

(4) When the conviction is under the Penal Code, and it is doubtful under which of two sections or under which of two parts of the same section of that Code the offence falls, the Court shall distinctly express the same, and pass judgment in the alternative.

(5) If it be a judgment of acquittal, it shall state the offence of which the accused is acquitted, and direct that he be set at liberty.

(6) If the accused is convicted of an offence punishable with death, and the Court sentences him to any punishment other than death, the Court shall in its judgment state the reason why sentence of death was not passed.

No sentence of death on person under 16 years of age.

**238.** Sentence of death shall not be pronounced on or recorded against a person under the age of sixteen years, but in lieu thereof the Court shall sentence such person to be detained during the pleasure of the Sultan and, if so sentenced, he shall be liable to be detained in such place and under such conditions as the Sultan may direct, and whilst so detained shall be deemed to be in legal custody.

Judgment of death.

**239.** When any person is sentenced to death the sentence shall direct that he 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.

Judgment not to be altered.

**240.** No Court, other than the High Court, having once recorded its judgment, shall alter or review the same: Provided that a clerical error may be rectified at any time, and that any other mistake may be rectified at any time before the Court rises for the day.

Judgment to be explained to accused and copy supplied.

**241.** The judgment shall be translated or explained to the accused in a language which he understands 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. Such copy shall, in any case other than a summons case, be given free of cost.

Chapter XXV.

SUBMISSION OF SENTENCES OF DEATH TO THE SULTAN.

244. (1) In every case in which sentence of death is pronounced the trial Judge shall forward to the Chief Justice for transmission to the Sultan the record of the case, together with a written report under seal stating whether, in his opinion, there are any reasons, and if so what reasons, why the sentence of death should not be carried out.

Submission of sentence of death to the Sultan.

(2) Upon the expiration of the time prescribed for instituting an appeal or, if an appeal has been instituted upon the dismissal of the appeal, the Chief Justice shall, as soon as conveniently may be, forward the record and the report to the Sultan together with, if there has been an appeal, an intimation of the decision of the Court of Appeal, and such report, if any, on the case as the Court of Appeal, or if there has been no appeal, the Chief Justice, may think fit to make.

(3) The Sultan may cause the trial judge to be summoned to attend the meeting of the State Council at which the sentence of death is to be considered and to produce his notes thereat.

(4) The Sultan, after considering the said report or reports and if the trial judge has been summoned to attend after hearing the trial judge, shall communicate to the High Court a copy under his hand and seal of any order he makes hereon.

Chapter XXVI.

EXECUTION OF SENTENCES.

245. (1) If the Sultan has ordered that the sentence of death is to be carried out the High Court shall, on receiving a copy under the Sultan's hand and seal of the order, issue a warrant of execution under the seal of the Court and the hand of a Judge and shall forward such warrant to the Superintendent of Prisons.

Execution of sentences of death.

(2) The Superintendent of Prisons on receiving such warrant of execution shall appoint an officer to carry it into effect.

(3) The Sultan may order a respite of the execution of the warrant and afterwards appoint some other time or place for its execution.

Capital sentence not to be passed on pregnant woman.

**246.** When a woman convicted of an offence punishable with death is found to be with child, sentence of death shall not be passed on her, and where no alternative sentence for such offence is otherwise provided for the sentence to be passed on her shall be a sentence of fifteen years imprisonment.

Lunatics.

**247.** (1) If a person sentenced to death, though sane when the sentence was pronounced, is subsequently certified by two medical officers to be a lunatic and incapable of understanding, the Sultan if satisfied thereof shall order the execution of the sentence to be postponed and may, if he thinks fit, commute the sentence for a sentence of imprisonment.

(2) The convicted person shall be detained as a criminal lunatic until his sentence has expired, or until he is certified by two medical officers to have regained his sanity, when he shall be transferred to a prison to serve the remainder of his sentence.

(3) If at the expiration of his sentence he is still insane he shall be detained as a pauper lunatic.

Procedure at execution.

**248.** (1) There shall be present at the execution of a sentence of death a Magistrate, not lower than a Magistrate of the Second Class, who shall satisfy himself as to the identity of the prisoner.

(2) There shall also be present at the execution the officer whom the Superintendent of Prisons has appointed to carry out the sentence, a medical officer or hospital assistant and such other person as the Superintendent of Prisons may require, and there may also be present any minister of religion whom the Superintendent of Prisons thinks proper to admit.

(3) As soon as may be after the judgment of death has been executed a medical officer or hospital assistant shall examine the body of the person executed and shall ascertain the fact of death and shall sign a certificate thereof on the back of the warrant of execution and deliver the same to the Superintendent of Prisons.

(4) The Magistrate who is present at the execution shall satisfy himself whether judgment of death was duly executed and he shall indorse the warrant accordingly.

(5) The Superintendent of Prisons shall return the warrant of execution duly indorsed as required by this section to the Chief Justice.

**249.** When a sentence of death is avoided by the escape of the person sentenced to death execution of such sentence shall be carried into effect at such other time after his re-capture as a Judge shall order. Escape of prisoner.

**250.** No omission or error as to time and place and no defect in form in any order or warrant given under this Chapter and no omission to comply with the provisions of section 248 shall be held to render illegal any execution carried into effect under such order or warrant, or intended so to have been carried into effect, or shall render any execution illegal which would otherwise have been legal. Saving for irregularity.

**252.** Where the accused is sentenced to imprisonment the Court passing the sentence shall forward a warrant to the officer in charge of the prison in which he is to be confined and, unless the accused is already confined in such prison, shall send him in the custody of the police to such prison with the warrant. Execution of sentences of imprisonment.

**253.** (1) Whenever an offender has been sentenced to pay a fine the Court passing the sentence may, in its discretion, make both or either of the following orders, that is to say— Provisions as to sentences of fine.

(a) direct by the sentence that in default of payment of the fine the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced, or to which he may be liable under a commutation of a sentence;

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

(2) A warrant for the levy of a fine may be executed at any place in the State.

Imprisonment in default.

**254.** Except in cases where the scale is specifically provided for in some other law the period for which the Court directs the offender to be imprisoned in default of payment of fine shall not exceed the following scale:

(a) if the offence is punishable with imprisonment;

<i>Where the maximum term of imprisonment</i>	<i>The period shall not exceed</i>
does not exceed six months ... ..	the maximum term of imprisonment.
exceeds six months but does not exceed two years	six months.
exceeds two years ... ..	one-quarter of the maximum term of imprisonment.

(b) if the offence is not punishable with imprisonment;

<i>Where the fine</i>	<i>The period shall not exceed</i>
does not exceed ten dollars ... ..	one month.
exceeds ten dollars but does not exceed twenty-five dollars	two months.
exceeds twenty-five dollars but does not exceed fifty dollars	four months.
exceeds fifty dollars ... ..	six months.

Termination of imprisonment when fine paid.

**255.** (1) 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.

(2) If, before the expiration of the time of imprisonment fixed in default of payment, such a proportion of the fine be 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.

(3) The fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if under the sentence the offender be liable to imprisonment for a longer period than six years then at any time previous to the expiration of

that period, and the death of the offender does not discharge from liability any property which would after his death be legally liable for his debts.

**256.** (1) When an offender has been sentenced to pay a fine, and the fine is not paid forthwith, the Court may make all or any of the following orders—

Allowing time to pay fine and suspending execution of imprisonment.

(a) direct that time be allowed for the payment of the fine;

(b) direct payment to be made of the fine by instalments;

(c) where the offender has been sentenced to imprisonment in default of payment of the fine under section 253, suspend the execution of the sentence of imprisonment and release the offender; and

(d) direct that any order made under this subsection shall be conditional on the offender executing a bond with or without sureties for his appearance before the Court on the date or dates on or before which payment of the fine or the instalments thereof, as the case may be, is to be made.

(2) When a fine is directed to be paid by instalments and default is made in the payment of any instalment, the same proceedings may be taken as if default had been made in the payment of all the instalments then remaining unpaid, and in such event, or where time has been allowed for the payment of the fine and the fine has not been paid within such time, the Court may, if no such order has previously been made, make both or either of the orders specified in section 253.

(3) The provisions of this section shall be applicable also in any case in which an order for the payment of money has been made on non-recovery of which imprisonment may be awarded and the money is not paid forthwith, and if the person against whom the order has been made, on being required to enter into a bond such as is referred to in that subsection, fails to do so, the Court may at once pass sentence of imprisonment.

**257.** (1) When the accused is sentenced to whipping the instrument to be used and the number of strokes shall

Mode of executing sentence of whipping.

be specified in the sentence. In no case shall the whipping exceed twenty-four strokes in the case of an adult or twelve strokes in the case of a youthful offender.

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

(3) The rattan shall be not more than half an inch in diameter.

(4) In the case of a youthful offender, whipping shall be inflicted in the way of school discipline with a light rattan.

(5) 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 whipping, the combined sentences of whipping awarded by the Court for any such offences shall not exceed a total number of twenty-four strokes in the case of adults and twelve strokes in the case of youthful offenders.

Certain persons not punishable with whipping.

**258.** No sentence of whipping shall be executed by instalments, and none of the following persons shall be punishable with whipping—

(a) females;

(b) males sentenced to death;

(c) males whom the Court considers to be more than fifty years of age.

Medical certificate required.

**259.** (1) The punishment of whipping shall not be inflicted unless a medical officer or hospital assistant 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 whipping, a medical officer or hospital assistant certifies that the offender is not in a fit state of health to undergo the remainder of the sentence the whipping shall be finally stopped.

Procedure if whipping cannot be inflicted.

**260.** (1) In any case in which under the preceding section a sentence of whipping is wholly or partially prevented from being executed the offender shall be kept in

custody till the Court which passed the sentence can revise it, and the said Court may in its discretion either remit such sentence or sentence the offender in lieu of whipping, or in lieu of so much of the sentence of whipping as was not executed, to imprisonment for a term which may extend to twelve 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 authorize any Court to inflict imprisonment for a term exceeding that to which the accused is liable by law or which the said Court is competent to inflict.

261. (1) When a person who is an escaped convict or is undergoing a sentence of imprisonment is sentenced to imprisonment, such imprisonment shall commence either immediately or at the expiration of the imprisonment to which he has been previously sentenced, as the Court awarding the sentence may direct. A sentence of death shall be executed notwithstanding the pendency of any sentence of imprisonment.

Commencement of sentence of imprisonment on prisoner already undergoing imprisonment.

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

262. (1) When a youthful offender is convicted before any Criminal Court of any offence punishable by fine or imprisonment, whether rigorous or simple, such Court may instead of passing a sentence of fine or imprisonment—

Youthful offenders.

(a) order such offender to be discharged after due admonition if the Court thinks fit;

(b) order such offender to be delivered to his parent or to his guardian or nearest adult relative or to such other person as the Court shall designate on such parent, guardian, relative or other person executing a bond with or without sureties, as the Court may require, that he will be responsible for the good behaviour of the offender for any period not exceeding twelve months;



(c) order such offender to be released on probation of good conduct on his entering into a bond with or without sureties, and during such period as the Court may direct, to appear and receive judgment, if and when called upon, and in the meantime to keep the peace and be of good behaviour;

(d) commit in the case of the High Court such offender to custody in a place of detention for any period of not less than one year and not more than five years and so that such period shall not extend beyond the day when apparently the offender will attain the age of twenty years and in the case of any other Court transfer the case to the High Court with a view to such offender being committed to custody under the provisions of this paragraph.

(2) Whenever a case is transferred to the High Court under the provisions of paragraph (d) of subsection (1) of this section the Magistrate may remand such offender in custody to a place of detention, or to such other place as the Magistrate deems fit, pending the decision of the High Court; and the High Court shall have the jurisdiction and powers conferred by paragraph (d) of subsection (1) of this section and by section 298 of this Code:

Provided that notwithstanding the provisions of subsection (2) of section 298 of this Code, the High Court may, without hearing such offender, commit him to custody in a place of detention or in a prison or make such other order as provided by this Code.

(3) In this section "place of detention" means any place appointed by the Sultan in Council to be a place of detention for the purposes of this section.

(4) The Resident may at any time by writing under his hand order any youthful offender who is detained in a place of detention within the State, and has been so detained for a period of one year or more, to be released on parole subject to such conditions, if any, as the Resident may in such writing prescribe.

(5) The Sultan in Council may make rules—

(a) to appoint places of detention within the State and to provide for their inspection;

(b) to regulate the classification, treatment, employment, education, discipline, control, diet and recreation of youthful offenders detained in any place of detention within the State;

(c) to provide for the appointment of an Advisory Board to advise the Resident on the exercise of the powers conferred on him by subsection (4) of this section and to perform such other duties as may be prescribed in such rules;

(d) to prescribe the circumstances under which, the persons by whom, and the manner in which youthful offenders who have been released on parole under subsection (4) may be re-arrested and re-committed to a place of detention;

(e) to provide for the transfer of youthful offenders from one place of detention to another;

(f) to regulate, prohibit or prevent the conveyance or transmission of articles or messages into or from a place of detention and to provide for the exclusion of persons from places of detention and for the arrest of persons found contravening any rule made under this paragraph, and to prescribe the penalty, not exceeding a fine of five hundred dollars or imprisonment for a term of three months or both such fine and imprisonment, with which the contravention of any rule made under this paragraph shall be punished.

(6) The Court before which a youthful offender is convicted may, in addition to or instead of punishing such offender in manner provided in this section, inflict on his parent or guardian a fine not exceeding twenty dollars in any case in which such Court, after summary inquiry, is satisfied that such parent or guardian has, by neglecting to take proper care or otherwise, conducted to the misconduct of such offender:

Provided that no parent or guardian shall be fined without his having had an opportunity of being heard and (if he desires it) of adducing evidence in his defence.

(7) When a youthful offender has been released on probation under paragraph (c) of subsection (1) the Court by which the order was made, if satisfied by information on

oath that the offender has failed to observe any of the conditions of his bond, may issue a warrant for his apprehension, and the provisions of subsections (4) and (5) of section 263 shall apply as if such offender had been apprehended under warrant issued under subsection (3) of that section:

Provided that—

(a) if such offender is remanded, he shall be committed to custody in a place of detention or in such other place as the Court deems fit, and

(b) the Court may, instead of passing sentence on him of fine or imprisonment, exercise any of the powers conferred by subsection (1) or (6) of this section.

Release on  
probation  
of offender.

**263.** (1) When any person not being a youthful offender has been convicted of any offence punishable with fine or imprisonment before any Court, if it appears to such Court that, having regard to the character, antecedents, age, health or mental condition of the offender, or to the trivial nature of the offence or to any extenuating circumstance under which the offence was committed, it is expedient that the offender be released on probation of good conduct, the Court may direct that he be released after such admonition as the Court shall think fit or upon his entering into a bond, with or without sureties and during such period as the Court may direct, to appear and receive judgment if and when called upon and in the meantime to keep the peace and be of good behaviour.

(2) The Court may, if it thinks fit, direct that the offender shall pay the costs of the prosecution or some portion of the same within such period and by such instalments as may be directed by the Court.

(3) If any Court, not being a Petty Court, is satisfied by information on oath that the offender has failed to observe any of the conditions of his bond, it may issue a warrant for his apprehension.

(4) Any offender when apprehended on any such warrant shall, if not forthwith brought before the Court having power to sentence him be brought before a Magistrate, and such Magistrate may either remand him by warrant until the time at which he is required by his bond

to appear for judgment or until the sitting of a Court having power to deal with his original offence, or may admit him to bail with a sufficient surety conditioned on his appearing for judgment.

(5) The offender, when so remanded, may be committed to prison and the warrant of remand shall order that he be brought before the Court before which he was bound to appear for judgment or to answer as to his conduct since his release.

**263A.** When a Court intends to direct under the powers conferred on it by section 262 or 263 that an offender shall be released on entering into a bond with or without sureties the Court may require that there be included in such bond one or more of the following conditions namely—

Probation  
subject to  
conditions.

(a) a condition that such offender shall remain under the supervision of some other person named in the bond during such period as may be therein specified;

(b) such conditions for securing such supervision as the Court may think it desirable to impose;

(c) such conditions with respect to residence, employment, associations, abstention from intoxicating liquors or with respect to any other matter whatsoever as the Court may think it desirable to impose.

**264.** (1) When a person having previously been convicted of an offence punishable with imprisonment of either description for a term of two years or upwards is convicted of any other offence also punishable with imprisonment of either description for a term of two years or upwards, the High Court or the Court of a Magistrate of the First Class may, in addition to any other punishment to which it may sentence him, direct that he be subject to the supervision of the police for a period of not more than three years commencing immediately after the expiration of the sentence passed on him for the last of such offences.

Sentence  
of police  
supervision.

(2) When any person subject to the supervision of the police is, while still subject to such supervision, sentenced to a term of imprisonment within the Colony any term spent in prison shall be excluded from the period of supervision.

Require-  
ments from  
persons  
subject to  
supervision.

**265.** (1) Every person subject to the supervision of the police who is at large within the State shall—

(a) notify the place of his residence to the officer in charge of the Police District in which such place is situated;

(b) whenever he changes his place of residence within the State notify such change of residence to the officer in charge of the Police District which he is leaving and to the officer in charge of the Police District into which he goes to reside;

(c) whenever he changes his place of residence to a place without the State notify such change of residence to the officer in charge of the Police District which he is leaving.

(2) Every person subject to the supervision of the police, if a male, shall once in each month report himself at such time as is prescribed by the officer in charge of the Police District in which he resides either to such police officer himself or to such other person as that officer directs, and such police officer or other person may upon each occasion of such report being made take or cause to be taken the finger prints of the person so reporting.

Penalty for  
non-  
compliance  
with  
section 265.

**266.** If any person subject to the supervision of the police who is at large within the State—

(a) remains in any place for forty-eight hours without notifying the place of his residence to the officer in charge of the Police District in which such place is situated;

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

(c) fails to comply with the requirements of the last preceding section as to reporting himself once in each month;

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 under this Code, and shall be liable to imprisonment of either description for a term which may extend to one year, and to a fine not exceeding one hundred dollars, or to both such imprisonment and fine.

267. (1) Every warrant for the execution of any sentence may be issued either by the Judge or Magistrate who passed the sentence, or by his successor, or by another Judge or Magistrate acting in his place.

Warrant, by whom issuable; return of warrant.

(2) 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.

268. Nothing in this Code shall be deemed to interfere with the power of the Sultan to grant pardons, reprieves, respites or remissions of punishment.

Saving for powers of the Sultan.

## Chapter XXVII.

### PREVIOUS ACQUITTALS OR CONVICTIONS.

269. (1) A person who has been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 167 or for which he might have been convicted under section 168.

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

(2) A person acquitted or convicted of any offence may be afterwards tried for any distinct offence for which a separate charge might have been made against him on the former trial under subsection (1) of section 166.

(3) A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened or were not known to the Court to have happened at the time when he was convicted.

(4) A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with and tried for any other offence constituted by the same acts

which he may have committed, if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

(5) 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) of this section.

Plea of  
previous  
acquittal  
or conviction.

**270.** (1) The plea of a previous acquittal or conviction may be pleaded either orally or in writing, and may be in the following form or to the following effect—

“ The defendant says that by virtue of section 269 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 such plea shall be tried and disposed of before the issues raised by the other pleas are tried.

(3) On the trial of an issue on a plea of a previous acquittal or conviction, the proceedings of the Court on the former trial, and the proceedings (if any) of any preliminary inquiry on the previous or subsequent charge shall be admissible in evidence to prove or disprove the identity of the charges.

## PART VII.

## APPEALS, REFERENCE AND REVISION.

## Chapter XXVIII.

## APPEALS.

**271.** Except as provided for in section 275 the accused person, the complainant or the Public Prosecutor, if he is dissatisfied with any judgment, sentence or order pronounced by any Magistrate in a criminal case or matter to which he is a party, may appeal against such judgment, sentence or order for any error in law or in fact, or on the ground of the excessive severity or of the inadequacy of the sentence.

Dissatisfied person may appeal.

**272.** (1) The appellant shall without fourteen days from the time of such judgment, sentence or order being passed or made, file a petition in the Court of such Magistrate, paying at the same time the prescribed appeal fee.

Procedure.

(2) If the appellant is in custody he may give notice of appeal within the said fourteen days either orally or in writing to the officer in charge of the prison and on payment of the prescribed appeal fee such officer shall forthwith forward such notice or the purport thereof to such Magistrate's Court.

(3) Every such petition of appeal shall be addressed to the Court to which the appeal lies and shall state shortly the substance of the judgment appealed against and the grounds of appeal, and shall be signed by the appellant except where such notice is given orally as aforesaid.

(4) No fee shall be payable when the appeal is made by a public servant acting in his official capacity.

**273.** The Court to which the appeal lies shall be—

Court to which appeal lies.

(a) from the Court of a Magistrate of the Third Class to the Court of a Magistrate of the First Class;

(b) from the Court of a Magistrate of the First Class sitting in original or appellate jurisdiction or from the Court of a Magistrate of the Second Class to the High Court.



Appeal  
against  
acquittal.

**275.** When an accused person has been acquitted by a Magistrate, or where the appeal is on the ground that the sentence is insufficient, there shall be no appeal except by, or with the sanction in writing of, the Public Prosecutor:

Provided that the petition of appeal required by section 272 may be filed provisionally pending the receipt of the sanction of the Public Prosecutor under this section.

Copy of  
record and  
petition  
to be sent  
to appellate  
Court.

**276.** (1) When the appellant has complied with the provisions of section 272, and subject to the provisions of section 275, the Court appealed from shall make and transmit to the Court to which the appeal lies a certified copy of the record of the proceedings in the case together with the petition of appeal.

(2) The originals of any documents which were put in at the trial shall, together with certified copies and if necessary, translations thereof, be forwarded with the record, and the Court shall also forward any other exhibits which it considers desirable.

Summary  
rejection  
of appeal.

**277.** (1) On receiving the documents mentioned in the preceding section the Judge or Magistrate of the appellate Court shall peruse the same, and if he considers that there is no sufficient ground for interfering he may reject the appeal summarily: Provided that no appeal shall be rejected summarily except in the case mentioned in subsection (2) unless the appellant has had a reasonable opportunity of being heard either personally or in writing in support of the same.

(2) Where an appeal is brought on the ground that the conviction is against the weight of the evidence or that the sentence is excessive and it appears to the Judge or Magistrate of the appellate Court that the evidence is sufficient to support the conviction and that there is nothing in the circumstances of the case which could raise a reasonable doubt whether the conviction was right or lead him to consider that the sentence ought to be reduced the appeal may without being set down for hearing be summarily rejected by an order certifying that the appeal has been lodged without any sufficient ground of complaint.

(3) If an appeal is dismissed summarily any appeal fee paid shall be refunded to the appellant.

278. The Judge or Magistrate of the Court to which an appeal lies may, on the application of any person desirous of appealing who may be debarred from so doing upon the ground of his not having observed some formality or requirement of this Code, permit an appeal upon such terms and with such directions to the parties as he shall consider desirable, in order that substantial justice may be done in the matter.

Appeal specially allowed in certain cases.

279. Except in the case of a sentence of whipping (the execution of which shall be stayed pending appeal), no appeal shall operate as a stay of execution, but the Court passing the sentence or the Court to which the appeal lies or the Chief Justice 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 such judgment, order, conviction or sentence as may seem reasonable.

Stay of execution pending appeal.

280. If the Judge or Magistrate of the appellate Court does not reject the appeal summarily he shall cause notice to be given to the parties that the appeal will be heard.

Setting down appeals.

281. (1) An appeal may be conducted orally or, if the appellant so desires, in writing.

Procedure at hearing.

(2) 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.

(3) If the appellant does not appear to support his appeal the Court shall consider his appeal and may make such order thereon as it may think fit.

282. (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

Non-appearance of respondent.

the hearing of the appeal to a future day for his appearance, and shall issue the requisite notice to him for service.

(2) If the service of such last-mentioned notice cannot be effected on the respondent the Court shall proceed to hear the appeal in his absence.

Arrest of  
respondent  
in certain  
cases.

**283.** When an appeal is presented against an acquittal the Court may issue a warrant directing that the accused be arrested and brought before it, and may commit him to prison pending the disposal of the appeal or admit him to bail.

Appeal from  
acquittal.

**284.** In an appeal from an order of acquittal the Court may—

- (a) dismiss the appeal; or
- (b) direct that further inquiry be made or order a new trial on the same or an amended charge; or
- (c) find the accused guilty of any offence of which the Court below might have convicted him and pass sentence on him according to law.

Appeal from  
conviction.

**285.** In an appeal from a conviction the Court may—

- (a) dismiss the appeal; or
- (b) quash the conviction and sentence and acquit or discharge the accused; or
- (c) direct that further inquiry be made or order a new trial on the same or an amended charge; or
- (d) quash the conviction and convict the accused of any offence of which the Court below might have convicted him, and maintain, reduce, or increase the sentence or alter the nature of the sentence; or
- (e) uphold the conviction and maintain, reduce, or increase the sentence or alter the nature of the sentence.

Appeal as  
to sentence.

**285A.** In an appeal as to sentence the Court may reduce or increase the sentence, or alter the nature of the sentence.

286. In an appeal from any other order the Court may Appeal from  
other order.

- (a) dismiss the appeal; or
- (b) direct that further inquiry be made; or
- (c) vary or reverse such order.

287. (1) In dealing with any appeal under this Chapter the Court, if it thinks additional evidence to be necessary or that any witness should be recalled, may either take such evidence itself or direct it to be taken by a Magistrate. Order to  
take further  
evidence.

(2) When the additional evidence is taken by a Magistrate he shall certify such evidence to the appellate Court which shall thereupon, as soon as may be, proceed to dispose of the appeal.

(3) Unless the appellate Court otherwise directs, the accused shall be present when the additional evidence is taken.

288. (1) When the appeal has been heard the Court shall either at once or on some future day of which notice shall be given to the parties deliver the judgment. Judgment.

(2) The judgment shall ordinarily be delivered in open Court but in the absence of the appellant or for other just cause the Court may deliver judgment by service of a written copy or may direct that the judgment be read out in the Court below.

289. (1) Whenever a case is decided on appeal by a 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. Certificate  
and con-  
sequence of  
judgment.

(2) Whenever an appeal is not dismissed such certificate shall state the grounds upon which the appeal was allowed or the decision of the Magistrate's Court was varied.

(3) The Court to which the appellate Court certifies its judgment or order shall thereupon make such orders as are conformable to the judgment or order of the appellate Court and, if necessary, the record shall be amended in accordance therewith.

Death of  
accused.

**290.** Every appeal under section 275 shall finally abate on the death of the accused.

Grounds  
for reversal  
of judgment  
of  
Magistrate's  
Court.

**291.** No judgment or order of a Magistrate's Court shall be reversed or set aside unless it is shown to the satisfaction of the Court above that such judgment or order was either wrong in law or against the weight of the evidence, or, in the case of a sentence, inappropriate in the circumstances of the case.

Costs.

**292.** (1) In all proceedings under this and the following Chapter an appellate Court shall have power to award such costs or expenses 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 general revenue of the State and be payable by the State Treasurer and the Public Prosecutor shall not be personally liable therefor.

(3) Costs awarded to be paid to the Public Prosecutor shall be paid by the party ordered to pay the same to the State Treasurer.

Copies of  
proceedings.

**293.** If any person affected by a judgment or order passed or 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 therewith by the Court:

Provided that he pay for the same such reasonable sum as the Court may direct unless the Court for some special reason thinks fit to furnish it free of cost. Such copy shall not be chargeable with stamp duty.

## Chapter XXIX.

### REFERENCE AND REVISION.

Reservation  
of points  
of law.

**294.** (1) Any Court of a Magistrate of the First or Second Class sitting in original or appellate jurisdiction may, if it thinks fit, at the conclusion of the proceedings or at any time within seven days from the time of the judgment, acquittal, sentence or order passed or made therein, reserve for the consideration of the High Court any questions of

law arising in such proceedings, setting out shortly the facts on which the law is to be applied and the questions of law to be determined thereon.

(2) Every question of law so reserved shall be submitted to the said Court in the shape of a special case in the form in the Second Schedule.

(3) Every such special case shall be drawn up by the Magistrate before which the proceedings are held and shall—

(a) set out shortly the facts which are considered by the Magistrate to be proved;

(b) state the question or questions of law which has or have been reserved for the opinion of the Court;

(c) be sent by the Magistrate to the Registrar; and

(d) be set down for argument in such manner as the High Court directs.

295. (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 with the opinion of the Court thereon or may make such order in relation to the matter as to the Court seems fit.

Determina-  
tion and  
order  
thereon.

(2) No Magistrate who states and delivers a special case in pursuance of this Code shall be liable to any costs in respect thereto.

296. A Judge may call for and examine the record of any proceeding before any inferior Court or Magistrate, and a District Court Magistrate may call for and examine the proceedings in a Petty Court or the proceedings of a Petty Court Magistrate, for the purpose of satisfying himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed and as to the regularity of any proceedings of such inferior Court or Magistrate.

Power to  
call for  
records of  
inferior  
Courts.

297. On examining any record under the last preceding section, or otherwise, the revising Judge or Magistrate may direct the subordinate Magistrate to make, and the

Power to  
order further  
inquiry.

subordinate Magistrate shall make, further inquiry into any complaint which has been dismissed under section 135, or into the case of any accused person who has been discharged.

Powers on  
revision.

**298.** (1) A revising Judge or Magistrate may, in any case the record of the proceedings of which has been called for by himself or which otherwise comes to his knowledge, in his discretion, exercise any of the powers conferred by sections 279, 283, 284, 285, 286, 287 and 292 of this Code, or may make such order as he may deem fit.

(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 in writing, in his own defence.

Permission  
for parties  
to appear.

**299.** No party has any right to be heard before a Judge or Magistrate when exercising his powers of revision:

Provided that such Judge or Magistrate may, if he thinks fit, when exercising such powers hear any party and that nothing in this section shall be deemed to affect subsection (2) of section 298.

Orders on  
revision.

**300.** When a case is revised under this Chapter by a Judge or Magistrate he shall certify his decision or order to the Court by which the finding, sentence or order revised was recorded or passed stating where such finding, sentence or order has been varied, and the grounds for such variation; 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.

#### Chapter XXX.

##### INQUESTS.

Meaning of  
"cause of  
death."

**302.** In this Chapter the words "cause of death" include not only the apparent cause of death as ascertainable by inspection or *post-mortem* examination of the body of

the deceased, but also all matters necessary to enable an opinion to be formed how the deceased came by his death and whether his death resulted in any way from, or was accelerated by, any unlawful act or omission on the part of any other person.

**303.** (1) If a Magistrate in charge of a station or District receives information—

Duty of Magistrate in charge of station or District.

(a) that a person has committed suicide; or

(b) that a person has been killed by another, or by an animal, or by machinery, or by an accident; or

(c) that a person has died under circumstances raising a reasonable suspicion that some other person has committed an offence; or

(d) that the body of a dead person has been found, and it is not known how he came by his death;

subject to the provisions of subsection (3), he shall, if he considers it necessary, himself immediately proceed or shall direct some other Magistrate immediately to proceed to the place where the body of such deceased person is and there shall make an investigation and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body, and such marks, objects and circumstances as, in his opinion, may relate to the cause of death or the person (if any) who caused such death, and stating in what manner or by what weapon or instrument (if any) such marks appear to have been inflicted.

(2) The report shall be signed by the Magistrate making the investigation and shall be forwarded forthwith to the Resident.

(3) If a District Officer or police officer not below the rank of inspector is available the investigation prescribed by this section may be made by such District Officer or police officer and, if so made, the report shall be signed by such District Officer or police officer and shall be forwarded forthwith to the Resident.

**304.** (1) Every person making an investigation under the last preceding section shall, if there appears to him any

Duty of officer to arrange for



*post-mortem*  
examination  
in certain  
cases.

reason to suspect that the deceased came by his death in a sudden or unnatural manner or by violence, or that his death resulted in any way from or was accelerated by any unlawful act or omission on the part of any other person, at once inform the nearest medical officer, and shall take or send the body to the nearest Government hospital or other convenient place for the holding of a *post-mortem* examination of the body by a medical officer:

Provided that if such person is satisfied as to the cause of death and that the deceased came by his death by accident, or that in all the circumstances of the case including the state of the body and the difficulties of communication he is of the opinion that no useful purpose would be served by a further examination, he may order the body to be buried forthwith.

(2) If the investigation is made by a District Officer or a police officer he shall not remove the body if it appears to him that it should be viewed by a Magistrate in the place where it was found.

(3) Where it is not practicable to obtain the services of a medical officer, a hospital assistant may perform the duties required by this section.

*Post-mortem*  
examination  
of body.

**305.** (1) Upon receiving the information referred to in the last preceding section a medical officer or hospital assistant shall, as soon as practicable, make a *post-mortem* examination of the body of the deceased.

(2) The medical officer or hospital assistant, if it is necessary in order to ascertain the cause of death, shall extend the examination to the dissection of the body and an analysis of any portion thereof, and may cause any portion thereof to be transmitted to the State Medical Officer.

Report of  
medical  
officer.

**306.** (1) The medical officer or hospital assistant making any such examination shall draw up a report of the appearance of the body and of the conclusion which he draws therefrom, and shall certify as to the cause of death and shall date and sign the report and transmit it to the Magistrate or police officer who shall attach it to the report forwarded under section 303.

(2) The report of the medical officer or hospital assistant and the report of the State Medical Officer on anything transmitted to him under section 305 (2) and also the report of any Government pathologist or Government chemist shall be admissible as evidence and shall be *prima facie* evidence of the facts therein stated at any inquest held under this Chapter and also in any inquiry held under Chapter XVII.

307. (1) If the Magistrate shall be satisfied as to the cause of death and that the death did not result in any way from or was not accelerated by any unlawful act or omission without holding an inquest under this Chapter, he shall report to the Resident the cause of death as ascertained to his satisfaction, with his reasons for being so satisfied, and shall at the same time transmit to the Resident all reports and documents in his possession connected with the matter.

Duty of Magistrate on receipt of report.

(2) In all other cases the Magistrate shall proceed as soon as may be to hold an inquest under this Chapter.

(3) It shall not be necessary for the Magistrate to hold any inquest under this Chapter or to make any report under subsection (1) if any person has been committed for trial before the High Court or tried before himself upon a charge of causing the death of the deceased or such hurt as caused such death.

308. When any person dies while in the custody of the police or in an asylum or prison, the officer who had the custody of such person or was in charge of such asylum or prison, as the case may be, shall forthwith give intimation of such death to the nearest Magistrate, and such Magistrate or some other Magistrate shall, in the case of death in the custody of the police, and in other cases may, if he thinks expedient, hold an inquest into the cause of death.

Death of a person in custody of police or in any asylum.

309. (1) A Magistrate holding an inquest under this Chapter shall have all the powers which he would have in holding an inquiry into an offence.

Powers of Magistrate.

(2) A Magistrate holding an inquest under this Chapter if he considers it expedient that the body of the

deceased person should be examined by a medical officer or hospital assistant in order to discover the cause of death may, whether a *post-mortem* examination has been made under section 305 or not, issue his order to a medical officer or hospital assistant to make a *post-mortem* examination of such body, and may for such purpose order such body to be exhumed.

(3) The Magistrate holding the inquest may if he thinks fit summon to assist him a jury consisting of not less than three and not more than five persons of whom at least half shall, if possible, be of the same race as the deceased.

Magistrate  
may view  
body.

**310.** A Magistrate holding an inquest shall ordinarily view the body of the deceased and may for that purpose cause such body to be exhumed:

Provided that a Magistrate may in his discretion dispense with viewing the body if for a reason which he shall record he considers it to be unnecessary.

Inquiries to  
be made by  
Magistrate.

**311.** A Magistrate holding an inquest 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 such death.

Evidence  
and finding  
to be  
recorded.

**312.** (1) The Magistrate holding an inquest under this Chapter shall record the evidence and his finding thereon, and shall forthwith transmit to the Resident the original of such evidence and finding duly authenticated by his signature, or a copy of such evidence and finding certified under his hand as correct.

(2) The place in which any inquest under this Chapter is held shall be a place open to the public. But a Magistrate conducting an inquest may, on special grounds of public policy or expediency, in his discretion, exclude the public or any person or persons in particular at any stage of the inquest from the place in which the inquest is being held.

Powers of  
Public  
Prosecutor  
and High

**313.** (1) The Public Prosecutor or the High Court may at any time direct a Magistrate to hold an inquest under this Chapter into the cause of, and the circumstances connected

with, any death such as is referred to in sections 303 and 308, and the Magistrate to whom such direction is given shall thereupon proceed to hold an inquest and shall record his finding as to the cause of death and also as to any of the circumstances connected therewith with regard to which the Public Prosecutor or the High Court may have directed him to make inquiry.

Court as to inquests.

(2) When the proceedings at any inquest under this Chapter have been closed and it appears to the Public Prosecutor or the High Court that further investigation is necessary, the Public Prosecutor or the High Court may direct the Magistrate to reopen such inquest and to make further investigation, and thereupon the Magistrate shall have full power to reopen the inquest and make further investigation and thereafter to proceed in the same manner as if the proceedings at such inquest had not been closed:

Provided that this subsection shall not apply to any inquest at which a finding of murder or culpable homicide not amounting to murder has been returned against any person.

(3) When giving any direction under this section the Public Prosecutor or the High Court may also direct whether the body shall or shall not be exhumed.

(4) All directions given under this section shall be complied with by the Magistrate to whom they are addressed without unnecessary delay.

314. (1) The medical officer or hospital assistant who made the *post-mortem* examination of the body of the deceased shall when possible be called as a witness but in his absence for reasonable cause the written report of such medical officer or hospital assistant shall be admissible in evidence.

Admissibility of medical report in certain cases.

(2) Such written report shall be subject to such deduction from its weight as the Court deems proper to make by reason of such report not having been made upon oath and the accused person not having any opportunity of cross-examination.

**Chapter XXXI.****PERSONS OF UNSOUND MIND.**

Procedure where accused is of unsound mind.

**315.** (1) When a Court holding an inquiry or a trial has reason to suspect that the accused person is of unsound mind and consequently incapable of making his defence, it shall in the first instance inquire into the fact of such unsoundness, and if not satisfied that such person is capable of making his defence shall postpone the inquiry or trial and shall remand him to a hospital for a period not exceeding one month.

(2) The medical officer of the said hospital shall keep such person under observation during the period of his remand and before the expiry of such period shall certify under his hand to the Court his opinion as to the state of mind of such person, and if he is unable within the period to form any definite conclusion, shall so certify to the Court and shall ask for a further remand which may extend to two months.

Certificate of medical officer.

**316.** (1) If the medical officer shall certify that the accused person is of sound mind and capable of making his defence the Court shall proceed with the inquiry or trial.

(2) If the medical officer shall certify that such person is of unsound mind and incapable of making his defence the Court shall, if satisfied of the fact, find accordingly, and thereupon the inquiry or trial, as the case may be, shall be postponed.

(3) The certificate of the medical officer shall be receivable as evidence under this section, but the Court may require the personal attendance of the medical officer.

(4) 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 Chapter.

Release of person of unsound mind pending investigation or trial.

**317.** (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

shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Court or such officer as the Court appoints in that behalf.

(2) If the offence with which he is charged is non-bailable, or where the Court considers it desirable, or where sufficient security is not given, any Magistrate's Court shall refer the case to a Judge and a Judge on such reference or in any case in the High Court may release him on bail as provided in subsection (1) or may—

(a) make further inquiry, or direct that further inquiry be made, or order the accused to be tried; or

(b) order him to be confined in a prison or hospital or other suitable place of safe custody in which event the Judge shall report the case to the Resident.

(3) Pending the order of a Judge under the provisions of subsection (2) of this section the accused may be committed to a prison or hospital for safe custody.

(4) If the medical officer shall certify that such person is of unsound mind and incapable of making his defence the Court shall, if satisfied of the fact, find accordingly, and thereupon the inquiry or trial, as the case may be, shall be postponed.

**318.** When the accused has been released under section 317 the Court may at any time require him to appear or be brought before it and may again proceed under section 315.

Inquiry or trial.

**319.** When the accused person appears to be of sound mind at the time of a preliminary inquiry, the Court, notwithstanding that it is alleged that at the time when the act was committed, in respect of which the accused person is charged, he was by reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law, shall proceed with the case and, if the accused person ought, in the opinion of the Court, to be committed for trial, the Court shall so commit him.

Defence of lunacy at preliminary inquiry.

**320.** Where any act or omission is charged against any person as an offence, and it is given in evidence on the trial

Defence of lunacy on trial.