3), the appellant or his advocate shall lodge with the Registrar of the Subordinate Courts at the court house at which the trial was held a petition of appeal in triplicate addressed to the High Court.

Form 42.

(5) Every petition of appeal shall state shortly the substance of the judgment appealed against and shall contain definite particulars of the points of law or of fact, if any, in regard to which the court appealed from is alleged to have erred.

(6) The District Court or Magistrate's Court may, in its discretion, require the appellant to give security for the costs of appeal in such sum not exceeding \$75 as it considers reasonable.

(7) If a petition of appeal is not lodged within the time prescribed by this section the appeal shall be deemed to have been withdrawn and the trial court shall enforce its sentence or order if any stay of execution has been granted, but nothing herein shall be deemed to limit or restrict the powers conferred upon the High Court by section 250.

(8) In the case of an appeal by the Public Prosecutor no fee shall be payable nor shall any security be required.

[46]

Bail pending appeal.

248. A District Court or Magistrate's Court may grant bail to any person who has filed a notice of appeal against his conviction in accordance with section 247.

[47]

Copy of record, grounds of decision, notice and petition of appeal to be sent to the High Court and to the respondent.

249. When section 247 has been complied with, the court appealed from shall transmit to the High Court and to the Public Prosecutor or to the respondent or his advocate, as the case may be, a signed copy of the record of the proceedings and of the grounds of the decision together with a copy of the notice and of the petition of appeal.

[48]

Appeal specially allowed in certain cases.

250. The High Court may, on the application of any person desirous of appealing who is debarred from so doing upon the ground of his not having observed some formality or some requirement of this Code, permit an appeal upon such terms and with such directions to the District Judge or to the Magistrate and to the parties as the Court considers desirable in order that substantial justice may be done in the matter.

[49]

Stay of execution pending appeal.

251. No appeal shall operate as a stay of execution, but the courts below and the High Court may stay execution on any judgment, order, conviction or sentence pending appeal on such terms as to security for the payment of any money or the performance or non-performance of any act or the suffering of any punishment ordered by or in the judgment, order, conviction or sentence as to the court seem reasonable.

[50]

Setting down appeal on list.

252. —(1) The Registrar shall number the appeal and enter it on the list of appeals to be heard and give notice to the parties that the appeal has been so entered.

(2) As soon as a date has been fixed the Registrar shall give to the parties notice of the date of hearing of the appeal.

(3) An appeal shall ordinarily be heard by a single Judge, but any appeal shall, on the request in writing of the Public Prosecutor at any time before the hearing or on the order of a Judge at any time before judgment, be reserved for hearing and be heard before a court consisting of 3 or more Judges.

(4) Appeals before 3 or more Judges shall be decided in accordance with the opinion of the majority of the Judges composing the court, but if there is no such majority in accordance with the opinion of the Chief Justice or presiding Judge.

(5) In any case the High Court may, of its own motion or on the application of a party concerned and with reasonable notice to the parties, accelerate or postpone the hearing of an appeal upon any such terms as to the costs of the appeal or otherwise as it thinks fit.

[51]

Procedure at hearing.

253. —(1) When the appeal comes on for hearing the appellant, if present, shall be first heard in support of the appeal, the respondent if present shall be heard against it, and the appellant shall be entitled to reply.

(2) If the appellant does not appear to support his appeal in person or by counsel the court shall consider his appeal, if the appellant is in custody, and may make such order thereon as it thinks fit.

(3) If the appellant has been granted bail on a recognizance which is to be void if the appellant shall personally appear at the High Court during the hearing of the appeal, the court may dismiss the appeal if the appellant does not appear in person before the High Court on the hearing of the appeal: Provided that the court may, if it sees fit, reinstate the appeal if the appellant subsequently appears before the court and satisfies the court that his non-appearance was not due to his own fault.

[52]

Non-appearance of respondent.

254. —(1) If at the hearing of the appeal the respondent is not present and the court is not satisfied that the notice of appeal was duly served upon him, the court shall not make any order in the matter of the appeal adverse to or to the prejudice of the respondent, but shall adjourn the hearing of the appeal to a future day for his appearance and shall issue the requisite notice to him for service through the Registrar.

(2) If service of the last-mentioned notice on the respondent cannot be effected, the court shall proceed to hear the appeal in his absence.

[53]

Arrest of respondent in certain cases.

255. When an appeal is presented against an acquittal the High Court may issue a warrant directing that the accused shall be arrested and brought before it and may commit him to prison pending the disposal of the appeal or admit him to bail.

[54]

Decision on appeal.

256. At the hearing of the appeal the court may, if it considers there is no sufficient ground for interfering, dismiss the appeal or may —

(a) in an appeal from an order of acquittal, reverse the order and direct that further inquiry shall be made or that the accused shall be retried or committed for trial, as the case may be, or find him guilty and pass sentence on him according to law;

(b) in an appeal from a conviction —

(i) reverse the finding and sentence and acquit or discharge the accused or order him to be retried by a court of competent jurisdiction or committed for trial;

(ii) alter the finding, maintaining the sentence, or, with or without altering the finding, reduce or enhance the sentence; or

(iii) with or without the reduction or enhancement and with or without altering the finding, alter the nature of the sentence;

(c) in an appeal as to sentence, reduce or enhance the sentence, or alter the nature of the sentence; or

(d) in an appeal from any other order, alter or reverse the order.

[55]

Order to take further evidence.

257. —(1) In dealing with any appeal under this Chapter the High Court, if it thinks additional evidence is necessary, may either take such evidence itself or direct it to be taken by a District Court or Magistrate's Court.

(2) When the additional evidence is taken by the District Court or Magistrate's Court, it shall certify that evidence to the High Court and that Court shall then, as soon as possible, proceed to dispose of the appeal.

(3) Unless the High Court otherwise directs, the accused or his advocate shall be present when the additional evidence is taken.

(4) The taking of evidence under this section shall, for the purposes of Chapter XXIII, be deemed to be an inquiry.

[56]

Judgment.

258. On the termination of the hearing of the appeal the High Court shall, either at once or on some

future day which is then appointed for the purpose or of which notice is subsequently given to the parties, deliver judgment in open court.

[57]

Consequence of judgment.

259. —(1) Whenever a case is decided on appeal by the High Court under this Chapter, it shall certify its judgment or order to the court by which the finding, sentence or order appealed against was recorded or passed.

(2) Whenever an appeal is not dismissed such certificate shall state the grounds upon which the appeal was allowed or the decision of the court appealed from was varied.

(3) The court to which the High Court certifies its judgment or order shall thereupon make such orders as are conformable to the judgment or order of the High Court, and, if necessary, the record shall be amended in accordance therewith.

(4) If the High Court imposes a sentence of imprisonment on any person upon whom no such sentence was imposed by the court appealed from, the High Court shall by warrant commit that person to prison in addition to anything else which it is required to do by this section and shall certify accordingly to the court appealed from.

[58]

Death of parties to appeal.

260. Every appeal under section 245 shall finally abate on the death of the accused and every other appeal under this Chapter, except an appeal against a sentence of fine, shall finally abate on the death of the appellant.

[59]

Grounds for reversal of judgment, etc., of District Court or Magistrate's Court.

261. No judgment, sentence or order of a District Court or Magistrate's Court shall be reversed or set aside unless it is shown to the satisfaction of the High Court that the judgment, acquittal, sentence or order was either wrong in law or against the weight of the evidence, or, in the case of a sentence, manifestly excessive or inadequate in the circumstances of the case.

[60]

Costs.

262. —(1) The High Court shall have full power in all proceedings under Part VII to award such costs to be paid by or to the parties thereto as the Court thinks fit.

(2) Costs awarded to be paid by the Public Prosecutor shall be provided out of the Consolidated Fund and be payable by the Accountant-General, and the Public Prosecutor shall not be personally liable for them.

(3) Costs awarded to be paid to the Public Prosecutor shall be paid by the party ordered to pay them into the Consolidated Fund.

[61]

***DIVISION CHAPTER XXIX
POINTS RESERVED***

Reservation of points of law and stating of cases.

263. —(1) Any Magistrate's Court or District Court acting in summary jurisdiction in any criminal cause or matter may, on the written application of any party to the proceedings made to the court within 10 days from the time of the judgment, sentence or order passed or made in it, or without any such application, if the court thinks fit, reserve for the consideration of the High Court any question or questions of law arising in the proceedings setting out shortly the facts on which the law is being applied and the questions of law to be determined on them.

(2) Every question of law so reserved shall be submitted to the High Court in the shape of a special case in the form in Schedule B.

Form 43.

(3) If the court is of the opinion that any application made is frivolous but not otherwise, it may refuse to state a case and shall on the request of the applicant sign and deliver to him a certificate of the refusal:

Provided that the court shall not refuse to state a case where the application is made by the Public Prosecutor.

(4) Where a court refuses to state a case under subsection (3) it shall be lawful for the applicant to apply to the High Court for an order of mandamus and if the High Court makes the order the court shall state the case accordingly.

(5) Every such special case shall be drawn up by the Magistrate or District Judge of the court before which the proceedings are held and shall —

(a) set out shortly the facts which are considered by the Magistrate or District Judge to be proved;

(b) state the question or questions of law which is or have been reserved for the opinion of the High Court; and

(c) be sent by the Magistrate or the District Judge to the Registrar.

(6) The Registrar on receiving a special case shall send a copy of it to every party to the proceedings and to the Public Prosecutor if he is not a party and shall have the case set down for argument in such manner as to the High Court seems fit.

[62]

Determination and order.

264. —(1) The High Court shall hear and determine the question or questions 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 remit the matter to the Magistrate or District Judge with the opinion of the Court on it or may make such order in relation to the matter as to the Court seems fit.

(2) No Magistrate or District Judge who states and delivers a special case in pursuance of this Code shall be liable to any costs with respect to it.

[63]

Point reserved for Court of Criminal Appeal.

265. Repealed by Act 16/93 wef 1.7.93.

Revision Of Proceedings Before Subordinate Courts

Power to call for records of subordinate courts.

266. —(1) The High Court may call for and examine the record of any criminal proceeding before any subordinate court for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed and as to the regularity of any proceedings of that subordinate court.

(2) Orders made under sections 105 and 106 and proceedings under Chapter XXX are not proceedings within the meaning of this section.

[65]

Power to order further inquiry.

267. On examining any record under section 266 or otherwise the High Court may direct the Magistrate to make, and the Magistrate shall make, further inquiry into any complaint which has been dismissed under section 134 or into the case of any accused person who has been discharged.

[66]

Power of court on revision.

268. —(1) The High Court 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 by sections 251, 255, 256 and 257.

(2) No order under this section shall be made to the prejudice of the accused unless he has had an opportunity of being heard either personally or by advocate in his own defence.

(3) Nothing in this section shall be deemed to authorise the High Court to convert a finding of acquittal into one of conviction.

[67]

Permission for parties to appear.

269. No party has any right to be heard either personally or by advocate before the High Court when exercising its powers of revision:

Provided that the Court may, if it thinks fit, when exercising such powers, hear any party either personally or by advocate, and that nothing in this section shall be deemed to affect section 268 (2).

Orders on revision.

270. When a case is revised under this Chapter by the High Court it shall certify its decision or order to the court by which the finding, sentence or order revised was recorded or passed, and the court to which the decision or order is so certified shall thereupon make such orders as are conformable to the decision so certified, and, if necessary, the record shall be amended in accordance therewith

**PART VIII
SPECIAL PROCEEDINGS
DIVISION CHAPTER XXX
INQUIRIES OF DEATHS**

Interpretation.

271. In this Chapter, unless the context otherwise requires —

"inquiry" means an investigation as to the cause of any death held by a Coroner;

"institution" means any place in which under any written law any person is or may be detained;

"medical officer" means any pathologist or any medical officer in charge of any hospital;

"view" includes the making of any necessary external examination.

[70]

Procedure In Case Of Unnatural Death

Notice of death by superintendents of institutions.

272. The superintendent, manager or other person in charge of any institution within which any person dies shall forthwith give notice of the death to a Coroner within whose jurisdiction the institution lies.

[71]

Duty of police on receiving information.

273. —(1) On information being given to a police officer of the death of any person or that the dead body of a person has been found and that there is reason to suspect that the person came by his death in a sudden or unnatural manner or by violence, or if the manner in which the person came by his death is unknown, that officer or some other police officer shall at once go to the spot where the body is lying or the death is believed to have occurred and use his best endeavours to discover the cause of the death of the deceased and may arrest any person whom he reasonably suspects of having caused the death.

[72]

(2) As soon as possible after that officer has seen the dead body or started his investigation he shall notify a Coroner stating any particulars concerning the cause of death which have come to his knowledge, and giving his opinion as to whether the death was due to any unlawful act or omission or not.

Removal of body by order of police officer.

(3) In any case where the death has not been reported to a Coroner as due to any unlawful act or omission any police officer who has viewed the body and thereafter certified in writing that there appears no reason to suspect that the death was due to any unlawful act or omission may cause the body to be removed to such place as that officer directs, pending the order of a Coroner, and every such certificate shall be delivered to the Coroner.

(4) A police officer investigating the circumstances connected with any death which has been reported to a Coroner under this section shall from time to time furnish that Coroner with any further particulars concerning the death which may subsequently come to his knowledge, together with the name of any person who has been arrested and charged in connection with the death.

[72]

Coroner'S Order For Burial Of Body

View of body by Coroner or burial without view.

274. —(1) Where the finding of a dead body under the circumstances mentioned in section 273 is reported to or comes to the knowledge of a Coroner within whose jurisdiction the dead body has been found, that Coroner —

(a) shall, as soon as possible, proceed to the place where the body is and view the body;

(b) may order the body to be removed to some more convenient place, and, subject to paragraph (c), shall view the body at that place; or

(c) if the death has not been reported as due to any unlawful act or omission, may, if it appears to him unnecessary to view the body, forthwith issue an order for the burial thereof.

Preliminary investigation.

(2) In the case of every such dead body as is referred to in subsection (1) the Coroner shall make a preliminary investigation.

(3) If he considers after making a preliminary investigation that death was due to natural causes and that it is unnecessary to hold an inquiry, he may if the body is still unburied, issue an order for the burial thereof.

(4) Such order may be issued either before or after any examination of the body by a medical officer.

(5) In every case where a body is buried by order of a Coroner and no inquiry is held, the Coroner shall report the facts to the Public Prosecutor with his reasons for not holding an inquiry and shall transmit all reports and documents in his possession connected with the matter.

[73]

Burial order where inquiry to be held.

275. —(1) In cases where the body has not been buried as provided in section 274 —

(a) if an inquiry is to be held and a Coroner considers that it is unnecessary to order a post mortem examination of the body of the deceased person to be made, he may authorise the burial of the body without any such examination;

(b) if an inquiry is to be held and a Coroner considers it expedient to order a post mortem examination of the body of the deceased person to be made, he may authorise the burial of the body after the examination has been duly made by the medical officer.

(2) The authorisation for burial under this section may be given by a Coroner at any time after he has viewed the body.

[74]

Inquiries

Holding of inquiry.

276. Where the finding of a dead body under the circumstances mentioned in section 273 is reported to or comes to the knowledge of a Coroner within whose jurisdiction the dead body has been found, that Coroner shall, subject to section 274, hold an inquiry.

[75]

Inquiry in case of person dying in institution or suffering capital punishment.

277. An inquiry shall be held in every case of the death of a person detained in an institution or of a person who suffers capital punishment.

[76]

Power of Public Prosecutor to require inquiry to be held.

278. —(1) Where the dead body of any person has been found, the Public Prosecutor may require any Coroner to hold an inquiry into the cause of, and the circumstances connected with, the death of that person, and every Coroner so required may and shall hold the inquiry.

(2) The Public Prosecutor may also direct whether the body shall or shall not be exhumed and the Coroner shall comply with the direction.

[77]

Inquiry where body destroyed or irrecoverable.

279. When a Coroner has reason to believe that a death has occurred within his jurisdiction in such circumstances that an inquiry ought to be held, and that owing to the destruction of the body by fire or otherwise or to the fact that the body is lying in a place from which it cannot be recovered, an inquiry cannot be held except by virtue of this section, he may report the facts to the Public Prosecutor and the Public Prosecutor may, if he considers it desirable to do so, direct that an inquiry shall be held accordingly and the law relating to Coroners and Coroners' inquiries shall apply with such modifications as may be necessary in consequence of the inquiry being held otherwise than on or after view of a body lying within the Coroner's jurisdiction.

Adjournment of inquiry in cases of murder, culpable homicide not amounting to murder, or causing death by rash or negligent act, when any person has been charged before a court in connection with such death.

280. —(1) If on an inquiry touching the death of any person a Coroner is informed that some person has been charged before a District Judge or Magistrate with the murder, culpable homicide not amounting to murder, or causing death by a rash or negligent act, of the deceased, he shall, in the absence of reason to the contrary, adjourn the inquiry until after the conclusion of the criminal proceedings.

(2) After the conclusion of the criminal proceedings the Coroner may, subject as hereinafter provided, resume the adjourned inquiry if he is of opinion that there is sufficient cause to do so:

Provided that, if in the course of the criminal proceedings any person has been committed for trial before the High Court or tried by a District Judge, then upon the resumed inquiry no inquisition shall charge that person with an offence of which he could have been convicted at the trial or contain any finding which is inconsistent with the result of those proceedings.

(3) Where a Coroner resumes an inquiry which has been adjourned in accordance with this section, he shall continue with the inquiry from the stage at which it was adjourned.

(4) If, having regard to the result of the criminal proceedings, the Coroner decides not to resume the inquiry he shall endorse his record accordingly and also the certificate required under section 299 and shall transmit the depositions and records to the Public Prosecutor together with the certificate duly filled up and signed by him as required under section 299 in the case of a completed inquiry. He shall also send a copy of the certificate to the Commissioner of Police.

(5) It shall be the duty of the District Judge or Magistrate before whom a person is charged with murder, culpable homicide not amounting to murder or causing death by a rash or negligent act to inform the Coroner who is responsible for holding an inquiry of the result of the criminal proceedings before him, and it shall be the duty of the Registrar of the Supreme Court to inform the Coroner of the result of any proceedings before the High Court or the Court of Criminal Appeal.

Form 44. Forms 45 and 46.

(6) For the purpose of this section, "criminal proceedings" means the proceedings before the Magistrate at a preliminary inquiry, and before any court by which the accused person is tried or before which an appeal from the decision of that court is heard, and criminal proceedings shall not be deemed to be concluded until no further appeal or action can be made in the course of them.

[79

Power of Public Prosecutor to direct further investigation in certain cases.

281. —(1) Where the proceedings at any inquiry have been closed by a Coroner and it appears to the Public Prosecutor that further investigation is necessary, the Public Prosecutor may require the Coroner to reopen the inquiry and make further investigation and thereupon that Coroner may and shall reopen the inquiry and make further investigation and thereafter proceed in the same manner as if the proceedings at the inquiry had not been closed by the Coroner.

(2) This section shall not apply to any inquiry at which any finding of murder or culpable homicide not amounting to murder or causing death by a rash or negligent act has been returned against any person named in it.

[80

Post mortem examination of body.

282. —(1) In every case where it is expedient that the dead body of any person should be examined by a medical officer, a Coroner shall forthwith issue his order to a medical officer to make or cause to be made a post mortem examination of the body of the deceased person.

(2) A medical officer, if it is necessary in order to ascertain the cause of death or if instructed to do so by the Coroner, shall extend the examination to the dissection of the body and an analysis of any portion of it and may cause any portion of it to be transmitted to the Health Sciences Authority for any examination or analysis to be carried out thereon.

S 46/77.

(3) For the purpose of such post mortem examination, the Coroner may order the removal of the body to any place within his jurisdiction which may be provided for that purpose.

[81]

Medical report of examination.

283. —(1) A medical officer making any such examination shall —

- (a) draw up a report of the appearance of the body and of the conclusions which he draws from it;
- (b) certify as to the cause of death; and
- (c) date and sign the report and send it to the Coroner who ordered the examination.

(2) The report so made shall be admissible as evidence and shall be prima facie evidence of the facts stated in it at any inquiry held under this Chapter and also in any inquiry held under Chapter XVII.

(3) If the medical officer who has made such examination is summoned by the Coroner as a witness, he may be asked to give evidence as to his opinion upon any matter arising out of the examination, and as to how in his opinion the deceased came by his death.

[82]

Procedure At Inquiries

Inquiries to be made by Coroner.

284. At every inquiry the Coroner shall inquire when, where, how and after what manner the deceased came by his death and also whether any person is criminally concerned in the cause of the death.

[83]

Coroner may summon witnesses.

285. —(1) A Coroner shall have and exercise all the powers of a Magistrate's Court with regard to summoning and compelling the attendance of witnesses and requiring them to give evidence and with regard to the production of any document or thing at any inquiry held by him.

(2) Every summons and warrant of arrest and summons to produce shall be in writing signed by the Coroner and shall bear his seal of office.

Forms 47 to 50.

(3) Such summons to appear or summons to produce shall ordinarily be served by a police officer, but the Coroner may, if he sees fit, direct it to be served by some other person.

(4) The provisions of Chapters V and VI shall, as far as may be, apply in relation to summonses, warrants, and summonses to produce issued by a Coroner.

[84]

Evidence how recorded.

286. —(1) The evidence of every witness and the statement or evidence of any accused person shall be taken down and recorded in the form of a deposition in the manner prescribed by sections 205 to 210 in the case of inquiries under Chapter XVII.

(2) Notwithstanding anything in the Evidence Act the accused shall be a competent witness in his own behalf in all inquiries under this Chapter.

[85]

Cap. 97.

Powers of Coroner.

287. A Coroner shall have all the powers conferred upon a Magistrate's Court under Chapter XXXII.

[86]

Right of accused person to be present.

288. Every person accused of having caused the death of a deceased person or with having been concerned in it may attend and cross-examine each witness produced against him as well as produce witnesses in his defence.

[87]

Right of accused person to examine medical officer.

289. Where at any inquiry the report of the medical officer who has made a post mortem examination of the body of a deceased person is received in evidence and any person who is charged with having caused the death of the deceased person or with having been accessory thereto desires to examine that medical officer, he may require the Coroner to summon the medical officer and the Coroner, when so required, shall thereupon summon that medical officer as a witness for the prosecution.

[88]

Statement of accused person.

290. —(1) After the evidence on behalf of the prosecution is closed the Coroner in the event of any accused person being present shall say to him these words or words to the like effect:
Having heard the evidence do you wish to say anything? You are not obliged to say anything unless you desire to do so; but whatever you do say will be taken down in writing and may be given in evidence in subsequent proceedings

(2) The statement of the Coroner to the accused or the effect of it and any statement made by the accused or evidence given by him shall be recorded by the Coroner as part of the depositions and shall be transmitted with them as hereinafter mentioned.

[89]

Recording of finding of Coroner.

291. After the whole of the evidence is closed and the statement or evidence of the accused person, if any, taken down, the Coroner shall record in writing his finding on the evidence.

[90]

Prosecution by Coroner's order.

292. —(1) If the Coroner is of opinion during the course or at the close of any inquiry that sufficient grounds are disclosed for charging any person under the Penal Code with having caused or assisted in causing the death of the deceased person, he may issue his warrant for the apprehension and committal of that person to prison to be brought before a court to be prosecuted according to law and he may bind over any witness who has been examined before him in a recognizance with or without surety to appear and give evidence before that court.

Cap. 224.

(2) Every person who has been committed to prison as aforesaid may require and shall be entitled to copies of the depositions and of the statement, if any, of the accused person on payment of the like fees as are by law payable for copies of other depositions.

(3) Where a person has been committed to prison by a Coroner, the Coroner, in any case in which a Magistrate's Court has power to accept bail, may accept bail, if he thinks fit, with good and sufficient sureties for the appearance of the person so charged before a court; and thereupon that person, if in custody, shall be discharged therefrom.

[91]

Course when guilty party unknown.

293. If the Coroner is of opinion at the close of any inquiry that there is ground for suspecting that some person is guilty of an offence under the Penal Code in respect of the matter inquired into, but he cannot ascertain who that person is, he shall transmit a copy of the depositions taken by him on the inquiry to the Commissioner of Police, together with a certificate to that effect.

[92]

Form 51.

Certificate of Commissioner of Police.

294. Where a copy of the depositions taken by a Coroner on any inquiry has been transmitted to the Commissioner of Police under section 293, if the Commissioner of Police is satisfied that due diligence has been used by the police to discover the guilty person but that person remains undiscovered and there is in the opinion of the Commissioner of Police no probability that the guilty person will be discovered, he shall certify his opinion to that effect in writing to the Public Prosecutor.

[93]

Adjournment of inquiries.

295. A Coroner holding an inquiry in any place may adjourn the inquiry to another day and order the adjourned inquiry to be held in the same or any other place.

[94]

Inquiry may be held by Coroner other than the one who viewed the body.

296. Whenever from any cause the Coroner who has viewed the body of any deceased person and has authorised the burial thereof is unable to hold the inquiry himself, then any other Coroner may hold the inquiry but it shall not be obligatory for that other Coroner to view the body.

[95]

Inquiry may be continued by Coroner other than the one commencing it.

297. Whenever from any cause a Coroner holding an inquiry is unable conveniently to complete the proceedings of the inquiry himself, another Coroner may complete the case and proceed as if he had viewed the body and recorded all the evidence himself.

[96

Inquiry held in private.

Depositions to be sent to Public Prosecutor.

299. Whenever any inquiry has been held, the Coroner shall forthwith transmit the depositions and records taken by him on the inquiry to the Public Prosecutor, together with a certificate to that effect duly filled up and signed by him.

[98

Form 52.

Exhumation Of Body

Exhumation.

300. A Coroner may, if he thinks fit and whether an inquiry is pending or not, order that the body of any deceased person shall be exhumed and he shall view the body and, if necessary, order that a post mortem examination shall be made by a medical officer.

[99

Offences

Penalty where body is buried without authority.

301. —(1) Subject to section 273, any person who without lawful excuse interrs or causes to be interred the body of any person who has died in any institution or the body of any deceased person found under the circumstances mentioned in section 273 before he has received the order of the Coroner shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$200.

(2) Where any person is charged with having committed an offence under this section the onus of proving that he had lawful excuse or that he received the order of a Coroner shall be on the person charged.

[00

Inquiry when to be deemed a proceeding between Public Prosecutor and accused.

302. An inquiry at which a finding of culpable homicide amounting to murder or culpable homicide not amounting to murder or causing the death of a person by doing a rash or negligent act not amounting to culpable homicide has been returned against any person shall be deemed to be a proceeding between the Public Prosecutor and the accused within the meaning of section 33 of the Evidence Act.

[01

Cap. 97.

Miscellaneous Provisions

Admissibility of deposition on trial.

303. If on the trial of any person against whom a finding of culpable homicide amounting to murder or culpable homicide not amounting to murder or causing death by a rash or negligent act has been returned at any inquiry it is proved by the oath of any credible witness that any person whose deposition was taken at the inquiry is dead or that the attendance of that witness cannot be procured without an amount of delay or expense which under the circumstances of the case appears to the court unreasonable and it is shown that the person against whom that deposition is intended to be given in evidence had the opportunity of cross-examining that person, if the deposition purports to be signed by the Coroner before whom it purports to have been taken, it shall be lawful to read that deposition as evidence without any further proof of it unless it is proved that the deposition was not in fact signed by the Coroner purporting to sign it.

[02

Admissibility of medical report in certain cases.

304. —(1) Where on the trial of any person as aforesaid it is proved that the medical officer who made a post mortem examination of the body of the deceased person is dead or absent from Singapore, it shall be lawful to receive any report of that medical officer made under the provisions of this Code as

evidence with respect to the appearances of the body when examined by that medical officer and as regards the cause of death.

(2) Such evidence shall be subject to such deduction from its weight as the court thinks proper to make by reason of that report not having been made upon oath and the accused person not having had any opportunity of cross-examination.

[03

Custody of proceedings.

305. The Public Prosecutor shall from time to time cause to be delivered to the Registrar of the Supreme Court the proceedings upon all inquiries transmitted to him and thereupon the Registrar shall take charge of those proceedings and shall keep a proper index of them.

[04

Death of workman to be reported to Commissioner for Labour.

306. —(1) Where at any inquiry held by a Coroner it appears that the death of any workman was due to injuries received in the course of his employment, the Coroner shall transmit to the Commissioner for Labour a copy of the finding.

(2) In this section,

"workman" has the same meaning as in the Employment Act.

[05

Cap. 91.

***DIVISION CHAPTER XXXI
PERSONS OF UNSOUND MIND***

Interpretation.

307. For the purposes of this Chapter, "medical superintendent" means the medical officer in charge of a mental hospital and includes any assistant medical superintendent.

[06

Procedure when accused is suspected to be of unsound mind.

308. —(1) When a Judge or District Judge holding a trial or a Magistrate holding or about to hold an inquiry or trial has reason to suspect that the accused is of unsound mind and consequently incapable of making his defence, the Judge, District Judge or Magistrate, as the case may be, shall in the first instance investigate the fact of such unsoundness.

(2) Such investigation may be held in the absence of the accused person if the court is satisfied that owing to the state of the accused's mind it would be in the interests of the safety of the accused or of other persons or in the interests of public decency that he should be absent, and the court may receive as evidence a certificate in writing signed by a medical officer to the effect that the accused person is in his opinion of unsound mind or is a proper person to be detained for observation in a mental hospital, or the court may, if it sees fit, take oral evidence from a medical officer on the state of mind of the accused person.

(3) If the Judge, District Judge or Magistrate, as the case may be, is not satisfied that that person is capable of making his defence, the court shall postpone the inquiry or trial and shall remand that person for a period not exceeding one month to be detained for observation in a mental hospital.

(4) The medical superintendent shall keep that person under observation during the period of his remand and before the expiry of that period shall either in person or in writing certify to the court his opinion as to the state of mind of that person, and if he is unable within that period to form any definite conclusion, shall so certify to the court and shall ask for a further remand. Such further remand may extend to a period of two months.

(5) Any court before which a person suspected to be of unsound mind is accused of any offence may, on the application of the Public Prosecutor, made at any stage of the proceedings before the trial, order that that person be sent to a mental hospital for observation. The medical superintendent may, notwithstanding any other provision of law, detain any such accused person for such period, not exceeding one month, as may be necessary to enable him to form an opinion as to the state of mind of that person, and shall forward a copy of his opinion, in writing, to the Public Prosecutor.

[07

Certificate of medical superintendent.

309. —(1) If the medical superintendent certifies that the accused person is of sound mind and capable of making his defence, the court shall, unless satisfied to the contrary, proceed with the inquiry or trial, as the case may be.

(2) If the medical superintendent certifies that that person is of unsound mind and incapable of making his defence, the Judge, District Judge or Magistrate shall unless satisfied to the contrary, find accordingly, and thereupon the inquiry or trial, as the case may be, shall be postponed but if the Judge, District Judge or Magistrate is satisfied that the accused person is of sound mind and capable of making his defence the court shall proceed with the inquiry or trial, as the case may be.

(3) The trial of the issue as to whether or not the accused person is of unsound mind and incapable of making his defence shall, if the finding is that he is of sound mind and capable of making his defence, be deemed to be part of his trial before the court.

(4) The certificate of the medical superintendent shall be receivable as evidence under this section.

(5) If the accused person is certified to be of unsound mind and incapable of making his defence it shall not be necessary for him to be present in court during proceedings under this section and he may be detained in a mental hospital pending an order under section 310.

[08

Release of person of unsound mind pending investigation or trial.

310. —(1) Whenever an accused person is found to be of unsound mind and incapable of making his defence, the court, if the offence charged is bailable, may, in its discretion, release him on sufficient security being given that he will be properly taken care of and will 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 that behalf.

(2) If the offence charged is not bailable or if sufficient security is not given, the court shall report the case to the Minister who may, in his discretion, order the accused to be confined in a mental hospital or other suitable place of safe custody and the court shall give effect to the order.

(3) Pending the order of the Minister the accused may be remanded for detention in a prison, mental hospital or other suitable place of safe custody.

[09

Resumption of inquiry or trial.

311. Whenever an inquiry or trial is postponed under section 308 or 309 the court may at any time reopen the inquiry or commence the trial de novo and require the accused to appear or be brought before the court.

[10

Resumption of proceedings under section 308.

312. When the accused has been released under section 310 the court may at any time require the accused to appear or be brought before it and may again proceed under section 308.

[11

When accused appears to have been of unsound mind.

313. When the accused appears to be of sound mind at the time of any inquiry before a Magistrate's Court and the Court is satisfied from the evidence given before it 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 and, if the accused ought otherwise to be committed to the High Court, send him for trial.

[12

Judgment of acquittal on ground of mental disorder.

314. Whenever any person is acquitted upon the ground that at the time at which he is alleged to have committed an offence he was by reason of unsoundness of mind incapable of knowing the nature of the act alleged as constituting the offence or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

[13

Safe custody of person acquitted.

315. —(1) Whenever the finding states that the accused person committed the act alleged, the court before which the trial has been held shall, if that act would but for incapacity found have constituted an offence, order that 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 order that person to be confined in a mental hospital, prison or other suitable place of safe custody during the President's pleasure.

[14

Visiting of prisoners of unsound mind.

316. When any person is confined under section 310 or 315 the medical officer of the prison, if that 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 6 months by that medical officer or by two of those visitors, and the medical officer or visitors shall make a special report to the Minister as to the state of mind of that person.

[15

Procedure when person of unsound mind reported able to make defence.

317. When any person is, under section 310, confined —

(a) in a prison and is certified by the medical officer thereof to be capable of making his defence; or
(b) in a mental hospital and is similarly certified by the medical superintendent and any two visitors thereof,

that person shall be taken before the court at such time as the court appoints, and the court shall proceed with the trial or inquiry, as the case may be, and the aforesaid certificate shall be receivable as evidence.

[16

Procedure when person of unsound mind reported fit for discharge.

318. If the medical officer of a prison or the medical superintendent and two visitors of a mental hospital in which a person is confined under section 310 or 315 certify that that person in his or their judgment 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 in prison or to be transferred to a mental hospital if he has not been already sent to a mental hospital, and, in case he orders him to be transferred to a mental hospital, may appoint a commission consisting of a Magistrate and two medical officers to make formal inquiry into the state of mind of that person, taking such evidence as is necessary, and to report to the Minister, who may order his discharge or detention as he thinks fit.

[17

Delivery of person of unsound mind to care of relative.

319. —(1) Whenever any relative or friend of any person confined under section 310 or 315 desires that that person be delivered over to his care and custody, the Minister, upon the application of that relative or friend and on his giving security to the satisfaction of the Minister that the person delivered will be properly taken care of and will be prevented from doing injury to himself or to any other person, may, in his discretion, order that person to be delivered to that relative or friend:

Provided that if the person is confined under section 310, the Minister may further require the relative or friend to give security to the satisfaction of the Minister that if at any time it appears to the Minister that that person is capable of making his defence, that relative or friend will produce that person for trial.

(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) Sections 316 and 318 shall mutatis mutandis apply to persons delivered under this section.

[18

***DIVISION CHAPTER XXXII
PROCEEDINGS IN CASE OF CERTAIN OFFENCES AFFECTING THE
ADMINISTRATION OF JUSTICE***

Procedure as to offences committed in court, etc.

320. When any such offence as is described in section 175, 178, 179, 180 or 228 of the Penal Code is

committed in the view or presence of any civil or criminal court other than the High Court, the court may cause the offender to be detained in custody and at any time before the rising of the court on the same day may, if it thinks fit, take cognizance of the offence and sentence the offender to a fine not exceeding \$500 or to imprisonment for a term not exceeding 3 months or to both.

[19

Cap. 224. Form 53.

Record of facts constituting the offence.

321. —(1) In every such case the court shall record the facts constituting the offence with the statement, if any, made by the offender as well as the finding and sentence.

(2) If the offence is under section 228 of the Penal Code the record 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.

[20

Cap. 224.

Alternative procedure.

322. If the court, in any case considers that a person accused of any of the offences referred to in section 320 and committed in its view or presence may be better dealt with by ordinary process of law, the court, after recording the facts constituting the offence and the statement of the accused as provided in section 321, may direct the accused to be prosecuted and may require security to be given for the appearance of the accused person before a Magistrate's Court or, if sufficient security is not given, may take that person under custody to a Magistrate's Court.

[21

Power to remit punishment.

323. When any court has under section 320 adjudged an offender to punishment for refusing or omitting to do anything which he was lawfully required to do or for any intentional insult or interruption, the court may, in its discretion, discharge the offender or remit the punishment or any part of it on his submission to the order or requisition of the court or on apology being made to its satisfaction.

[22

Refusal to give evidence.

324. —(1) If any witness before a criminal court refuses to answer such questions as are put to him or to produce any document in his possession or power which the court requires him to produce and does not offer any reasonable excuse for such refusal, that court may, for reasons to be recorded in writing, sentence him to imprisonment for a term which may extend to 7 days unless in the meantime he consents to be examined and to answer or to produce the document.

Form 54.

(2) In the event of his persisting in his refusal he may be dealt with according to section 320 or 322 notwithstanding any sentence he has undergone under this section.

[23

Appeal.

325. —(1) Any person sentenced by any court under this Chapter may appeal to the High Court.

(2) Chapter XXVIII shall, so far as it is applicable, apply to appeals under this section and the appellate court may alter or reverse the finding or reduce, alter or reverse the sentence appealed against.

[24

Magistrate not to try certain offences committed before himself.

326. Except as provided in sections 320 and 324, no Magistrate shall try any person for any offence referred to in section 129 when the offence is committed before himself or in contempt of his authority or is brought under his notice as such Magistrate in the course of a judicial proceeding.

[25

DIVISION CHAPTER XXXIII
HABEAS CORPUS AND DIRECTIONS IN THE NATURE OF HABEAS
CORPUS

Application for writ of habeas corpus.

327. —(1) Any person —

- (a) who is detained in any prison within the limits of Singapore on a warrant of extradition under any law for the time being in force in Singapore relating to extradition of fugitive offenders;
 - (b) who is alleged to be illegally or improperly detained in public or private custody within those limits; or
 - (c) who claims to be brought before the court to be dealt with according to law, may apply to the High Court for a writ of habeas corpus.
- (2) On an application by a person detained on a warrant of extradition, the Court shall call upon the Public Prosecutor, the committing Magistrate and the foreign Government to show cause why the writ should not issue.
- (3) Notice of the application together with copies of all the evidence used on the application shall be served upon the Public Prosecutor.

[26]

Orders in nature of habeas corpus.

328. The High Court may, whenever it thinks fit, order that a prisoner detained in any prison situate within the limits of Singapore shall be —

- (a) admitted to bail;
- (b) brought before a court martial; or
- (c) removed from one custody to another for the purpose of trial or for any other purpose which the Court thinks proper.

[27]

Application for bail.

329. —(1) Every application to the High Court to admit a prisoner to bail shall be made to the Court or a Judge and shall, unless otherwise ordered, be supported by affidavit stating when, by whom and under what circumstances the prisoner was committed to custody and where he is detained in custody.

(2) If the Court thinks fit to order that the prisoner shall be admitted to bail, the order shall be drawn up with a direction that a warrant shall be issued to bring up the prisoner before the Court for the purpose of being bailed.

[28]

Form 56.

Court martial.

330. —(1) Every application that a prisoner detained in custody shall be required to be brought before a court martial for trial shall be in the form of a letter addressed by the presiding officer of that court martial stating the purpose for which the court martial has been assembled and also stating where the prisoner is detained in custody and when, where and for what purpose he is required to be produced.

(2) The Registrar shall submit the letter as soon as possible after the receipt thereof to, and obtain the order thereon of, a Judge of the Court.

(3) If an order is made under this section it shall be drawn up with a direction that a warrant shall be issued accordingly and the warrant shall be prepared and signed by the Registrar and countersigned by the Judge who made the order and sealed with the seal of the Court.

Form 57.

(4) The warrant when issued shall be forwarded by the Registrar to the officer in charge of the prison in which the prisoner is confined.

[29]

Removal of prisoner from one custody to another.

331. —(1) Every application to remove a prisoner from one custody to another for the purpose of trial or for any other purpose shall be made to the Court or a Judge and shall be supported by an affidavit stating —

- (a) where the prisoner is detained in custody;
- (b) to what other custody it is proposed to remove him; and
- (c) the reason for the change of custody.

(2) If an order is made for the removal of a prisoner from one custody to another for the purpose of trial or for any other purpose, the order shall be drawn up with a direction that a warrant shall be issued accordingly.

(3) The warrant shall be prepared and signed by the Registrar and countersigned by the Judge who made the order and sealed with the seal of the Court.

[30
Form 58.

Attendance of prisoner as witness in criminal court.

332. —(1) Whenever the presence of any person detained in a prison situate within the limits of Singapore is required in any criminal court, that court may issue a warrant addressed to the officer in charge of the prison requiring the production of that person before the court in proper custody at the time and place to be named in the warrant.

(2) The officer in charge of the prison shall cause the person named in the warrant to be brought as directed and shall provide for his safe custody during his absence from prison.

(3) Every such court may, by endorsement on such warrant, require the person named in it to be brought up at any time to which the matter in which the person is required is adjourned.

(4) Every warrant shall be sealed with the seal of the court and signed by the Registrar, District Judge or Magistrate, as the case may be.

Form 59.

Duty of officer to whom writ or warrant is addressed.

333. The officer to whom any writ or warrant is addressed under this Chapter shall act in accordance with it and shall provide for the safe custody of the prisoner during his absence from prison for the purpose mentioned in the writ or warrant.

[32

Special powers of Registrar in absence of a Judge.

334. —(1) Whenever there is no Judge of the High Court present in Singapore in the execution of the duties of his office, and for the purpose of this section a Judge shall be deemed to be absent when illness prevents him from attending to his duties, the Registrar may, in urgent cases, make any of the orders mentioned in sections 328 and 332.

(2) Any orders made under this section may be appealed against in the manner prescribed for appeals against orders of a Registrar under the Rules of Court made under the Supreme Court of Judicature Act or any corresponding previous written law.

[33
Cap. 322.

No appeal.

335. No appeal shall lie from an order directing or refusing to direct the issue of a writ of habeas corpus or from an order made under section 328 but the Court or Judge may at any time adjourn the hearing for the decision of a Court consisting of 3 or more Judges.

PART IX
SUPPLEMENTARY PROVISIONS
DIVISION CHAPTER XXXIV
ATTORNEY-GENERAL AND PUBLIC PROSECUTOR

Public Prosecutor.

336. —(1) The Attorney-General shall be the Public Prosecutor and shall have the control and direction of criminal prosecutions and proceedings under this Code.

(2) The Solicitor-General shall have all the powers of a Deputy Public Prosecutor and shall act as Public Prosecutor in case of the absence or inability to act of the Attorney-General.

(3) Subject to this section, the Attorney-General may appoint any officers or persons to assist him or to act as his deputies in the performance of any of the functions or duties of the Public Prosecutor under this Code or under any written law and may assign to them their functions and duties.

(4) The Public Prosecutor or the Solicitor-General or a person appointed a deputy under subsection (3) may authorise any advocate to act for him as Public Prosecutor in the conduct of any case or prosecution in court or in any part of such conduct.

(5) Every criminal prosecution before the High Court shall be conducted by the Public Prosecutor or by the Solicitor-General or by a deputy appointed under subsection (3) or by an advocate authorised under subsection (4).

(6) No person shall appear on behalf of the Attorney-General in any criminal appeal or on any point of law reserved under Chapter XXIX other than the Public Prosecutor or the Solicitor-General or a deputy appointed under subsection (3) or an advocate authorised under subsection (4).

(7) Every prosecution for a seizable offence before a District Court and every inquiry before a Magistrate's Court shall be conducted by the Public Prosecutor or by the Solicitor-General or by a deputy appointed under subsection (3), or by an advocate, officer or other person generally or specially authorised by the Public Prosecutor or by the Solicitor-General or by a deputy appointed under subsection (3) in that behalf.

(8) Nothing in this section shall be held to preclude private persons or any officer of any Government department from appearing in person or by advocate to prosecute in summary cases before a Magistrate's Court or in summary non-seizable cases before a District Court.

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Attorney-General may exhibit informations.

337. —(1) The Attorney-General may exhibit to the High Court informations for all purposes for which Her Majesty's Attorney-General for England may exhibit informations on behalf of the Crown in the High Court of Judicature.

(2) No such information shall be exhibited for any offence punishable by death or imprisonment for 3 years or upwards.

(3) Such proceedings may be taken upon every such information as may lawfully be taken in the case of similar informations filed by Her Majesty's Attorney-General for England so far as the circumstances of the case and the course and practice of proceeding in the said High Court respectively will admit.

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Persons to be deemed to have been brought before High Court in due course of law.

338. All persons appearing before the High Court under a commitment for trial or in pursuance of bail so to appear against whom charges are preferred by or at the instance of the Attorney-General shall, unless the contrary is shown, be deemed to have been brought before the Court in due course of law, and, subject to this Code, shall be tried upon the charges so preferred.

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When Public Prosecutor may direct that accused person be discharged.

339. —(1) When a copy of the record of any inquiry before a Magistrate's Court has been transmitted to the Public Prosecutor as required by section 150, the Public Prosecutor, if he is of opinion that no further proceedings should be taken in the case, may make an order in writing, signed by himself, directing the accused person to be discharged from the matter of the charge and, if the accused person is in custody, from further detention upon the charge.

(2) The Public Prosecutor shall send such order to the Magistrate's Court by which the accused was committed or held to bail and thereupon that Court shall cause the accused to be brought before it and discharged and shall record the order and the discharge made on it upon the proceedings.

(3) The powers given to the Public Prosecutor by this section shall be exercised only by the Attorney-General or the Solicitor-General.

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When Public Prosecutor may direct Magistrate's Court to take further evidence.

340. If the Public Prosecutor is of opinion that a criminal offence is disclosed by the record and that further proceedings should be taken against the accused person, but that the evidence already taken, by reason of being in any particular or respect defective, is not sufficient to afford a foundation for a full and proper trial, he may make in writing an order in the case, signed by himself, requiring the Magistrate's Court to take such further evidence as is 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.

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Supplemental inquiry.

341. —(1) Upon the order of the Public Prosecutor being so received by the Magistrate's Court it shall cause the accused person to appear before it and shall resume and proceed with the inquiry in pursuance of the order.

(2) For the purpose of this supplemental inquiry the accused person, if at large on bail, shall be called upon by written notice to appear before the Magistrate's Court and, if in prison, shall by an order of the Magistrate's Court be brought before the Magistrate's Court on a day appointed therefor.

(3) All the provisions in respect of the original inquiry shall be applicable, so far as may be, to the supplemental inquiry.

(4) The Magistrate's Court shall, at the termination of the supplemental inquiry, again forthwith transmit a copy of the record to the Public Prosecutor.

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Public Prosecutor may by fiat designate court of trial when criminal offence disclosed.

342. —(1) Whenever the Public Prosecutor is of opinion that a criminal offence is disclosed by the record and that further proceedings should be taken against the accused person and that the evidence taken is sufficient to afford a foundation for a full and proper trial, he shall, by his fiat in writing signed by himself, designate the court, whether High Court, District Court or Magistrate's Court, before which the case shall be placed for trial and shall order the record of the case to be transmitted to the court so designated.

(2) Such fiat shall be filed with and form part of the record of the case.

[41

Procedure when court designated is High Court.

343. —(1) If the court so designated is the High Court, the Public Prosecutor shall with his fiat, send to the Magistrate's Court a charge signed as required by section 179 which shall be annexed to and form part of the record.

(2) The Magistrate's Court shall forthwith serve a copy of that charge on the accused person.

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Procedure when court designated is not High Court.

344. —(1) If the court so designated is other than the High Court, the accused person and his sureties shall, if he is at large on bail, be served with a copy of the fiat and thereupon the bail of the accused shall be taken to refer to the court named in the fiat in the same manner as if that court had been the High Court.

(2) If the accused is detained in prison, the court shall cause a copy of the fiat to be left with the officer in charge of the prison who shall make and deliver a copy of it to the accused and shall produce the prisoner for trial accordingly.

(3) Any fiat made under this section shall be subject to any order made by the High Court under section 185.

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Witnesses to be notified of change of court.

345. —(1) If the court designated by the fiat of the Public Prosecutor for the trial of the accused is a court other than the High Court, that court shall cause notices to that effect to be served on the witnesses who have been bound over to appear and give evidence.

(2) Thereupon the bail bond given by or for those witnesses shall be taken to refer to the court and time named in the notice in the same manner as if they had been bound over to appear and give evidence at that court and time and the witnesses shall be legally bound to attend at the time appointed by that court for the trial of the case.

[44

Public Prosecutor may issue subsequent fiat.

346. If the Public Prosecutor has by his fiat designated the High Court for the trial of the accused, he may nevertheless by subsequent fiat addressed to the High Court designate some other court for the trial, and sections 342 (2), 344 and 345 shall thereupon take effect as if the previous fiat had not been issued.

[45

Public Prosecutor may alter or redraw charge.

347. Before ordering the record of the case to be transmitted to the court of trial the Public Prosecutor shall, if it appears to him necessary or expedient to do so, alter or redraw the charge or frame an

additional charge or additional charges against the accused having regard to the rules in this Code as to the form of charges.

[46]

Public Prosecutor may order proceedings before Magistrate's Court to be transmitted to him.

348. Every Magistrate's Court shall, whenever required to do so by the Public Prosecutor, forthwith transmit to the Public Prosecutor the proceedings in any case in which an inquiry has been or is being held before the Court and thereupon the inquiry shall be suspended in the like manner as upon an adjournment of it.

[47]

Public Prosecutor may thereupon give instructions to Magistrate.

349. —(1) The Public Prosecutor, upon the proceedings in any case being transmitted to him under section 348, may give such instructions with regard to the inquiry to which those proceedings relate as he considers requisite and thereupon the Magistrate shall carry into effect, subject to this Code, those instructions and shall conduct and conclude the inquiry in accordance with the terms of those instructions.

(2) The powers given by section 348 and this section shall be exercised only by the Attorney-General or the Solicitor-General.

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***DIVISION CHAPTER XXXV
BAIL***

Person released on bail to give address for service.

350. —(1) When any person is released on bail or on his own bond he shall give to the court or officer releasing him an address at which service upon him of all notices and process may be made.

(2) In any case where that person cannot be found or for other reasons such service on him cannot be effected, any notice or process left for him at the address given shall be deemed to have been duly served upon him.

[49]

When person may be released on bail.

351. —(1) When any person other than a person accused of a non-bailable offence is arrested or detained without warrant by a police officer or appears or is brought before a court and is prepared at any time while in the custody of the officer or at any stage of the proceedings before the court to give bail, that person shall be released on bail by any police officer in such cases as are specified in orders issued by the Commissioner or Police or by that court.

(2) The police officer or the court, if he or it thinks fit, may, instead of taking bail from that person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided.

[50]

Form 60.

When person accused of non-bailable offence may be released on bail.

352. —(1) When any person accused of any non-bailable offence is arrested or detained without a warrant by a police officer or appears or is brought before a court, he may be released on bail by any police officer not below the rank of sergeant or by that court, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life:

Provided that the court may direct that any person under the age of 16 years or any woman or any sick or infirm person accused of such an offence be released on bail.

(2) If it appears to such officer or court at any stage of an investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed a non-bailable offence, but that there are grounds for further inquiry as to whether the accused has or has not committed some other offence the accused shall, pending such inquiry be released on bail, or at the discretion of that officer or court on his own bond for his appearance as hereinafter provided.

(3) An officer or a court releasing any person under subsection (1) or (2) shall record in writing his or its reasons for so doing.

(4) Any court may at any subsequent stage of any proceeding under this Code cause any person who has been released under this section to be arrested and may commit him to custody.

[51]

Amount of bond.

353. The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstances of the case as being sufficient to secure the attendance of the person arrested.

[52]

High Court's powers to vary bail.

354. —(1) The High Court may, in any case whether there is an appeal on conviction or not, direct that any person shall be admitted to bail or that the bail required by a police officer or Magistrate's Court or District Court shall be reduced or increased.

(2) The High Court may at any stage of any proceeding under this Code cause any person who has been released under this section to be arrested and may commit him to custody.

[53]

Bond to be executed.

355. —(1) Before any person is released on bail or released on his own bond, a bond for such sum of money as the police officer or court, as the case may be, thinks sufficient shall be executed by that person and, when he is released on bail, by one or more sufficient sureties conditioned that that person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the police officer or court, as the case may be.

Forms 3 and 60.

(2) If the case so requires, the bond shall also bind the person so released to appear when called upon at the High Court or other court to answer the charge.

(3) It shall be a further condition of the bond that as long as it remains in force the person so released shall not, without the permission of the police officer or the court, as the case may be, proceed beyond the limits of Singapore.

(4) Such permission, if granted, shall be evidenced by an endorsement on the bond specifying the period of time and the place to which the permission extends.

(5) No such permission shall be granted except on the personal application of the person so released in the presence of his surety or sureties, if any.

[54]

Person to be released.

356. —(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 shall issue an order of release to the officer in charge of the prison and that officer on receipt of the order shall release him.

Form 61.

(2) Nothing in this section, section 351 and 352 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

[55]

When warrant of arrest may be issued against person bailed.

357. If through mistake, fraud or otherwise insufficient sureties have been accepted or if they afterwards become insufficient, a court may issue a warrant of arrest directing that the person released shall be brought before it and may order him to find sufficient sureties and, on his failing to do so, may commit him to prison.

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***DIVISION CHAPTER XXXVI
PROVISIONS AS TO BONDS***

Sureties may apply to have bond discharged.

358. —(1) When any person is required to execute a bond with sureties, any person who has entered into such a bond as surety may at any time apply to a court to discharge the bond either wholly or so far as relates to the applicant.

Subsequent procedure.

(2) On such application being made the court may issue a warrant of arrest directing that the person on whose behalf the bond was entered into shall be brought before it.

(3) On the appearance of such person pursuant to the warrant or on his voluntary appearance the court shall direct the bond to be discharged either wholly or so far as relates to the applicant and shall call on that 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 on whose behalf the bond was entered into and forthwith bring him before a court which shall thereupon discharge that surety's bond and shall call upon that person to find other sufficient sureties and, if he fails to do so, shall commit him to custody.

[57]

Cash deposit instead of sureties.

359. When any person may be required by any court or officer to execute a bond with one or more sureties, the court or officer may, except in the case of a bond for good behaviour, permit him to enter into his own bond and in addition to deposit a sum of money to such amount as the court or officer thinks fit instead of providing a surety or sureties.

[58]

Arrest on breach of bond for appearance.

360. When any person who is bound by any bond taken under this Code to appear before a court does not so appear, the court may issue a warrant directing that that person shall be arrested and produced before it.

[59]

Procedure on forfeiture of bond.

361. —(1) Whenever it is proved to the satisfaction of a court that any bond taken under this Code has been forfeited, the court shall record the grounds of such proof and may summon before it any person bound by the bond and call upon him to pay the penalty thereof or to show cause why it should not be paid.

Forms 62 to 71.

(2) If sufficient cause is not shown and the penalty is not paid, the court may proceed to recover the penalty by issuing a warrant for the attachment and sale of the property belonging to that person.

(3) If the penalty is not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable, by order of the court which issued the warrant, to imprisonment for a term which may extend to 6 months.

(4) The court may, in its discretion, remit any portion of the penalty mentioned and enforce payment in part only.

(5) Nothing in this section shall be deemed to prevent the penalty or any portion thereof of any bond under this Code being recovered under the Government Proceedings Act.

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Appeal from orders.

362. All orders made under section 361 by any Magistrate's Court or District Court shall be appealable.

[61]

Power to direct levy of amount due on bond.

363. The High Court or a District Court may direct any Magistrate's Court to levy the amount due on a bond to appear and attend at the High Court or District Court.

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DIVISION CHAPTER XXXVII SPECIAL PROVISIONS RELATING TO EVIDENCE

Procedure where person able to give material evidence is dangerously ill.

364. —(1) Whenever it appears to a Magistrate that any person able to give material evidence either for the prosecution or defence touching a seizable offence is so dangerously ill that it is not practicable to take his evidence according to the usual course of law, any Magistrate may take the deposition of that person provided such reasonable notice as the case admits of has been given to the prosecutor and the accused of his intention to take it and of the time and place at which he intends to take it.

(2) If the accused is in custody, a Judge or a Magistrate may order the officer in charge of the prison to convey him to the place and at the time notified and that officer shall convey him accordingly.

(3) When it is proved at the trial of that accused for any offence to which that deposition relates that the deponent is dead or that for any sufficient cause his attendance cannot be procured, the deposition may be read either for or against the accused notwithstanding his absence when it was taken if it is certified under the hand of the Magistrate who took it and the contrary is not proved or if it is shown by extrinsic evidence that —

(a) the deponent was at the time of his examination dangerously ill as aforesaid;

(b) the said deposition was duly taken at the place and time notified; and

(c) reasonable notice of the intention to take it was given to the person against whom it is tendered in evidence so that he or his advocate might have been present and might have had, if he had chosen to be present, full opportunity of cross-examination.

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Evidence through live video or live television links.

364A. —(1) Notwithstanding any other provision of this Act or the Evidence Act, a person in Singapore (other than the accused person) may, with leave of the court, give evidence through a live video or live television link in any trial, inquiry, appeal or other proceedings if —

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(a) the witness is below the age of 16 years;

(b) the offence charged is an offence specified in subsection (2);

(c) the court is satisfied that it is expedient in the interest of justice to do so; or

(d) the Minister certifies that it is expedient in the public interest to do so.

(2) The offences specified for the purposes of subsection (1) (b) are —

(a) an offence which involves an assault on, or an injury or a threat of injury to, persons including but not limited to sections 319 to 338 of the Penal Code;

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(b) an offence under Part II of the Children and Young Persons Act (relating to protection of children and young persons);

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(c) an offence under sections 354 to 358 and sections 375 to 377 of the Penal Code;

(d) an offence under Part X of the Women's Charter (relating to offences against women and girls); and

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(e) such other offences as the Minister may, after consulting the Chief Justice, prescribe.

(3) Notwithstanding any other provision of this Act or the Evidence Act, the court may, in its discretion, order an accused person to appear before it through a live video or live television link whilst in remand in Singapore in proceedings for any of the following matters:

(a) any application for bail;

(b) any extension of the remand of an accused person under section 198; and

(c) such other matters as the Minister may, after consulting the Chief Justice, prescribe.

(4) The court may, in the exercise of its powers under subsection (1) or (3), make an order on any or all of the following matters:

(a) the persons who may be present at the place where the witness is giving evidence;

(b) that a person be excluded from the place while the witness is giving evidence;

(c) the persons in the courtroom who must be able to be heard, or seen and heard, by the witness and by the persons with the witness;

(d) the persons in the courtroom who must not be able to be heard, or seen and heard, by the witness and by the persons with the witness;

(e) the persons in the courtroom who must be able to see and hear the witness and the persons with the witness;

(f) the stages in the proceedings during which a specified part of the order is to have effect;

(g) the method of operation of the live video or live television link system including compliance with such minimum technical standards as may be determined by the Chief Justice; and

(h) any other order which the court considers necessary in the interests of justice.

- (5) The court may revoke, suspend or vary an order made under this section if —
- (a) the live video or live television link system stops working and it would cause unreasonable delay to wait until a working system becomes available;
 - (b) it is necessary for the court to do so to comply with its duty to ensure that the proceedings are conducted fairly to the parties thereto;
 - (c) it is necessary for the court to do so so that the witness can identify a person or a thing or so that the witness can participate in or view a demonstration or an experiment;
 - (d) it is necessary for the court to do so because part of the proceedings is being heard outside a courtroom; or
 - (e) there has been a material change in the circumstances after the court has made an order.
- (6) The court shall not make an order under this section, or include a particular provision in such an order, if to do so would be inconsistent with the court's duty to ensure that the proceedings are conducted fairly to the parties to the proceedings.
- (7) An order made under this section shall not cease to have effect merely because the person in respect of whom it was made attains the age of 16 years before the proceedings in which it was made are finally determined.
- (8) Evidence given by a witness through a live video or live television link by virtue of this section shall be deemed for the purposes of sections 193, 194, 195, 196, 205 and 209 of the Penal Code as having been given in the proceedings in which it is given.

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(9) Where a witness gives evidence in accordance with this section, he shall for the purposes of this Act and the Evidence Act be deemed to be giving evidence in the presence of the court, the accused person or his advocate, as the case may be.

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(10) In subsections (4), (8) and (9), a reference to "witness" shall include a reference to an accused person who appears before a court through a live video or live television link under subsection (3).

(11) The Chief Justice may make such rules as appear to him to be necessary or expedient for the purpose of giving effect to this section and for prescribing anything which may be prescribed under this section.

Act 39/95 wef 2.1.96 vide S 555/95.

Evidence in relation to criminal matter pending in foreign state.

365. The mode of obtaining the testimony of a witness in relation to a criminal matter under section 43 of the Extradition Act or under any provision of law replacing that section for the time being in force in Singapore shall be in accordance with the procedure laid down by rules made under the Subordinate Courts Act.

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Cap. 103. Cap 321.

Where person bound to give evidence intends to leave Singapore.

366. Whenever it is proved to the satisfaction of a Magistrate's Court that any witness bound or about to be bound by recognizance to give evidence upon the trial of any offence intends to leave Singapore and that the ends of justice would probably be defeated if that person were not present at the trial to give evidence, it may, upon the application of the Public Prosecutor or accused and upon due provision being made for his maintenance and for compensating him for his detention and loss of time, commit that person to the civil prison until the trial or until he gives satisfactory security that he will give evidence at the trial.

[65

Deposition of medical witness.

367. If the court is satisfied that grave inconvenience would otherwise be caused, it may, if it thinks fit, allow the deposition of a medical officer of the Government or other medical witness taken and attested by a Magistrate in the presence of the accused to be given in evidence in any trial under this Code, although the deponent is not called as a witness.

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Deposition of certain other witnesses.

368. Whenever at a preliminary inquiry the evidence of any witness has been taken for the purpose of proving the custody or disposal of any matter or thing forwarded in the course of the inquiry to any public officer for examination or analysis or report, or of proving the custody or disposal of any instrument, weapon, matter or thing used in or about the commission of any offence, or of proving the accuracy of any plan or survey made or photograph taken by that witness for the purpose of the case, the High Court may, if it thinks fit, allow the deposition of that witness, taken and attested by a Magistrate in the presence of the accused to be given in evidence in any trial before that Court although the deponent is not called as a witness.

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Report of certain persons.

369. —(1) Any document purporting to be a report under the hand of any of the persons mentioned in subsection (2) upon any matter or thing duly submitted to him for examination or analysis or report may be used as evidence in any inquiry, trial or other proceeding under this Code unless the court or the accused requires that person to be called as a witness:

Provided that in any case in which the Public Prosecutor intends to give in evidence any such report he shall deliver a copy thereof to the accused not less than 10 clear days before the commencement of the inquiry, trial or other proceeding.

(2) The following are persons to whom this section applies:

- (a) an analyst employed by the Health Sciences Authority;
- (b) any registered medical practitioner employed by the Health Sciences Authority;
- (c) the Government Bacteriologist;
- (d) the Commissioner of Parks and Recreation;

S 337/87 wef 30.3.87.

(e) any person appointed by the Minister, by notification in the *Gazette*, to be a document examiner;

(f) any inspector of weights and measures duly appointed as such under the provisions of any written law;

(g) any person or class of persons to whom the Minister by notification in the *Gazette* declares that this section shall apply.

(3) Such persons are by this Code bound to state the truth in reports made under their hands.

(4) A report of a person referred to in subsection (2) shall be admissible as evidence and shall be prima facie evidence of the facts stated therein:

Provided that where the accused person desires to examine that person on the report he may require the court to summon that person to give evidence and the court shall thereupon summon that person as a witness for the prosecution.

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370. *Repealed by Act 25/2002, wef 01/10/2002.*

Proof by written statement.

371. —(1) Notwithstanding anything in any written law, in any criminal proceedings, other than proceedings in an inquiry preliminary to committal for trial, a written statement by any person shall, if such of the conditions mentioned in subsection (2) as are applicable are satisfied, be admissible as evidence to the like extent as oral evidence to the like effect by that person.

(2) The said conditions are —

- (a) the statement purports to be signed by the person who made it;
- (b) the statement contains a declaration by that person to the effect that it is true to the best of his knowledge and belief and that he made the statement knowing that, if it were tendered in evidence, he would be liable to prosecution if he wilfully stated in it anything which he knew to be false or did not believe to be true;
- (c) before the hearing at which the statement is tendered in evidence, a copy of the statement is served, by or on behalf of the party proposing to tender it, on each of the other parties to the proceedings;
- (d) none of the other parties or their advocates, within 7 days from the service of the copy of the statement, serves a notice on the party so proposing objecting to the statement being tendered in evidence under this section; and

(e) an advocate has been acting for the accused at any time prior to the hearing of the preliminary inquiry or the court is satisfied that the accused is aware of this section:

Provided that the conditions mentioned in paragraphs (c) and (d) shall not apply if the parties agree before or during the hearing that the statement shall be so tendered.

(3) The following provisions shall also have effect in relation to any written statement tendered in evidence under this section:

(a) if the statement is made by a person under the age of 21 years, it shall give his age;

(b) if it is made by a person who cannot read it, it shall be read to him before he signs it and shall be accompanied by a declaration by the person who so read the statement to the effect that it was so read; and

(c) if it refers to any other document as an exhibit, the copy served on any other party to the proceedings under subsection (2) (c) shall be accompanied by a copy of that document or by such information as may be necessary in order to enable the party on whom it is served to inspect that document or a copy thereof.

(4) Notwithstanding that a written statement made by any person may be admissible as evidence by virtue of this section —

(a) the party by whom or on whose behalf a copy of the statement was served may call that person to give evidence; and

(b) the court may, of its own motion or on the application of any party to the proceedings, require that person to attend before the court and give evidence.

(5) An application under subsection (4) (b) to a court other than a Magistrate's Court may be made before the hearing and on any such application the powers of the court shall be exercisable by any person entitled to sit as a Judge of that court.

(6) So much of any statement as is admitted in evidence by virtue of this section shall, unless the court otherwise directs, be read aloud at the hearing and where the court so directs an account shall be given orally of so much of any statement as is not read aloud.

(7) Any document or object referred to as an exhibit and identified in a written statement tendered in evidence under this section shall be treated as if it had been produced as an exhibit and identified in court by the maker of the statement.

(8) A document required by this section to be served on any person may be served —

(a) by delivering it to him or to his advocate;

(b) by addressing it to him and leaving it at his usual or last known place of abode or place of business or by addressing it to his advocate and leaving it at his office;

(c) by sending it through the post by a registered letter addressed to him at his usual or last known place of abode or place of business or addressed to his advocate at his office; or

(d) in the case of a body corporate, by delivering it to the secretary or clerk of the body at its registered or principal office or sending it through the post by a registered letter addressed to the secretary or clerk of that body at that office.

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How previous conviction or acquittal may be proved.

372. —(1) In any inquiry, trial or other proceeding under this Code a previous conviction or acquittal or an order directing any person to be under the supervision of the police may be proved, in addition to any other mode provided by any law for the time being in force —

(a) by an extract certified under the hand of the officer having the custody of the records of the court, whether of Singapore or of the States of Malaya or elsewhere, in which that conviction, acquittal or order was had, to be a copy of the sentence or order; or

(b) alternatively, in the case of a previous conviction, either by a certificate signed by the officer in charge of the prison in Singapore or the States of Malaya or elsewhere in which the punishment or any part of it was inflicted or by production of the warrant of commitment under which the punishment was suffered,

together with, in each of those cases, evidence as to the identity of the accused person with the person so convicted or acquitted or against whom the order was made.

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When receivers, etc., charged, evidence of other cases allowed.

373. 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 that person other property stolen within the preceding period of 12 months, and that evidence may be taken into consideration for the purpose of proving that that person knew the property to be stolen which forms the subject of the proceedings taken against him.

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When evidence of previous conviction may be given.

374. Where proceedings are taken against any person for having received goods knowing them to be stolen or for having in his possession stolen property and evidence has been given that the stolen property has been found in his possession, then, if that person has within 5 years immediately preceding been convicted of any offence involving fraud or dishonesty, evidence of that previous conviction may be given at any stage of the proceedings and may be taken into consideration for the purpose of proving that the person accused knew the property which was proved to be in his possession to have been stolen:

Provided that not less than 7 days' notice in writing has been given to the person accused that proof is intended to be given of the previous conviction. It shall not be necessary for the purposes of this section to enter in the charge the previous conviction of the person so accused.

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Record of evidence in absence of accused.

375. —(1) If it is proved that an accused person has absented himself so that there is no immediate prospect of arresting him, the court competent to try that person or commit him for trial for the offence complained of may, in his absence, examine the witnesses, if any, produced on behalf of the prosecution and record their depositions.

(2) Any such deposition may, on the arrest of such person, be given in evidence against him on the inquiry into or trial for the offence with which he is charged, if the deponent is dead or incapable of giving evidence or his attendance cannot be procured without an amount of delay, expense or inconvenience which under the circumstances of the case would be unreasonable.

(3) If it appears that an offence punishable with death or with imprisonment for life has been committed by some person or persons unknown a Magistrate's Court may hold an inquiry and examine any witnesses who can give evidence concerning the offence. Any depositions so taken may be given in evidence against any person who is subsequently accused of the offence if the deponent is dead or incapable of giving evidence or is beyond the limits of Singapore.

[74]

Proof by formal admission.

376. —(1) Subject to this section, any fact of which oral evidence may be given in any criminal proceedings may be admitted for the purpose of those proceedings by or on behalf of the Public Prosecutor or the accused, and the admission by any party of any such fact under this section shall as against that party be conclusive evidence in those proceedings of the fact admitted.

(2) An admission under this section —

(a) may be made before or at the proceedings;

(b) if made otherwise than in court, shall be in writing;

(c) if made in writing by an individual, shall purport to be signed by the person making it and, if so made by a body corporate, shall purport to be signed by a director or manager, or the secretary or some other similar officer of the body corporate;

(d) if made on behalf of an accused who is an individual, shall be made by his advocate;

(e) if made at any stage before the trial by an accused who is an individual, must be approved by his advocate (whether at the time it was made or subsequently) before or at the proceedings in question.

(3) An admission under this section for the purpose of proceedings relating to any matter shall be treated as an admission for the purpose of any subsequent criminal proceedings relating to that matter (including any appeal or retrial).

(4) An admission under this section may with the leave of the court be withdrawn in the proceedings for the purpose of which it is made or any subsequent criminal proceedings relating to the same matter.

[75]

Hearsay evidence to be admissible only by virtue of this Code and other written law.

377. In any criminal proceedings a statement other than one made by a person while giving oral evidence in those proceedings shall be admissible as evidence of any fact stated therein to the extent that it is so admissible by virtue of any provision of this Code or any other written law, but not otherwise.

[76]

Admissibility of out-of-court statements as evidence of facts stated.

378. —(1) In any criminal proceedings a statement made, whether orally or in a document or otherwise, by any person shall, subject to this section and section 379 and to the rules of law governing the admissibility of confessions, be admissible as evidence of any fact stated therein of which direct oral evidence by him would be admissible, if —

(a) being compellable to give evidence on behalf of the party desiring to give the statement in evidence, he attends or is brought before the court but refuses to be sworn or affirmed; or

(b) it is shown with respect to him —

(i) that he is dead, or is unfit by reason of his bodily or mental condition to attend as a witness;

(ii) that he is beyond the seas and that it is not reasonably practicable to secure his attendance; or

(iii) that, being competent but not compellable to give evidence on behalf of the party desiring to give the statement in evidence, he refuses to give evidence on behalf of that party.

(2) Where a person makes an oral statement to or in the hearing of another person who, acting at the instance of the maker of the statement, reduces it (or the substance of it) into writing at the time or reasonably soon afterwards, thereby producing a corresponding statement in a document, the statement in the document shall be treated for the purposes of this section (and sections 379 and 381 so far as they have effect for the purposes of this section) as having been made in the document by the maker of the oral statement, whether or not it would be so treated apart from this subsection.

(3) In this section and in sections 379 to 385 —

"document" includes, in addition to a document in writing —

(a) any map, plan, graph or drawing;

(b) any photograph;

(c) any disc, tape, sound-track, or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom; and

(d) any film, negative, tape or other device in which one or more visual images are embodied so as to be capable (as aforesaid) of being reproduced therefrom;

"film" includes a microfilm;

"statement" includes any representation of fact, whether made in words or otherwise.

Any reference to a copy of a document includes —

(a) in the case of a document falling within paragraph (c) but not paragraph (d) of the definition of "document" above, a transcript of the sounds or other data embodied therein;

(b) in the case of a document falling within paragraph (d) but not paragraph (c) of that definition, a reproduction or still reproduction of the image or images embodied therein, whether enlarged or not;

(c) in the case of a document falling within paragraphs (c) and (d), such a transcript together with such a still reproduction; and

(d) in the case of a document not falling within paragraph (d) of which a visual image is embodied in a document falling within that paragraph, a reproduction of that image, whether enlarged or not, and any reference to a copy of the material part of a document shall be construed accordingly.

(4) For the purposes of this section and of sections 379 to 385, a protest, greeting or other verbal utterance may be treated as stating any fact which the utterance implies.

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Restrictions on admissibility of statements by virtue of section 378.

379. —(1) A statement shall not be admissible in evidence in any criminal proceedings by virtue of

section 378 (1) (a) or section 378 (1) (b) (ii) or (iii) if it was made after the commencement of investigations into the offence, the subject-matter of the proceedings.

(2) At a trial before the High Court or Subordinate Court a statement shall not without the leave of the Court be given in evidence by virtue of section 378 (1) (b) on behalf of a party to the proceedings unless a notice complying with such of the requirements set out in subsection (3) as are applicable has been served by or on behalf of that party on each of the other parties to the proceedings, as follows:

(a) where the trial is before the High Court, before the expiry of 7 days from the end of the proceedings before the examining Magistrate or, where two or more persons are being jointly tried, from the end of the proceedings before the examining Magistrate in respect of whichever of them was last committed for trial;

(b) where the trial is before a Subordinate Court, not less than 14 days before the date set down for the trial.

(3) The requirements referred to in subsection (2) are as follows:

(a) the notice shall state on which of the grounds mentioned in section 378 (1) (b) it is claimed that the statement is admissible;

(b) in the case of a statement made otherwise than in a document, the notice shall state whether it was made orally or in some other (and, if so, what) manner, and shall also state —

(i) the time and place at which the statement was made;

(ii) the name of the maker of the statement and (unless he is dead) his address, if known;

(iii) the name and address of a person who heard or otherwise perceived the statement being made; and

(iv) the substance of the statement or, if it was made orally and the actual words used in making it are material, the words so used;

(c) in the case of a statement made in a document, the notice shall contain or have attached to it a copy of that document, or of the material part thereof, and shall state the following matters:

(i) the matters mentioned in paragraph (b) (i) and (ii); and

(ii) if the maker of the document is not the same person as the maker of the statement, the name of the maker of the document and (unless he is dead) his address, if known,

in so far as those matters are not readily apparent from the document or part in question.

(4) A notice required by subsection (2) to be served on any person may be served —

(a) by delivering it to him or to his advocate;

(b) by addressing it to him and leaving it at his usual or last known place of abode or place of business or by addressing it to his advocate and leaving it at his office;

(c) by sending it through the post by a registered letter addressed to him at his usual or last known place of abode or place of business or addressed to his advocate at his office; or

(d) in the case of a body corporate, by delivering it to the secretary or clerk of the body at its registered office or sending it in a registered letter addressed to the secretary or clerk of the body at that office.

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Admissibility of certain records as evidence of facts stated.

380. —(1) Without prejudice to section 35 of the Evidence Act, in any criminal proceedings a statement contained in a document shall, subject to this section, be admissible as evidence of any fact stated therein of which direct oral evidence would be admissible, if —

(a) the document is, or forms part of, a record compiled by a person acting under a duty from information which was supplied by a person (whether acting under a duty or not) who had, or may reasonably be supposed to have had, personal knowledge of the matters dealt with in that information and which, if not supplied by that person to the compiler of the record directly, was supplied by him to the compiler of the record indirectly through one or more intermediaries each acting under a duty; and

(b) the condition specified in subsection (2) (a) or (b) or any of the conditions specified in subsection (2)

(c) is satisfied as regards the person who originally supplied the information from which the record containing the statement was compiled.

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(2) The conditions referred to in subsection (1) (b) are the following:

(a) that the person in question has been or is to be called as a witness in the proceedings;

(b) that the person in question, being compellable to give evidence on behalf of the party desiring to give the statement in evidence, attends or is brought before the court but refuses to be sworn or affirmed;

(c) that it is shown with respect to the person in question —

(i) that he is dead or is unfit by reason of his bodily or mental condition to attend as a witness;

(ii) that he is beyond the seas and that it is not reasonably practicable to secure his attendance;

(iii) that, being competent but not compellable to give evidence on behalf of the party desiring to give the statement in evidence, he refuses to give evidence on behalf of that party; or

(iv) that, having regard to the time which has elapsed since he supplied the information and to all the circumstances, he cannot reasonably be expected to have any recollection of the matters dealt with in the statement.

(3) A statement shall not be admissible in evidence in any criminal proceedings by virtue of subsection (2) (b) or subsection (2) (c) (ii) or (iii) if the person who originally supplied the information from which the record containing the statement was compiled did so after the commencement of investigations into the offence, the subject-matter of the proceedings.

(4) Where a document setting out the evidence which a person could be expected to give as a witness has been prepared for the purpose of any pending or contemplated proceedings, whether civil or criminal, and that document falls within subsection (1) (a), then in any criminal proceedings in which that person has been or is to be called as a witness a statement contained in that document shall not be given in evidence by virtue of subsection (2) (a) or (2) (c) (iv) without the leave of the court; and the court shall not give leave under this subsection in respect of any such statement unless it is of the opinion that, in the particular circumstances in which that leave is sought, it is in the interests of justice for the witness's oral evidence to be supplemented by the reception of that statement or for the statement to be received as evidence of any matter about which he is unable or unwilling to give oral evidence.

(5) Any reference in this section to a person acting under a duty includes a reference to a person acting in the course of any trade, business, profession or other occupation in which he is engaged or employed or for the purposes of any paid or unpaid office held by him.

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Provisions supplementary to section 378 or 380.

381. —(1) Where in any criminal proceedings a statement contained in a document is admissible in evidence by virtue of section 378 or 380, it may be proved by the production of that document or (whether or not that document is still in existence) by the production of a copy of that document, or of the material part thereof, authenticated in such manner as the court may approve.

(2) For the purpose of deciding whether or not a statement is admissible in evidence by virtue of section 378 or 380, the court may draw any reasonable inference from the circumstances in which the statement was made or otherwise came into being or from any other circumstances, including, in the case of a statement contained in a document, the form and contents of that document.

(3) In estimating the weight, if any, to be attached to a statement admissible in evidence by virtue of section 378 or 380, regard shall be had to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement and, in particular —

(a) in the case of a statement falling within section 378 (1), to the question whether or not the statement was made contemporaneously with the occurrence or existence of the facts stated, and to the question whether or not the maker of the statement had any incentive to conceal or misrepresent the facts; and

(b) in the case of a statement falling within section 380, to the question whether or not the person who originally supplied the information from which the record containing the statement was compiled did so contemporaneously with the occurrence or existence of the facts dealt with in that information, and to the question whether or not that person, or any person concerned with compiling or keeping the record containing the statement, had any incentive to conceal or misrepresent the facts.

(4) For the purpose of any rule of law or practice requiring evidence to be corroborated or regulating the manner in which uncorroborated evidence is to be treated —

- (a) a statement which is admissible in evidence by virtue of section 378 shall not be capable of corroborating evidence given by the maker of the statement; and
- (b) a statement which is admissible in evidence by virtue of section 380 shall not be capable of corroborating evidence given by the person who originally supplied the information from which the record containing the statement was compiled.

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Admissibility of hearsay evidence by agreement of parties.

382. —(1) If, as regards any statement contained in a document or made by a person otherwise than in a document, the parties to any criminal proceedings agree at a hearing that for the purpose of those proceedings the statement may be given in evidence, then, unless the court otherwise directs, the statement shall in those proceedings and in any proceedings arising out of them (including any appeal or retrial) be admissible as evidence of any fact stated therein:

Provided that such an agreement —

- (a) shall not enable a statement to be given in evidence by virtue of this section on behalf of the prosecution if at the time when the agreement is made the accused or any of the accused is not represented by an advocate; and
- (b) if made during proceedings before a Magistrate inquiring into an offence as examining Magistrate, shall be of no effect for the purpose of any proceedings before the High Court or any proceedings arising out of proceedings before the High Court.
- (2) Where in any criminal proceedings a statement contained in a document is admissible by virtue of this section, it may be proved by the production of that document or (whether or not that document is still in existence) by the production of a copy of that document, or of the material part thereof, authenticated in such manner as the court may approve.
- (3) Where a statement is given in evidence by virtue of this section but might have become admissible in evidence by virtue of section 378 or 380, section 381 (4) shall apply to it as if it were admissible by virtue of section 378 or 380, as the case may be.

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Admissibility of evidence as to credibility of maker, etc., of statement admitted under certain provisions of this Chapter.

383. —(1) Where in any criminal proceedings a statement made by a person who is not called as a witness in those proceedings is given in evidence by virtue of section 378 —

- (a) any evidence which, if that person had been so called, would be admissible for the purpose of destroying or supporting his credibility as a witness shall be admissible for that purpose in those proceedings; and
- (b) as regards any matter which, if that person had been so called, could have been put to him in cross-examination for the purpose of destroying his credibility as a witness, being a matter of which, if he had denied it, evidence could not have been adduced by the cross-examining party, evidence of that matter may with the leave of the court be given for that purpose.
- (2) Where in any criminal proceedings a statement made by a person who is not called as a witness in those proceedings is given in evidence by virtue of section 378, evidence tending to prove that, whether before or after he made that statement, that person made (whether orally or in a document or otherwise) another statement inconsistent therewith shall be admissible for the purpose of showing that that person has contradicted himself.
- (3) Subsections (1) and (2) shall apply in relation to a statement given in evidence by virtue of section 380 as they apply in relation to a statement given in evidence by virtue of section 378, except that references to the person who made the statement and to his making the statement shall be construed respectively as references to the person who originally supplied the information from which the record containing the statement was compiled and to his supplying that information.
- (4) Section 378 (2) shall apply for the purposes of this section as it applies for the purposes of section 378.

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Saving for exceptions to rule against hearsay in Evidence Act.

384. Nothing in this Chapter shall prejudice the admissibility in any criminal proceedings of any

statement which would by virtue of the Evidence Act be admissible as evidence of any fact stated therein.

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Application of sections 378 to 383 to statements of opinion.

385. —(1) Subject to this section, sections 378 to 383 shall apply in relation to statements of opinion as it applies in relation to statements of fact, subject to the necessary modifications and in particular the modification that any reference in those sections to a fact stated in a statement shall be construed as a reference to a matter dealt with therein.

(2) Section 380, as applied by subsection (1), shall not render admissible in any criminal proceedings a statement of opinion contained in a record unless that statement would be admissible in those proceedings if made in the course of giving oral evidence by the person who originally supplied the information from which the record was compiled; but where a statement of opinion contained in a record deals with a matter on which the person who originally supplied the information from which the record was compiled is (or would if living be) qualified to give oral expert evidence, section 380, as applied by subsection (1), shall have effect in relation to that statement as if so much of section 380 (1) as requires personal knowledge on the part of that person were omitted.

(3) Where a person is called as a witness in any criminal proceedings, a statement of opinion by him on a relevant matter on which he is not qualified to give expert evidence, if made as a way of conveying relevant facts personally perceived by him, is admissible as evidence of what he perceived.

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***DIVISION CHAPTER XXXVIII
DISPOSAL OF PROPERTY***

Order for disposal of property.

386. —(1) During or at the conclusion of any inquiry or trial in any criminal court the court may make such order as it thinks fit for the disposal of any document, livestock or other property produced before it.

(2) The power conferred upon the court by this section includes power to make an order for the forfeiture or confiscation or for the destruction or for the delivery to any person of any property regarding which any offence is or was alleged to have been committed or which appears to have been used for the commission of any offence but shall be exercised subject to any special provisions regarding forfeiture, confiscation, destruction or delivery contained in the Act under which the conviction was had or in any other Act applicable to the case.

(3) When the High Court or a District Court makes such order and cannot, through its own officers, conveniently deliver the property to the person entitled to it, that court may direct that the order shall be carried into effect by a Magistrate.

(4) When an order is made under this section in a case in which an appeal lies, the 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 an appeal has passed or, when an appeal is presented within that period until the appeal has been disposed of.

(5) In this section "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as was originally in the possession or under the control of any party, but also any property into or for which it has been converted or exchanged and anything acquired by such conversion or exchange, whether immediately or otherwise.

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Direction instead of order.

387. Instead of itself making an order under section 386 the court may direct the property to be delivered to a Magistrate's Court which shall in such cases deal with it as if it had been seized by the police and the seizure reported to it in the manner hereinafter mentioned.

[86

Payment to innocent person of money found on accused.

388. When any person is convicted of any offence which includes or amounts to theft or receiving stolen property, and it is proved that another person had bought the stolen property from him without knowing

or having reason to believe that it was stolen and that any money was, on his arrest, taken out of the possession of the convicted person, the court may, on the application of the purchaser and on the restitution of the stolen property to the person entitled to the possession of it, order that out of that money a sum not exceeding the price paid by the purchaser shall be delivered to him.

[87]

Stay of order.

389. The High Court may direct any order under section 386, 387 or 388 made by a court subordinate to it to be stayed pending consideration by the High Court and may modify, alter or annul that order.

[88]

Destruction of libellous and other matter.

390. —(1) On a conviction under section 292, 293, 501 or 502 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.

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(2) The court may in like manner on a conviction under section 272, 273, 274 or 275 of the Penal Code order the food, drink, drug or medical preparation in respect of which the conviction was had to be destroyed.

[89]

Restoration of possession of immovable property.

391. —(1) Whenever a person is convicted of an offence attended by criminal force and it appears to the court that by that force any person has been dispossessed of any immovable property the court may, if it thinks fit, order that person to be restored to the possession of it.

(2) No such order shall prejudice any right or interest to or in that immovable property which any person may be able to establish in a civil suit.

[90]

Procedure by police on seizure of property.

392. —(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 forthwith reported to a Magistrate's Court which shall make such order as it thinks fit respecting the delivery of the property to the person entitled to the possession of it or, if that person cannot be ascertained, respecting the custody and production of the property.

(2) If the person so entitled is known, the Magistrate's Court may order the property to be delivered to him on such conditions, if any, as the Magistrate's Court thinks fit.

(3) The Magistrate's Court shall, on making an order under subsection (2), cause a notice to be served on that person, informing him of the terms of the order, and requiring him to take delivery of the property within such period from the date of the service of the notice (not being less than 48 hours) as the Magistrate's Court may in the notice prescribe.

(4) If that person is unknown or cannot be found the Magistrate's Court may direct that it be detained in police custody and the Commissioner of Police shall, in that case, issue a public notification, specifying the articles of which the property consists and requiring any person who has a claim to it to appear before him and establish his claim within 6 months from the date of the public notification:

Provided that, where it is shown to the satisfaction of the Magistrate's Court that the property is of no appreciable value, or that its value is so small as, in the opinion of the Magistrate's Court, to render impracticable the sale, as hereinafter provided, of the property, or as to make its detention in police custody unreasonable in view of the expense or inconvenience that would thereby be involved, the Magistrate's Court may order the property to be destroyed or otherwise disposed of, either on the expiration of such period after the publication of the notification above referred to as it may determine, or forthwith, as it thinks fit.

(5) Every notification under subsection (4) shall be published in the *Gazette* if the value of the property amounts to \$100.

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Procedure when no claim established.

393. —(1) If within 3 months from the publication of a notification under section 392 (4) no person

establishes a claim to such property and if the person in whose possession the property was found is unable to show that it was legally acquired by him, the property may be sold on the order of the Commissioner of Police.

(2) If within 6 months from the publication of the notification no person has established a claim to the property, the ownership of the property or, if sold, of the net proceeds of it, shall thereupon pass to and be vested in the Government.

(3) Where any property detained in police custody on an order of a Magistrate's Court made under section 392 (4) is subject to speedy and natural decay or is, in the opinion of the Commissioner of Police, of less value than \$50, or where its custody involves unreasonable expense or inconvenience, the property may be sold at any time, and section 392 and this section shall, as nearly as may be practicable, apply to the net proceeds of the sale.

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Procedure where owner is absent.

394. —(1) If the person entitled to the possession of such property is absent from Singapore and the property is subject to speedy and natural decay or the Magistrate's Court to which its seizure is reported is of opinion that its sale would be for the benefit of the owner or that the value of the property is less than \$50 the Magistrate's Court may, at any time, direct it to be sold and section 393 (2) shall apply to the net proceeds of the sale.

(2) If the person to whom property has been ordered to be delivered under section 392 (2) neglects or omits to take delivery of the property within the period prescribed, the Magistrate's Court may, where the property is subject to speedy and natural decay or where, in the opinion of the Magistrate's Court, its value is less than \$50 direct that the property be sold, and the net proceeds of the sale shall, on demand, be paid over to the person entitled.

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DIVISION CHAPTER XXXIX MISCELLANEOUS Irregularities In Proceedings

Omission to frame charge.

395. —(1) No finding or sentence pronounced or passed shall be deemed invalid merely on the ground that no charge was framed unless in the opinion of the appellate court a failure of justice has been occasioned thereby.

(2) If the appellate court thinks that a failure of justice has been occasioned by an omission to frame a charge it shall order that a new trial shall be had.

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Irregularities not to vitiate proceedings.

396. Subject to the provisions hereinbefore contained, no finding, sentence or order passed or made by a court of competent jurisdiction shall be reversed or altered on account of —

(a) any error, omission or irregularity in the complaint, summons, warrant, charge, judgment or other proceedings before or during trial or in any inquiry or other proceeding under this Code;

(b) the want of any sanction required by section 129; or

(c) the improper admission or rejection of any evidence,

unless the error, omission, improper admission or rejection of evidence, irregularity or want has occasioned a failure of justice.

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Irregularity in distress.

397. No distress made under this Code shall be deemed unlawful, nor shall any person making it be deemed a trespasser on account of any defect or want of form in the summons, conviction, writ of distress or other proceeding relating to it, nor shall that person be deemed a trespasser ab initio on account of any irregularity afterwards committed by him, but all persons aggrieved by the irregularity may recover full satisfaction for the special damage caused by it in any court of competent jurisdiction.

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Affidavits

Affidavits before whom sworn.

398. —(1) Subject to any rules made under the Subordinate Courts Act, any affidavit may be used in a criminal court, if it is sworn —

(a) in Singapore, before any judge, District Judge, Registrar, Deputy Registrar or Magistrate or before any commissioner for oaths appointed or deemed to have been appointed under the Supreme Court of Judicature Act;

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(b) elsewhere in the Commonwealth before any judge, court, notary public or person lawfully authorised to administer oaths;

(c) in any other place, before any consul or vice-consul of Singapore, Malaysia or the United Kingdom.

(2) The court shall take judicial notice of the seal or signature, as the case may be, of any judge, court, notary public, person, consul or vice-consul appended or subscribed to any affidavit.

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Witnesses Called By Court

Power of court to summon and examine persons.

399. Any court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness or examine any person in attendance, though not summoned, as a witness or recall and re-examine any person already examined and the court shall summon and examine or recall and re-examine any such person, if his evidence appears to it essential to the just decision of the case.

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Copies Of Proceedings

Copies of proceedings.

400. —(1) If any person affected by a judgment or order made by a criminal court desires to have a copy of any order or deposition or other part of the record, he shall, on applying for such copy, be furnished with it by the court:

Provided that he pays for it a fee of 50 cents for each page with a minimum of \$10 or such other fee as may be fixed from time to time by the Minister unless the court for some special reason thinks fit to furnish it free of cost.

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(2) Notwithstanding anything in subsection (1), an accused person committed for trial shall receive free of charge a copy of the depositions of the witnesses recorded by the Magistrate.

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Compensation And Costs

Order for payment of costs of prosecution and compensation.

401. —(1) The court before which a person is convicted of any crime or offence may, in its discretion, make either or both of the following orders against him:

(a) an order for the payment by him of the costs of his prosecution or such part thereof as the court directs;

(b) an order for the payment by him of a sum to be fixed by the court by way of compensation to any person or to the representatives of any person injured in respect of his person, character or property by the crime or offence for which the sentence is passed.

(2) The court shall specify the person to whom any sum in respect of costs or compensation as aforesaid is to be paid, and section 403 shall be applicable to any order made under this section.

(3) The court may direct that an order for payment of costs or an order for payment of compensation shall have priority and, if no direction is given, an order for payment of costs shall have priority over an order for payment of compensation.

(4) To the extent of any amount which has been paid to a person or to the representatives of a person under an order for compensation any claim of such person or representatives for damages sustained by reason of the crime or offence shall be deemed to have been satisfied, but the order for payment shall not prejudice any right to a civil remedy for the recovery of any property or for the recovery of damages beyond the amount of compensation paid under the order.

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Power to award compensation and costs.

402. —(1) If in any case a Magistrate's Court acquits the accused and is of opinion that the prosecution was frivolous or vexatious it may, in its discretion either on the application of the accused or on its own motion order the complainant or the person on whose information the prosecution was instituted to pay to the accused, or to each or any of the accused where there are more than one, such compensation not exceeding \$50 as the court thinks fit:

Provided that the Court —

(a) shall record and consider any objections which the complainant or informant may urge against the making of the order; and

(b) shall record its reasons for making the order.

(2) Whenever in like circumstances an accused is acquitted by the High Court or a District Court, the Court may, in addition to exercising the powers conferred on a Magistrate's Court by subsection (1), order the complainant or informant to pay to the accused, or to each or any of them, the full costs, charges and expenses, to be taxed by the Registrar or District Judge, incurred by the accused in and about his defence.

(3) Such compensation shall be no bar to an action for false imprisonment.

[01

Provisions as to money payable as costs or compensation.

403. —(1) Subject to the provisions of this Code, where any person is, under this Code, for any reason whatsoever, ordered to pay any sum of money by way of costs or compensation, the court making the order may at any time before that sum has been paid in full, in its discretion, do all or any of the following things:

(a) allow time for the payment of that sum and grant extension of the time so allowed;

(b) direct payment to be made of that sum by instalments:

Provided that before allowing time for payment of that sum or directing payment of it to be made by instalments the court may require that person to execute a bond with or without sureties conditioned upon payment of that sum or of the instalments, as the case may be, on the day or days directed and in the event of that sum or any instalments not being paid as ordered the whole of that sum remaining unpaid shall become due and payable and the court may issue a warrant for the arrest of that person;

(c) issue warrant for the levy of the amount by distress and sale of any property belonging to that person;

(d) direct that in default of payment or of a sufficient distress to satisfy any such sum, that person shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may be sentenced or to which he may be liable under a commutation of sentence;

Form 32.

(e) direct that that person be searched, and that any money found on him when so searched or which, in the event of his being committed to prison, may be found on him when taken to prison, shall be applied towards the payment of that sum; the surplus, if any, being returned to him:

Provided that such money shall not be so applied if the court is satisfied that the money does not belong to the person on whom it was found.

(2) The term for which the court directs that person to be imprisoned in default of payment or of a sufficient distress to satisfy any such sum shall not exceed the following scale:

(a) when the money to be paid does not exceed \$50, the imprisonment may be for any term not exceeding 2 months;

(b) when the money to be paid exceeds \$50 but does not exceed \$100 for any term not exceeding 4 months;

(c) in any other case for a term not exceeding 6 months.

(3) The imprisonment which the court imposes under this section shall terminate whenever the money is paid or levied by process of law.

(4) If before the expiration of the time of such imprisonment, such a proportion of the money is paid or levied that the time of imprisonment suffered is not less than proportional to the part of the money still unpaid, the imprisonment shall terminate.

[02

Reward for unusual exertions.

404. Whenever it appears to the High Court or District Court that a private person has shown unusual courage, diligence or exertion in the apprehension of a person accused of having committed, attempted or abetted an offence punishable with death or imprisonment, it may order payment to him out of the Consolidated Fund of any sum not exceeding \$500.

[03

Compensation for family of a person killed in arresting.

405. If any person is killed in endeavouring to arrest or to keep in lawful custody a person accused as aforesaid, the Minister may order payment out of the Consolidated Fund to the wife, husband, parent or child of the deceased, of such sum or sums as appear reasonable, in compensation for the loss sustained.

[04

Any court may order payment of expenses of witnesses.

406. Any court holding any inquiry or trial under the provisions of this Code may, in its discretion, order payment out of the Consolidated Fund to any of the witnesses as it thinks fit, of the expenses incurred by them severally in and about attending that court and also compensation for their trouble and loss of time subject to such rules as are prescribed:

Provided that a District Court or Magistrate's Court shall exercise this power only in cases where the prosecution is conducted by or by order of the Public Prosecutor or by the police or with the sanction of a Government officer given under any written law.

[05

Rules

Minister to make rules as to rates, etc.

407. —(1) The Minister may make rules as to the rates or scales of payment of the expenses and compensation to be ordered as aforesaid and concerning the payment of them.

(2) The Minister may make rules with regard to the treatment, training and detention of persons sentenced to reformatory training, corrective training or preventive detention.

[06

Application of fines.

408. The Minister may by rules empower any court imposing any fines under the authority of any law for the time being in force to award any portion of them to an informer.

[07

Forms.

409. The forms set forth in Schedule B with such variation as the circumstances of each case require may be used for the respective purposes mentioned in them until they are altered by rules made under the Subordinate Courts Act.