Criminal Courts - Rules and Orders

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Part I

Instructions to Criminal Courts

Chapter 1

Court Hours, Cause Lists and AffidavitsA. General

1. In this part "the Code" means the Code of Criminal Procedure (Act V of 1898).

2. All Criminal Courts should be opened by 11 a.m. and the presiding officers should be present in their place by that hour, unless for seasonal or other temporary causes another hour is substituted with the sanction of the District Magistrate.

3. Every effort should be made to push through the work fixed for the day. If court work is commenced punctually at 11 a.m. it will seldom be necessary to continue the hearing of cases after 5 p.m. When the examination of a witness is proceeding at 5 p.m. the Court should decide whether his examination should continue or be postponed till the next working day. Ordinarily the examination of a fresh witness should not be begun after 5 p.m., but this may be done when it tends to the greater convenience of the parties and the witnesses in attendance and when the Court considers that the ends of justice will be served thereby. Addresses of legal practitioners should not be

heard after 5 p.m. unless they desire it.

4. The attention of the Courts is invited to the provisions of Section 352, of the Code. The general rule is that public business should be conducted in open Court at the recognized Court house during recognised Court hours. Except when a Magistrate is on tour or when exceptional circumstances exist the conduct of public business elsewhere that at the Court house is not desirable. In the trial of young persons use should, however, be made of the proviso to the Section and ordinarily only persons related to the accused or otherwise concerned in the case should be admitted to the Court.

5. Ordinarily no case should be taken up on a holiday without the consent of both the parties when parties are concerned and without the consent of the witnesses in attendance whom the parties want to examine on such a holiday. Summonses for first hearing should never be for a holiday.

Note. - Although the Courts do not normally sit for hearing of cases on Sundays and holidays, it is desirable, except in the case of a single holiday, that at least one Court should be open for the cognizance of state cases so that there be no delay in dealing with accused produced in police custody.

6. Magistrates should receive State cases upto 5 p.m. If any case comes in so late that it is impossible to take it up on the same day, it must stand over for trial till the following day and will be considered as pending before the Court. The challan must on no account be returned to the police.

7. It is of the utmost importance that cases in which juvenile delinquents are accused should be disposed of with expedition and to achieve this they should be given priority over other work. The presiding officer should not only arrange to hear the case as soon as possible after the offender is brought before him but also should exercise the utmost care in avoiding remands.

8. Criminal cases in which Government servants are involved should be dealt with as expeditiously as possible and District Magistrates should give their personal attention to ensuring that the above direction is followed.

9. The presiding officer should also give preference to cases under the Indian Railways Act (IX of 1890) and dispose of such cases as early as possible during the sitting of the Court or any day on which they have been fixed for hearing. Cases under the Indian Railways Act should normally be taken at a district headquarters.

10.

(1)Subject to the instructions in the preceding rules, State cases ready for hearing at the commencement of the day should ordinarily have precedence over other cases except those which are actually in progress of trial and are standing over from the previous day. State cases received during the day should, as far as possible, be given precedence, but presiding officer should not break off a trial in which he is actually engaged at the time in order to take up a state case. Subject to the above directions, Courts, in deciding what cases should have precedence in the day's procedure, should consider the advisability of giving precedence to cases in which parties and witnesses come from a distance.(2)The following instructions shall be followed in making entries in the Judicial diary prescribed under Rule 570:-(i)Each case fixed for any day shall be entered in advance immediately upon a date or adjourned date being fixed, such entry showing the purpose for which it is set down on each date. The cases should be classified in such a manner to show at a glance the nature of work fixed for the particular day. The classification might be-A. Summary CasesB. Regular Cases(i)For first hearing.(ii)For evidence.(iii)For delivery of judgement or order.C. Miscellaneous(i)For first hearing.(ii)For evidence.(iii)The progress made in each case during the day shall, immediately the hearing concludes, be briefly noted in the third column by the Judge-Magistrate or by the Court Reader as may be found convenient. The hours between which evidence was recorded and the number of witnesses examined should be noted in the second and the third columns, respectively, against each case.(iv)On no account should any page of the diary be tom or any entry erased. Necessary corrections should be made in red ink.(v)The diary shall be placed on the Judge-Magistrate's table as soon as the Court opens. The Judge-Magistrate shall, with his own hand, enter the time of sitting and rising and shall also record a brief note of explanation for late sitting or early rising. The diary shall be signed by the Magistrate every day after careful scrutiny when the entries therein are complete.(vi)When full, the diary shall be retained in Court and destroyed after two years from the date of the last entry therein.

11.

(1)Every Court must maintain a cause list in the prescribed form (Schedule V, No. 201) and each case should be entered in it as soon as a date is fixed for hearing. The cause list must show the date for which the case has been fixed and for what purpose.(2)The cause list must be written in the language of the Court and should be fastened on a board, kept during office hours in a conspicuous place either within or without the Court room, accessible to the general public so that all parties and their counsels may be able to see at a glance what cases are fixed for each day and for what purpose.(3)There should be a separate list for every month. The paper should be ruled for the whole month, Sundays and gazetted holidays being noted and sufficient blank space being left for each

working day for which no cases or a small number of cases have been fixed. Whenever a case is fixed for hearing, it will be inserted against the appropriate date. As each case is called and heard the entry relating to it will be scored out. The reader of the Court will be held responsible for seeing that this is regularly done.(4)In column 6 it must invariably be noted what was done in the case on the day appointed, so that every case may be traceable in the list from the first date fixed for hearing until the date of disposal. The results of the cases disposed of should also be clearly noted in that column.(5)Completed cause lists should be preserved in court for reference so that any inspecting officer may be able to see at a glance how the work was disposed of.

12. It is the duty of presiding officers to conduct their work in a business like way so as to avoid waste of public money. One cause of such waste is an unbusinesslike arrangement of the cause list. Presiding officers must accordingly personally fix the dates of hearing and not leave this duty to their Readers. The duty must moreover be performed intelligently and not mechanically. The summoning of a number of witnesses largely in excess of that which can reasonably be expected to be dealt with harasses such witnesses by unnecessary detention at Court and results in a considerable waste of public money.

13. The languages declared to be the Court languages in the Criminal Courts in the Central Provinces and Berar are as follows:-

(a)In the revenue districts of Jabalpur, Saugor, Mandla, Hoshangabad, Nimar, Chhindwara, Betul, Raipur, Bilaspur, Durg, Balaghat, and in the Melghat taluq of the Amraoti District-Hindi.(b)In the revenue districts of Nagpur, Wardha, Chanda, Bhandara, Amraoti (except the Melghat taluq), Yeotmal, Akola and Buldana-Marathi.Judicial Department Notifications No. 1834-1501-V dated the 23rd September 1931, No. 5839, dated the 24th May 1904, and No. 1022-904-V, dated the 25th/26th March, 1936.

14. Processes warrants, bail-bonds and all documents of a similar nature must ordinarily be written in the language of the Court.

15. Petitions should ordinarily be written in the language of the Court. The Court may, however, exercise its discretion in the matter, having regard specially to the language spoken and written by the petitioner.

B. Affidavits

16.

(1)Every affidavits to be used in a Court of Justice shall be entitled "In the Court of..... at....." naming such Court.(2)If there be a case in Court, the affidavit in support of, or in opposition to, an application respecting it must also be entitled "In the matter of the case of....." in the case.(3)If there be no case in Court the affidavit shall be entitled "In the matter of the application of....."

17. Every affidavit shall be drawn up clearly and legibly and, as far as possible, in a language which the person making it understands. It shall be drawn up in the first person and divided into paragraphs numbered consecutively, and each paragraph, as nearly as may be, shall be confined to a distinct portion of the subject.

18. Every person making any affidavit shall be described in such manner as shall serve to identify him clearly; and where necessary the affidavit shall contain his full name, age, father's name, profession or trade and true place of residence, and shall be submitted either with his signature in his own hand or his finger impression.

19. Unless it is otherwise provided, and affidavit may be made by any person having cognizance of the facts deposed to. Two or more persons may join in any affidavit, but each shall depose separately to those facts which are within his knowledge, and such facts shall be stated in separately paragraphs.

20. When the declarant in any affidavit speaks to any fact within his own knowledge, he must do so directly and positively, using the words "I affirm (or make oath) and say."

21. Every affidavit should clearly express how much in a statement made on the declarant's knowledge and how much is a statement made on his information or belief, and shall also state the source or ground of the information or belief with sufficient particularly.

22.

(1)When a particular part is not within the declarant's own knowledge but is stated from information obtained from others, the declarant must use the expression "I am informed" and, if such be the case, should add "and verily believe it to be true"; he must also state the source or

ground of the information or belief, and the name and address of, and sufficiently describe for the purpose of identification, the person or persons from whom he received such information. When the statement rests on facts disclosed in documents or copies of documents procured from any Court or other person, the declarant shall state the source from which they were procured and his information, or belief as to the truth of the facts disclosed in such documents.(2)Documents (other than those on the record of the case) referred to in the affidavit shall so far as possible be annexed to it.

23. All erasures, errors, interlineations, etc., in the affidavit shall be legibly initialled and dated by the deponent.

24.

(1)Subject to the exceptions set out in sub-rule (2) below, the charge for administering the oath to the deponent in the case of any affidavit in criminal cases shall be one rupee. This charge shall be paid by means of a court-fee stamp affixed to the affidavit.(2)No charge shall be made in respect of the following affidavits:-(a)affidavits made by serving officers deposing as to the manner of service of a process;(b)affidavits made by public officers in virtue of their office. High Court Notification No. 4545, dated the 22nd July, 1937."(c) Affidavits made in pursuance of Section 510-A of the Code-(i)In cognizable cases;(ii)In cases prosecuted, instituted or carried on by, or under the orders of, or with the sanction of Government, or any public officer as defined in Section 2 of the Code of Civil Procedure, 1908 when acting as such public officer, or any railway servant as defined in Section 3 of the Railways Act, 1890, when acting as such railway servant.This exemption shall not, however, apply to cases instituted on complaint by a police officer authorised under the Central Provinces and Berar Municipalities Act, 1922 (II of 1922) or rules or bye-laws made thereunder."

25. If the deponent is not personally known to the officer administering the oath he shall be identified by some person whom that officer does know and otherwise by at least two respectable witnesses which person or witnesses shall sign the endorsement prescribed in Rule 29 below.

26. Where the deponent is a pardanashin woman, she shall be identified by a person to whom she is known and before whom she is accustomed to appear unveiled, and such person shall sign the endorsement prescribed in Rule 29 below.

27.

(1)The officer shall, before administering the oath, ask the deponent if he has read the affidavit and understood the contents thereof, and if the latter states that he has not read it, or appears not fully to understand the contents thereof, or appears to be blind, illiterate or ignorant of the language in which it is written, the officer administering the oath shall read and explain or cause some other

competent person to read and explain in his presence the affidavit to the deponent in a language which both the deponent and the officer administering the oath understand.(2)When an affidavit is read, translated or explained as herein provided the officer administering the oath shall certify in writing at the foot of the affidavit that it has been so read, translated or explained in his presence and that the deponent seemed perfectly to understand the same at the time of making the affidavit and made his signature or finger impression in the presence of the officer; otherwise shall not be used in evidence.

28. The Court may order any scandalous and irrelevant matter in an affidavit to be struck out or amended.

29. The officer administering the oath shall make the following endorsement on every affidavit sworn before him and shall date, sign and seal the same:

Sworn before me on the..... day of..... 20..... by..... son of..... who is personally known to me (or who has been identified by.....) whose signature is/signatures are thereto appended.(Seal)Signature.....Designation.....A rubber stamp may be used for this endorsement.In addition the particulars required by Rule 27 (2) shall, where necessary, be added in manuscript and dated, signed and sealed by the officer administering the oath.

30. In administering oaths and affirmations to the deponent the following forms shall be used:-

OathI swear that this my declaration is true that it conceals nothing, and that no part of it is false. So help me God.AffirmationI solemnly declare that this my declaration is true, that it conceals nothing, and that no part of it is false.

Chapter 2

Distribution of Criminal Business

31. The attention of the District Magistrates is drawn to Section 17 of the Code which empowers them to make rules or to give special orders, from time to time, consistent with the Code as to the distribution of criminal business among Magistrates and benches subordinate to them. Every District Magistrate should, therefore, draw up a memorandum of distribution of work. The memorandum may be revised when necessary.

Note. - All Magistrates and all Benches of Magistrates are sub-ordinate to the District Magistrate. All Magistrates and all Benches of Magistrates exercising power in a sub division are also subordinate to the Sub-Divisional Magistrate, subject, however, to the control of the District Magistrate.

32. District Magistrates should themselves enquire into cases in which any imputation is made regarding the conduct of Subordinate Magistrates and should not refer such cases to a Subordinate Court.

33. Case which as a rule call for exemplary punishment, e.g., case of cattle-poisoning, theft of any portion of a permanent way of a railway and offence relating to coins, should not ordinarily be tried by any Magistrate other than a Magistrate of the first class.

34. Ordinarily a Magistrate of the third class should not try a case in which a person who has been convicted of an offence punishable under Chapters XII, XVI, XVII or XVIII of the Indian Penal Code is again accused of any such offence. Similarly a Magistrate of the second class should not try any such case when the aggregate imprisonment already undergone exceeds six months, and no Magistrate of the first class should ordinarily try any such case when the aggregate imprisonment already undergone exceeds two years, unless he is specially empowered under Section 30 of the Code.

35. If a Subordinate Magistrate finds in the course of a trial before him that the case is one which should, in his opinion, be tried by a Magistrate invested with powers under Section 30 of the Code, he should, even if he is empowered to commit the case for trial, stay proceedings and either submit the case under Section 346 of the Code to the Magistrate to whom he is subordinate or to such other Magistrate having jurisdiction as the District Magistrate directs, or if any Magistrate in the district is invested with powers under Section 30 of the Code, transfer the case to him under Section 348 of the Code.

36. The District Magistrate of the revenue districts of Nagpur, Wardha, Jabalpur, Hoshangabad, Nimar, Amraoti, Akola, Buldana and Yeotmal, should so distribute criminal work that trials of offences under Sections 304, 307 and 306 of the Indian Penal Code, except those within the Narsinghpur sub-division, shall be by jury before the Court of Session, and not by Magistrates invested with powers under Section 30 of the Code of Criminal Procedure.

Note 1. - The Instructions in this rule do not apply to attempts to commit or abetment of the offences under the specified Sections.Note 2. - The notification reproduced in Chapter 8, Rule 224,

merely directs that certain offences, when committed to the Court of Session, shall be tried by jury. It does not direct that such offences shall be committed to the Court of Session. It follows that Magistrates empowered under Section 30 of the Code and the Court of Session have concurrent jurisdiction in certain cases. The normal rule is that magistrates empowered under Section 30 of the Code should try all cases within their competence, the directions in the body of Rule 36 forming an exception to this general rule.

37. Care should be taken that the memorandum of distribution of work provides that cases triable summarily under Section 260 of the Code should as far as possible be tried by Magistrates empowered under that Section. The use of regular procedure in cases which can be suitably tried summarily prolongs proceedings and wastes public time.

38. Where Juvenile Courts have not been established under Section 49 of the Central Provinces Children Act (C.P. X of 1928) it is desirable that cases involving juvenile delinquents should as far as possible be dealt with by a single experienced stipendiary Magistrate having powers not below those of a Magistrate of the first class and preferably one specially empowered under Section 30 of the Code in order to avoid unnecessary references under Section 5 (2) of the Central Provinces Borstal Act (C.P. IX of 1928). "In the case of children under 15 years of age Section 29-B of the Code permits trial for certain offences by Magistrates of a certain standing though this Section does not debar other Magistrates from trying such cases provided they have jurisdiction to try them under Section 28 and column 8 of Schedule II of the Code." The memorandum of distribution of work should provide for this. Attention is invited to the provision of clause 2 of Section 49 of the Central Provinces Children Act (C.P. X of 1928) as to the place and manner of sitting of Magistrates dealing with cases involving young persons.

39. The attention of presiding officer is drawn to the provisions of Section 556 of the Code. The expression "personally interested" used therein should be liberally construed so as to include cases in which a presiding officer may be in any way personally interested in the parties or in the result of the case.

40. A presiding officer should not entertain or try a case in which persons indebted to him are concerned either as complainant or as accused. However impartially he may proceed in such cases, the mere fact that such a relationship exists gives a handle to unfriendly suspicious which it is

essential in the interest of the administration of justice to avoid.

41. When subordinate officials are prosecuted as such they should not be tried by an officer who is immediately concerned or the credit of the administration of the district. Similarly a Magistrate should not himself try a case arising out of matters in which he has an intimate concern, nor should he try a case in which he has been personally concerned in bringing an offender to justice.

Chapter 3

Processes

42. Processes should ordinarily be written in the language of the Court, but when they are sent for service to another Court where the language is different, they should be accompanied by a translation into English, certified by the transmitting Court to be Court.

Note 1. - Processes issued to Europeans and Anglo-Indians should be in English.Note 2. - Further the postage charges on all processes is required to be transmitted by post together with the registration fee, if registration is required, shall be paid in service postage stamps without an additional charge being levied from the party at whose instance the process is issued. The process-fee is intended to cover all the cost of serving the process.

43. Persons on whom processes are to be served or executed shall be described so as to ensure their identification clearly. In the case of small villages it may be sufficient to mention the name of the village, police station house, tahsil and district in which the person resides and his, and his father's name, caste and occupation. But in the case of large villages and towns the name of the locality, municipal ward, street, lane and number of the house (if any) in which he resides should be given.

44. Unless the Court otherwise directs the hour of attendance to be entered in every summons or process shall be 11 a.m.

45. The printed form of processes must be filled in with every care, particular attention should be given to seeing that the processes comply with the requirements of the law. Failure to do so may lead to grave results, e.g., a person cannot be convicted for disobeying a summons which does not

comply with the mandatory provisions of law or for the use of such force as is necessary in the exercise of the right of self-defence in making resistance to an officer executing an illegal warrant. In this respect attention is invited to the provision of Sections 68, 75 and 555 of the Code.

46. Every process must be signed legibly and in full by the officer by whom it is issued. The name of his office or the capacity is which he acts should be clearly written under his signature. The practice of signing initials only or of using a stamp is forbidden. Summonses issued by Courts of Session, District Magistrates and Magistrates of the first class may however be signed by the clerk of Court or the superintendent of the office or the reader as the case may be. A warrant of arrest must invariably be signed personally by the Judge or Magistrate by whom it is issued. The signature of a ministerial officer is not sufficient.

47. Whenever it is necessary to summon an officer or a soldier or other person in military employ the summons should always be sent for service to the head of the office or department or to the officer commanding the regiment or unit in which such officer, soldier or other person is serving.

48.

(1)Warrants of attachment of land paying revenue to Government should be executed through the Collector of the district in which the land is situate. All other warrants of attachment and all warrants for the levy of fees, fines or compensation should be executed by revenue peons. The agency of the police should be used for the service of summonses to accused persons or witnesses, warrants of arrest, proclamations in respect of an absconding person under Section 87 of the Code and of notices and other processes not otherwise provided for.(2)Processes from the Courts of Sessions Judges and Magistrates should be sent direct to police-stations by registered post, acknowledgement due, and the processes should after service be returned direct to the Court concerned by registered post, acknowledgment due. Where the processes have to be sent through a particular officer prescribed under the rules, they should be sent direct by the Court to that officer and not to the police station.

49. When processes to be served on patwaris who are on duty are issued to the police for service a copy of the process should be sent to the tahsildar of the tahsil or taluq in which the patwari is working of if the district is under settlement to the Settlement Officer.

50. The attention of the Courts is drawn to the provisions of Section 4 of the Code which lays down that when a summons issued by a Court is served outside the local limits of its jurisdiction and in every case where the officer who has served a summons is not present at the hearing of the case, an affidavit purporting to be made before a Magistrate that such summons has been duly served and a duplicate of the summons purporting to be endorsed in the manner provided by Section 69 or Section 70 of the Code by the person to whom it was tendered or delivered or with whom it was left shall be admissible in evidence and the statements made therein shall be deemed to be correct unless and until the contrary is proved.

51. Court should note that the Code applies to India. The provisions in the Code for the sending of process to another Court for service and for the service of processes received from another Court apply only to Courts established in India including Berar.

Note. - For the execution of processes issued by a Magistrate having jurisdiction in an Indian State in railway lands laying within such State. See Government of India Notification No. 34-I-B, dated the 14th January, 1937 which is printed as Appendix III to this Chapter.

52. The normal method of securing attendance before Courts in India of persons outside India accused of an offence in India is by extradition.

53. Indian States do not form part of India. General instructions on extradition from such States are contained in the Book Circulars of the Government of the Central Provinces and Berar, No. VI-4.

54. Arrangements have been made with certain Indian States mentioned in subsequent rules for the reciprocal execution of criminal processes. On no account should processes be issued to States not so mentioned. Any case in which a Court is in doubt about the applicability of these instructions should be referred to the Registrar of the High Court at Nagpur.

55. Process intended for service in His Exalted Highness the Nizam's dominions should be addressed to the District Magistrate concerned. The time to be fixed for the return of the processes should, in the case of process to be served in the city of Hyderabad, be not less than five weeks and, in the case of processes to be served in districts, not less than two months. The

name of the district, village and locality in which the person to be served resides should be stated in full in the process.

Aurangabad.	Bidar.	Birh.
Warrangal.	Parbhani.	Karimnagar.
Nander.	Adilabad.	Gulbarga.
Medak.	Raichur.	Nizamabad.
Osmanabad.	Mahbubnagar.	Nalgonda.

56. Before fixing a date for the return of a process sent for service to an Indian State other than the dominions of His Exalted Highness the Nizam, the presiding officer shall ascertain so far as possible all necessary particulars such as the distance of the place where the process is to be served, the agency by which service is to be effected, etc., and shall take them into account in fixing the date. The date should be fixed so as to make it reasonably probable that the process will be returned in time.

57. Processes intended for service in Indore State except warrants should be addressed to the Political Officer within whose charge the person to be served is residing.

Note. - (i) Rampura-Bhanpura, Mehdipur and Nimawar districts and the Indore district exclusive of the Mhow pargana are in charge of the Political Agent, Malwa.(ii)The Mhow, Petlawad, Chikalda and Lawani parganas and the Nimar district are in charge of Political Agent in the Southern States.(iii)The Alampur, Nandwai and Sundesai parganas are in charge of the Political Agent in Bundelkhand, the Resident in Mewar and the Resident at Gwalior, respectively.By reciprocal arrangement processes sent for service in Indore State are executed by the State free of any process-fees or postal charges and no money should therefore be remitted for the service of any such process.

58. Processes intended for service in Udaipur (Mewar) State should be sent through the Registrar, High Court, Udaipur, and not directly to the Court concerned.

59. By reciprocal arrangement certain States in Central India have agreed to execute all processes excluding warrants issued by 'the Courts in the Central Provinces and Berar. Summonses and notices intended for service in their territories should therefore be sent as directed in Appendix I to this Chapter.

60.

(1)The Fugitive Offenders Act, 1881 (44 and 45 Vict. C. 69), provides for the apprehension of a person who is found in one part of His Majesty's dominions and is accused of having committed an offence to which the Act applies in another part of His Majesty's dominions, and for his return to the part from which he is a fugitive. By virtue of an Order in Council, Chapter 4 of the Indian Extradition Act (XV of 1903) is recognized and given effect throughout His Majesty's dominions and on the high seas as if it were a part of the Act, and makes provisions for the applying and carrying into effect of the provisions of the Act in India. Instructions on the procedure to be followed under the Act will be found in Appendix II to this Chapter.(2)The procedure for extradition to and from Indian States will be found in the Book Circulars of the Government of the Central Provinces and Berar No. TI-4.

61.

(1)When circumstances permit notice of the intended arrest of a Government servant shall be given to the head of the department in which the Government servant is working so that he can be relieved of his duties before the arrest is made.(2)In no circumstances should a railway servant be removed from his post although he may be under arrest, until time has been allowed to the railway authorities to make arrangements for the performance of his duties.

62. On no account should processes be issued to authorities in countries outside India for service.

63. When an application is made to the High Court for the issues of orders for the production of a prisoner before a Court to give evidence under Part IX of the Prisoners Act (III of 1900), the Court making the application shall state precisely the nature of the evidence which the prisoner is expected to give and how it is material to the trial concerned.

64. All Criminal Courts should note carefully the distinction between Sections 37 and 39 of the Prisoners Act (III of 1900). When the attendance of a prisoner is required to answer a charge and not to give evidence under Section 39 of the Act has no application.

65. When an application is made to the High Court to take action under Section 40 of the Prisoners Act (III of 1900), the Court making the application shall state the nature of the case against the prisoner as concisely as possible but with sufficient fullness to allow the High Court to decide whether action under Section 40 of the Act is desirable. Omission to send

such information means waste of public time and money in sending for the record.

Appendix IApplications for extradition and processes intended for subjects of the States and Thakurates mentioned below should be addressed to the Political Officers shown against them:-

1. Karandia, Arnia, and Kheri-Rajpur	The Resident of Gwalior, Post Office Gwalior Agency.
2. Kaitha	The Resident at Indore, Indore.
3. Dewas (senior and junior branches), Bagli, Pathari and uni.	The Political Agent in Malwa, Neemuch.

Appendix II

1. The following instructions deal with the proceedings to be taken under the Fugitive Offenders Act, 1881 (44 and 45 Vict., C. 69), when the return of an accused person appears requisite.

Government of India, Home Department, Notification No. 1048, dated the 30th June 1886, and No. 17-1087, dated the 30th November 1898.

2. First as regards those provisions of the Act which relate to the issue and endorsement of warrants for the arrest of fugitive offender, it should be noticed that, when a warrant has been issued in one part of his Majesty s dominions for the apprehension of a fugitive offender from that part, Judge of a Supreme Court in another part of his Majesty's dominions in, or on the way to which the fugitive is or is suspected to be, is, for the purposes of Part I of the Statute, empowered by Section 3 to endorse the warrant, and it is necessary that the proper endorsement should be effected before an arrest can legally be made thereunder. By Section 4 of the Statute a Magistrate of any part of His Majesty's dominions is empowered, in circumstances therein described, to issue a provisional warrant for the apprehension of a fugitive. The corresponding provisions of Part II of the Statute are contained in Sections 13 and 16 respectively, under which the necessary power in both classes of cases is vested in Magistrates. A summons requiring the attendance of a witness issued by a Judge or Magistrate having lawful authority in this behalf in a British possession of a group to which Part II of the Statute applies, may under Section 15, be endorsed by Magistrate in any other British possession concerned of the same group, and when so endorsed may be legally enforced. Section 26 of the Act further empowers

the authority endorsing a warrant to name in the endorsement certain persons who shall, in addition to the persons to whom the warrant was originally addressed, be authorized to execute the same.

Government of India, Home Department No. 30-1-1896-1907, dated the 30th November, 1887.

3. In order to secure the return of a fugitive offender evidence should be taken that the person against whom the warrant is applied for has absconded; then evidence that an offence has been committed by such person should be faithfully and minutely recorded under Section 512 of the Code of Criminal Procedure. If the Court upon such evidence issues a warrant, the warrant should be in the form prescribed by Section 75 and directed as required by Section 77. Evidence should be taken showing clearly that the offence charged is one to which Part I of the Fugitive Offenders Act applies, or at least a certificate from the Magistrate should be appended to the warrant, clearly showing that the offence charged therein is one punishable with rigorous imprisonment for a term of 12 months or more (See Section 9 of 44 and 45 Vict., C. 69). All the evidence should be taken, if possible, in the presence of the police officer to whom the warrant is addressed, and to whom it is desired that the fugitive offender should be delivered.

A copy should be made of every deposition and every documentary exhibit and each copy should contain a declaration signed by the Magistrate as such, that it is a true copy of the deposition taken by himself, or an exhibit produced to him, as the case may be. The whole of the copy of the record thus made should then be entrusted to the police officer to whom the warrant is addressed, who will then be in a position to authenticate every portion of it when produced by him in the British possession in which the fugitive offender is.When the presence of the police officer who is to execute the warrant cannot be obtained at the proceedings referred to, then each copy must, before being entrusted to the police officer, be sealed with the seal of the Governor or Lieutenant-Governor of the Province in which the proceeding was held. Although when the documents can be authenticated by the oath of a witness, in the British possession from which it is desired to procure the delivery of the offender, the seal of the Governor or Lieutenant Governor is not essential, it is expedient that the seal should be affixed whenever it can conveniently be done. If the police officer entrusted with the execution of the warrant is unable to identify the accused, he should be accompanied by some person able to identify the accused, to the British possession from which the return of the accused is desired.

4. In all applications for the removal of an offender from the United Kingdom under the Fugitive Offenders Act, 1881 (44 and 45 Vict., C. 69), it must be proved by evidence that the acts with which the accused is charged amount, under the law in force in the British possession from which the application for his rendition has been received, to an offence punishable by 12 months imprisonment with hard labour or some greater punishment.

The most convenient method of complying with this requirement will be to arrange that all applications of the nature in question shall be accompanied by the deposition of a judge, advocate, barrister, solicitor or any official in a position from which a knowledge of the law may be presumed, duly authenticated in the manner provided for by Section 29 of the Fugitive Offenders Act and containing the necessary evidence. Such deposition should be taken in particular, with reference to the following points:-(a)the statute under which the charge is brought;(b)that such enactment is still in force;(c)that the facts charged if established by evidence constitute an offence dealt with by such statute;(d)that the offence dealt with in such statute is punishable in the manner above referred to (see Section 9 of the Statute).A copy of the Statute, as printed by the Government press, under which the charge is brought should invariably be forwarded along with the applications, as only a Government printer's copy is admissible under the Evidence (Colonial Statutes) Act, 1907.Cases may, however, occur in which the adoption of the abovementioned course would not be quite suitable. In such cases, since a point of Indian law may also be proved by oral evidence, arrangements can, if necessary, be made for the attendance of any competent witness who happens to be available in England at the time (e.g. Judicial Officers employed in India who are at home on leave, Barristers of the Indian High Courts, etc.) who would be able to furnish the necessary evidence.Government of India, Home Department letter No. 821, dated the 8th June 1907.Government of India, Home Department, letter No. F-1183-Judicial, dated the 21st July, 1922.

5. The approval of the District Magistrate should invariably be obtained in cases where subordinate and honorary magistrates, oi their own authority, take action for the return of an accused person.

Appendix IIIAll criminal processes issued in a manner similar to that prescribed by the Code of Criminal Procedure, 1898, by a Magistrate having jurisdiction in any State in India shall be acted upon and executed in railway lands lying within such State by all Magistrates and police officers having jurisdiction in such railway lands under the same conditions and in the same manner as if such processes had been issued by a Magistrate having jurisdiction in such railway lands:Provided that any modification of the manner of executing such processes may be made by rules to be framed by the Governor-General in Council in this behalf and notified in the Gazette of India:Provided further that nothing hereinbefore contained shall require a Magistrate or police officer having jurisdiction in such railway lands to execute any processes so issued against any person who is not a subject of the state by the Court of which the process has been issued or be construed as authorizing him to execute any such process against any subject or servant of His Majesty.Government of India, Foreign and Political Department, Notification No. 34-I-B, dated the 14th January 1937. [Gazette of

India, January 16, 1937, Part I, at page 75].

Chapter 4

Investigation of Crime

1. Information of Crime

66. Reports submitted under Section 157 of the Code should be carefully and promptly scrutinized by the Magistrate to whom they are submitted. Scrutiny will not only permit him to decide whether action under Section 159 of the Code is desirable but will also, if he is a Sub-Divisional Magistrate, keep him in touch with the police administration and the state of crime generally in his sub-division and thus facilitate the exercise of his general responsibilities as an assistant to the District Magistrate.

67. Sections 154 and 155 of the Code require the recording of reports of crimes. These reports, usually referred to as first information reports, are of considerable value, particularly at the trial, and magistrates should bear in mind the importance of examining them. The information is the basis of the case, and whether true or false it usually represents what the informant intended to be his case at the time. In view of the tendency to improve upon original statements of fact, to strengthen the case as it proceeds and sometimes to add others to the person originally named as the offender it is of great importance to know what was said in the first instance.

2. Case diary

68. In all cognizable offences investigated the proceedings subsequent to the recording of the information and the despatch of the intimation report are recorded in a special diary called the case-diary. A police officer investigating a non-cognizable offence under the orders of a Magistrate will not ordinarily write a case-diary unless specially ordered to do so by the District Magistrate or District Superintendent of Police.

69. Under Section 172 (2) of the Code any Criminal Court may send for the police diary of a case under enquiry or trial before it and may use it for the purpose laid down in that Section. Entries in the diary are not evidence in the

case but they may be of considerable value in indicating the names of persons whose evidence may be material, and the nature of questions which should be put to witnesses for the purpose of eliciting their full knowledge and for doing real justice in the case. Bearing in mind the observation in Chapter 5, Rule 118 the Courts will realize the great importance of examining those diaries. It is often of great importance to trace the steps leading to a confession or to the recovery and identification of stolen property or of the implement with which a particular offence has been committed and to be able to elucidate such matter by suitable questions to the witnesses.

70. It must be remembered that the case-diary is a privileged document and is protected by the provisions of Section 172 of the Code. When not in actual use the case-diary should be returned to the police officer in charge of the case. Handing over the complete police diary to the counsel for the defence is contrary to law and must not occur.

71. The privilege referred to in the preceding rules does not apply to statements recorded under Section 161 of the Code. Normally these do not form part of the case-diary but are separate documents attached to the case diary. If for any reason they are included in the case-diary their mere inclusion will not deprive the accused of any rights he has under Section 162 of the Code. The Courts must carefully judge whether an entry in the case-diary is or is not in fact a statement recorded under Section 161 of the Code.

72.

(1)When a statement recorded under Section 161 of the Code is used in the manner indicated in Section 162 of the Code, care should be taken to see that the statement is properly proved.(2)The method of proving such a statement is for the accused to mark in the copy of the case-diary furnished to him the passage which has been specifically put to a witness in order to contradict him and then to obtain the formal evidence of the writer of the diary that the passage marked is a true extract from the statement recorded in the original case-diary, which he will have at the time with him for purposes of comparison.

3. Confessions

73.

(1)The recording of a confession under Section 164 of the Code is a matter which requires the utmost care. In many cases a confession is the mainspring of the prosecution case. The Courts are vigilant in seeing that a confession is relevant under Section 24 of the Indian Evidence Act, and consequently any defect in the procedure of recording a confession giving rise to any suspicion as to its relevancy may be fatal to a case and may lead to considerable waste of public money and the time of officers engaged in the investigation, prosecution and trial of the case. A perusal of any standard commentary on the Indian Evidence Act or the Code will indicate both the care with which the Courts scrutinize the circumstances in which a confession was recorded and the defects in procedure such scrutiny often reveals. The wording of Section 24 of the Indian Evidence Act is wide and should be carefully studied. It is sufficient to make a confession irrelevant if it is made because of coercion on inducement proceeding from a person in authority sufficient to give grounds which appear to the accused reasonable for supposing that he would gain an advantage. The frequency with which confessions are retracted on the ground that they were not free and voluntary renders it essential that a confession be recorded in circumstances which prevent any suggestion that the accused was under the influence of any person interested in obtaining the confession.(2)The instructions given below, if carefully followed, will normally provide material for a decision whether a confession was in fact free and voluntary. But the Magistrate may take such further precautions as he considers necessary to permit him conscientiously to sign the memorandum referred to in Section 164 of the Code. In particular the special form prescribed for recording confessions (Schedule V, No. 189) reproduced at the end of this sub-rule should be used carefully and conscientiously and the Magistrate should not consider himself necessarily restricted to the questions printed therein.While however the Magistrate is bound to use the utmost care in the matter he should be careful not to discourage the making of a confession which the accused genuinely desires to make.Form of proceedings preliminary to recording a confession(The Code of Criminal Procedure, 1898, Section 164)Present Shri.....First ClassMagistrate,..... The Second Class, empowered under Section 164 accused person..... son of..... is produced at..... a.m./p.m. this..... day of..... 20....., by police officer.....The following police papers, showing that the accused was arrested at..... a.m./p.m. on the..... day of..... at..... tahsil..... miles from....., where the Court is sitting, are produced and read:-.....To give the accused time to think over his confession away from all police influence, and to keep the police who arrested him or investigated the case away from this proceeding, I order:-First Class,Magistrate.....Second Class, empowered under Section 164.The accused..... being further present at..... a.m./p.m. this..... day of.....,20....., in the custody of..... the following preliminary questions are put to him to ascertain whether he is acting voluntarily in offering to make a confession:-

Q. Do you understand that I am a Magistrate and that what you saymay be used against you? A

Q. Do you understand that you need say nothing unless you arefreely wish to? A

Q. Do you wish to say anything? A

Q. Where did the police first question you? What day was it andwhat time? A

Q. Where did the police arrest you? What day was it and whattime? A

{||-| The Magistrate shall ascertain by further questioning whetherthe accused is acting voluntarily and whether the confessionwhich he is about to make is the result of any||-| (A) Threat,||-| (B) Inducement, or||-| (C) Promise you?||-

from a police officer or other person in authority which wouldrender it irrelevant under Section 24 of the Indian Evidence Act.The questions and replies thereto shall be recorded below:- Printed in red ink in the Form

This statement was made in my presence and hearing. The record contains a full and true account of the questions put to the accused and of the answers given by him. It was read over to him and admitted by him to be correct.

Dated the..... 20.... Magistrate ..... Class.

Being satisfied for the reasons stated below that the confession if recorded will not be/be irrelevant under the provisions of Section 24, Indian Evidence Act, I proceed to record it. I drop these proceedings and direct that the accused be disposed of as follow:-Reasons-First Class,Magistrate.....Second Class, empowered under Section 164.Dated the.....20,Confession of Accused(The Code of Criminal Procedure, 1898 Section 164) ....versus..... .....

Accused..... son of..... age..... occupation..... residence.....[The record should be by questioning and answer.]

Note - If the confession extends beyond this sheet theabove certificate and the matter required by paragraph (4) of itmust be recorded at the end. Printed in red ink in the Form

Note - See Certificate overleaf.

(Reverse)Certified that the accused began his confession recorded above at..... O, clock and ended it at..... O, clock. Instruction to the Magistrate:-

1. The Magistrate shall read over the confession as recorded tothe accused.
2. The Magistrate shall obtain the signature of the accused atthe foot of the confession.
3. The Magistrate shall also put his own signature at the foot ofthe confession.
4. The Magistrate shall refer to sub-section (3) of Section 164,Criminal Procedure Code, and if satisfied, make a memorandum inthe terms stated in sub-section (3) at the foot of theconfession. Printed in red ink in the Form
5. Any other facts which go to show that the confession was madevoluntarily may be recorded by the Magistrate at foot of theconfession.
6. The Magistrate shall give below a brief description of thecustody in which the accused was kept while recording theconfession.

First Class,Magistrate.....Second Class, empowered under Section 164.

74. Under Section 164 of the Code a Magistrate of the first class and a Magistrate of the second class who is empowered by the Provincial Government in this behalf has power to record a statement or confession made to him in the course of an investigation or at any time afterwards

before the commencement of the enquiry or trial. Therefore when an accused person alleged to be desirous of making a confession is produced before a Magistrate who is not a Magistrate of the first class or a Magistrate of the second class specially empowered by the Provincial Government in this behalf the Magistrate shall forward the accused to the nearest Magistrate who is competent to record such statement or confession. The escort required for the journey shall not include any of the police who have already taken part in the investigation.

75. An accused person should not be examined immediately he is produced for the recording of his confession. He should be given a reasonable time, extending when possible to a few hours, for reflection in circumstances in which he will not be influenced by the police before his statement is recorded. If during this period he is detained in jail, the superintendent of the jail should be requested to keep him apart from other persons but not in solitary confinement.

76.

(1)For the proper recording of a confession it is essential under sub-section (3) of Section 164 of the Code that the accused shall be questioned with a view to ascertaining whether he is making the confession voluntarily. The Magistrate should invariably ask him when and where he was first questioned by the police, when and where he was arrested, and the length of time he has been in the custody of the police. It is not sufficient to accept the date and hour of formal arrest as entered in the police papers. The questions so put and the answers thereto must be recorded before the confession is taken down.(2)Magistrates recording confessions are forbidden to send for or examine the statement, if any, made to the police by the person making the confession.Note. - Every Magistrate empowered to record a confession must keep a stock of the special forms prescribed for the record of his proceedings (Schedule V, No. 189). If questions are not put to elicit that the confession is being made voluntarily the confession is not only inadmissible under Section 164 of the Code but also cannot be used under the provisions of the Indian Evidence Act such as Sections 21 and 29.

77. If any allegation of ill-treatment is made the Magistrate shall then and there examine the body of the accused, if the accused consents to such examination, to see whether there are any marks of injuries as alleged and shall record the result of his examination. If the accused refuses to permit such examination the refusal and the reason therefor shall be recorded. If the Magistrate finds that there is reason to suspect that the allegation is well founded he shall at once record the complaint, cause the accused to be

examined by a medical officer, if possible, and if he has no power to take up the necessary enquiry himself, forward him to the Magistrate having jurisdiction.

78. Before recording a confession the Magistrate shall explain to the person making it that he is not bound to make a confession, and that if he does so it will be taken down and may thereafter be used as evidence against him.

79. Before recording the confession the Magistrate must determine upon the answers to the preliminary questions and upon the result of any examination of the person of the accused, whether there is a reason to believe that the confession, if recorded, will be irrelevant on any of the grounds set forth in Section 24 of the Indian Evidence Act. If he decides that the confession will be inadmissible on any of the said grounds, he should state his reasons for such decision and should refuse to record any statement offered by the accused.

80. Confessions should ordinarily be recorded in open Court and during Court hours; provided that if the Magistrate is satisfied, for reasons to be recorded by him in writing, that the recording of a confession in open Court would be detrimental to the public interest or be liable to defeat the ends of justice, the confession may be recorded elsewhere.

81. It is not desirable that any police officer should be present when a confession is being recorded except such as may be necessary to secure the safe custody of the accused person when, in the Magistrate's opinion, the duty cannot safely be left to other attendants. In any case none of the police officers who have been concerned in his arrest or in the investigation of the case should be allowed to be present or to be within sight or hearing of the accused.

82. The Magistrate shall endeavour to record the confession in as much details as possible in order to afford material from which its genuineness can be judged, and to test whether it is freely made or is the outcome of suggestion. Anything in the nature of a cross-examination of the accused must be avoided, but it is important that without any attempt to heckle or to entrap the accused the Magistrate should record the statement with as much detail as possible. The more detailed a confession is, the greater are the

chances of correctly estimating its value. Every question and every answer shall be recorded in full.

83. When a confession is recorded it shall be read over to the accused who made it and shall be signed by him and also by the recording Magistrate. The Magistrate shall then make, at the foot of the record of the confession, the memorandum required by sub-section (3) of Section 164 of the Code. The memorandum shall, whenever practicable, be in the language in which the accused is examined. To this memorandum shall be added a statement, by the Magistrate in his own hand, of the grounds on which he believes that the confession is voluntarily made. Form No. 189 of Schedule V provides a printed certificate at the end that all these necessary formalities have been observed, and the Magistrate in signing the certificate has his attention called to all that he is bound to do to make the confession effective in law.

Note. - It should be borne in mind that a confession recorded by a Magistrate under Section 164 of the Code is ineffective in law if the certificate required by the section is not given and the signature of the accused making the confession is not taken as required by Section 364 of the Code. The evidence of the Magistrate who recorded the confession is admissible to cure these defects (See rule 87 infra).

84. After a prisoner has made a confession before a Magistrate he should ordinarily be committed to jail and the Magistrate should note on the warrant for the information of the superintendent of the jail that the prisoner has made a confession.

85. A prisoner who has been produced for the purpose of making a confession but has declined to do so, or has made a statement which from the point of view of the prosecution is unsatisfactory, should in no circumstances be detained in police custody. He should be detained in jail custody.

86. In every case in which a record of confession made under Section 164 of the Code is received by the presiding officer enquiring into or trying the case, the confession shall be shown or read over to the accused, and the fact that this has been done shall be noted down by the presiding officer. The presiding officer shall enquire from the accused whether he made the confession before the Magistrate from whom the record of it was received

and shall record the answer of the accused in full.

87. The attention of Courts enquiring into or trying a case in which the record of a confession made under Section 164 of the Code is defective is invited to the provisions of Section 533 of the Code.

4. Custody of Accused Pending Completion of Investigation

88. When an accused is brought before a Magistrate under Section 167 of the Code because the police investigation has not been completed the Magistrate should note down when the accused was first sent for by the Police and when he was produced in Court. If on making due allowance for the time spent in travelling he finds that the period twenty-four hours fixed by Section 61 of the Code has been exceeded he should report the matter to the District Magistrate through the Sub-Divisional Magistrate, and the District Magistrate should call the police to account.

89. A juvenile delinquent should not be remanded to the custody of the police or to jail unless no other action is practicable. The attention of the Courts is invited to the provisions of Section 24 of the Central Provinces Children Act, 1928 (C.P. X of 1928), and to the proviso to sub-section (1) of Section 497 of the Code. This rule covers remands under Section 344 of the Code as well as under Section 167 of the Code.

90.

(1)The Magistrate should before authorizing the detention of the accused in any custody pending the completion of the police investigation, peruse the copy of the case-diary which must accompany the accused and ascertain why further detention is necessary. He should also hear any objection which the accused may have to offer against his further detention. If the Magistrate finds that further detention is unnecessary he may, if he has jurisdiction, try the case or commit it for trial; if he has no jurisdiction he may order the accused to be forwarded to a Magistrate having jurisdiction.(2)If the Magistrate considers the further detention of the accused is necessary he should ordinarily direct the accused to be detained in the jail or the Magistrate lock-up nearest to the Court which will try him in the event of the police finding a charge established against him.(3)It appears to the Magistrate that the police not only require time for their investigation, but that for special reasons they want the accused to be present with them in that investigation, he may order the detention of the accused in the custody of the police.Note. - Under the proviso to Section 167 of the Code no Magistrate of the third class and no Magistrate of the second class who is not specially empowered in this behalf by the Provincial Government can authorize detention in the custody of the police.

91. When a Magistrate passes an order, authorizing the detention of the accused in the custody of the police he should record in writing the ground on which he considers such detention necessary. The reasons put forward by the police why the accused should be returned to their custody are not always good and sufficient and require careful scrutiny. For example, detention for the purpose of enabling the accused to point out where the stolen property is concealed would be reasonable if the accused has voluntarily before the Magistrate offered to conduct the police to the spot; but it would be unreasonable if no such offer has been made and the object of the police is really to induce the accused to reveal the place of concealment. A general statement that the accused may be able to give further information should no circumstances be accepted as sufficient ground for such detention.

Note. - Detention in the custody of the police should be regarded as the exception and not as the rule and such detention should be made only when the Magistrate believes that certain points in the case cannot be properly investigated unless the police are allowed to have the custody of the accused.

92. When an order for detention in the custody of the police is passed by a Magistrate other than the District or Sub-Divisional Magistrate he shall forward a copy of his order, with his reasons for making it, to the Magistrate to whom he is immediately subordinate. The Magistrate to whom the copy of the order is sent shall satisfy himself that the order has been made on good and sufficient grounds and that the period of detention allowed is not more than is reasonably sufficient for securing the object in view.

93. A prisoner may not, under Section 167 of the Code, be detained in the custody of the police for a longer period than fifteen days in the whole, i.e., the whole period of his detention by the police should not exceed twenty-four hours plus fifteen days; exclusive of the time occupied in the journey to the Magistrate's Court after his arrest. When this period has expired an order of further remand should be passed under Section 344 of the Code after the case has been put up for trial before the Magistrate having jurisdiction.

Note 1. Order of remand under Section 344 of the Code have nothing to do with Police Investigation and the accused need not be remanded to police custody.Note 2. The decision to remand an accused under Section 344 of the Code is not a mere formality which can be left to a clerk, but is one which must be taken by the Magistrate himself in the exercise of the judicial discretion. The accused can be remanded for fifteen days at a time. Repeated remands should not be made except for strong

reasons which should be recorded.

94. An order of detention in police custody shall be written on the application for detention which shall be made in the form prescribed therefor. The Magistrate shall give the original order to the police and have a copy of it made in duplicate on the application to be filed with the magisterial record of the case. The copy shall first be sent to the Magistrate to whom the Magistrate making the order is immediately subordinate. The superior Magistrate shall after perusal return the copy to the Magistrate who is to enquire into or try the case to be filed with the record.

95. Whenever after a confession has been recorded a Magistrate is specially deputed to verify the confession locally with the aid of the accused, the accused shall remain in the charge of such Magistrate. The Magistrate shall make suitable arrangements for guarding the accused by peons, and the police shall not be allowed to take any part in guarding him.

5. Closing of the investigation and the Completed Investigation Report

96. An investigation is completed when-

(a)the police report that the charge which they have investigated is not established by the evidence, and the accused (if in custody) has been released on his executing a bond with or without sureties (Section 169 of the Code);(b)the police report that the charge is established against the accused by the evidence collected, and send the case for trial (Section 170 of the Code); or(c)the police report that the case is a true one, but that after doing all in their power they have been unable-(i)to trace the offence to any particular person, or(ii)to lay hands upon the person who is believed to be the guilty party (Section 173 of the Code).In (b) the charge sheet, called the challan, will form the final report in the case and will go to the Magistrate having jurisdiction. In cases (a) and (c) a final report shall be submitted direct to the Magistrate who shall make such order for the discharge (or otherwise) of the accused's bond as he thinks fit.Note. - District Magistrate should keep officers in charge of police stations constantly informed of the distribution of criminal work among the various Magistrates in the district.

97. If the Magistrate having jurisdiction is at the headquarters of a district the charge sheet should in the first instance be taken to the office of the District Superintendent of Police so that immediate action may be taken to obtain copies for proving such previous convictions as may have been noted in the charge sheet or for tracing out such convictions if none have been so noted. The prosecuting inspector should inspect the charge sheet and see that it is

properly drawn up and is presented in the proper Court with as little delay as possible. In no case should a charge sheet be delayed in the office either for the purpose of procuring fresh evidence or for any other object without an express order from the Court.

Note. - A charge sheet consists of two parts and has a counterfoil. In the first part are entered the particulars of the case the names of witnesses for the prosecution and the property found. In the second part the result of the trial is entered. The counterfoil is filled in at the police station before the original is torn off and remains in the book as a memorandum of the facts. The charge sheet is sent to the Court with the original of the first information report.

98. Except in extraordinary cases no alteration, correction or comment should be made on the original charge sheet. When any alteration, correction or comment is made, or when it is found necessary to substitute a fresh sheet for the original, the reason for any such alteration or change should be given to the Magistrate at the time of bringing the case before him.

99. When the trial is completed, and the result slip is filled in, the slip shall be signed by the Magistrate, or in cases committed to the Court of Session by the Sessions Judge, and despatched to the office of the District Superintendent of Police.

100. When the Magistrate or Judge considers that the property produced as stolen is not in fact all stolen, he shall enter in column 7 of the result slip of value of the part he thinks to be stolen.

101. When the final report, under Sections 169 and 173 of the Code, discloses facts which afford good prima facie grounds for believing a case to be false, or to have been instituted through mistake on the part of the complainant as to the criminal liability of the accused, the District Magistrate may order the case to be expunged from the Crime Register. Similar of the accused is sent up for trial under Section 170 and is acquitted or discharged on the ground that no offence was committed, the Court (subject in the case of a Court of a Magistrate to the orders of the District Magistrate) may direct the expunging of the offence.

Note. - Application to have cases expunged should ordinarily be made by the District Superintendent of Police in English and such applications should be confined to important cases.

102. In doubtful cases an offence should not be expunged. Mere failure to elicit confirmatory evidence will not justify the expunging of a complaint once registered. Some positive evidence inducing a reasonable certainty that the offence was not committed is needed. On the other hand a Court should not refuse to make such an order merely on the ground that there is no strictly legal evidence before it on which it can declare the charge to be false or erroneous.

6. Inquests

103. When there is any doubt as to the cause of death, or when death is said to have been suicidal, or it appears that homicide or any other offence has been committed or when for any other reason a police officer considers it expedient to do so, he should forward the dead body to the medical officer appointed to hold post mortem examinations in the particular area in which the police station concerned is situated. For very special reasons which must always be stated, the police may send a dead body to the Civil Surgeon from any area.

Note. - All officers in charge of police stations should be kept informed of the medical officer to whom dead bodies should be sent for postmortem examination.

104. In cases in which the remains discovered consist mainly of bones or are so scanty as to require a highly skilled opinion to decide the cause of death, the identity of the remains and other similar matters, they should always be sent to the Civil Surgeon of the district for examination.

105. When a dead body is sent to headquarters from a place where a medical officer is stationed, the police may call on him to inspect the body and to describe in writing any wound or other unusual external condition that may be present.

106. When intimation is received by the officer in charge of a police station that a death has occurred by suicide, by homicide, by an accident by the attack of an animal or in suspicious circumstances, he shall give immediate information to the nearest Magistrate empowered to hold inquests and proceed to the spot where the body of the deceased person is.

Note. - District Magistrates shall inform District Superintendents of Police which of the Subordinate Magistrates have been empowered under Section 37 read with Section 174 of the Code to hold inquests.

107. When any person dies while in the custody of the police, the nearest Magistrate empowered to hold inquests shall hold an enquiry into the cause of death as required by Section 176 of the Code either instead of or in addition to the investigation held by a police officer. If the Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of death, he may cause the body to be disinterred and examined.

Chapter 5

General Procedure in Enquiries and TrialsComplaints

109. Complains of offences, whether oral or in writing should be received on all working days at a fixed hour either at the commencement or at the close of the days sitting by the Magistrate having jurisdiction to receive them.

For Court-fees payable on complaints see Part III Chapter 22

110. Section 200 of the Code requires, except in cases covered by the proviso to sub-section (1) of that Section, that the complaint shall be examined on oath "at once." Keeping complainants waiting about the Court for days before examining them or of fixing more or less distant dates for them to appear for examination is not only a direct violation of the law but may amount to a complete denial of justice in the case of poor persons residing at a distance from the Court house. Any tendency towards such a practice should be severely checked.

111. The examination of a complaint should not be a mere formality. He should be examined intelligently and in such a manner as to enable the Magistrate to determine whether there is prima facie sufficient ground for proceeding. Magistrates should also bear in mind the provisions of Section 95 of the Indian Penal Code and apply them reasonably to the complaints before them with reference to the position in life of the parties concerned and the habits of the class to which they belong. They should also bear in mind the provisions of Section 203 of the Code which lays down that the

Magistrate before whom a complaint is made or to whom it has been transferred may dismiss the complaint if, after considering the statement on oath (if any) of the complainant and the result of the investigation or enquiry (if any) under Section 202, there is in his judgement no sufficient ground for proceeding.

112. Many Magistrates, whether from laziness, timidity or misplaced conscientiousness, make insufficient use of the provisions of Section 203 of the Code, and issue process indiscriminately after the most cursory examination of the complainant and without applying their minds judicially to the facts brought out. Such procedure cannot be too strongly condemned. On the proper use of the provisions of Section 203 of the Code depends the protection of the general public from the harassment and expense of appearing in the Court to answer false or trivial complaints, and Magistrates who fail in this respect fail in an important part of their duties. The proper use of the provisions of Section 203 is a matter to which inspecting officers should invariably devote attention.

113. It should be borne in mind that in a non-congnizable case an enquiry or investigation by the police can only be ordered by a Magistrate of the first or second class who is not satisfied as to the truth of a complaint of an offence of which he is authorised to take cognizance. In petty cases of assault, hurt, insult, simple trespass and the like the complainant should be left to make out his own case, and if the Magistrate is not satisfied as to the truth of the complaint it is better that before issuing a process he should enquire into the case himself by requiring the complainant to produce some evidence in support of the charge, rather than that he should waste the time of a police officer by directing him to investigate the case.

114. In non-cognizable cases a Magistrate should not order the police to make an enquiry or investigation regarding matter which are of private rather than of public interest, or which, though they may be of public interest are of such a nature that it is not expedient to employ the agency of the police in investigating them.

Note. - As a rule the police should not be directed to make an enquiry or investigation in cases which would involve mainly an enquiry into a dispute concerning land, or an examination of a banker's books of accounts. In such cases if a local investigation is required, it should be made through a

tahsildar or one of his subordinates.

115. The question of jurisdiction requires careful attention at the outset. Schedule II of the Code shows the classes of Courts by which offences are triable. In determining the nature of the offence, the facts ascertained by the examination of the complainant and the preliminary enquiry, if any are the chief matters to be taken into consideration, and importance should not be attached to the particular section specified or the offence alleged it to the complaint. It should also be remembered that certain offences cannot be taken cognizance of at all except upon the complaints of certain persons or Courts with the previous sanction of the Government (Sections 195 to 199-A of the Code).

116. If a Magistrate finds that the offence disclosed is not triable by him he should report the case to the Sub-Divisional Magistrate for its transfer to a competent Court. He should take similar action when he finds that although he has jurisdiction to try the offence, he will not be able to impose an adequate sentence in the event of a conviction.

117. When a Magistrate taking cognizance of an offence is of opinion that there is sufficient ground for proceeding, he must, having regard to the provisions of Section 204 of the Code, decide whether a summons or a warrant should issue in the first instance for the attendance of the accused.

Note 1. - Sections 202 and 203 of the Code do not contemplate a magistrate's calling upon an accused person to show cause why process should not be issued against him. Such procedure is inconsistent with the scheme of the Code and is improper and irregular. The Magistrate should not make an accused person a party to the proceedings before he has decided to issue and does issue process against him.Note 2. - Great care should be taken not to issue a warrant when a summons would be sufficient for the ends of justice. Magistrate should remember that the issue of a warrant involves interference with the personal liberty of a person and they should take care to see that no greater hardship is caused than is necessary.Note 3. - Under Section 76 of the Code a Court has the discretion to make the warrant bailable and the discretion should be exercised with due regard to the nature of the offence, the position of the accused and the circumstances of the case.Procedure in Trials

118. In dealing with trials and enquiries presiding officers should remember that their position is not that of Judges of Civil Courts who decide cases on the evidence put before them and leave it to the parties concerned to see that the evidence they produced is complete. Their primary duty is the

ascertainment of the facts and the punishment of the guilty. For this purpose they have, under the Evidence Act and the Code, ample power. The fact that the prosecution is conducted by a public prosecutor or by a prosecuting inspector of police does not absolve the presiding officer from this duty.

119. If a case commences as a warrant case it must be tried throughout according to the procedure for warrant cases. The fact that no offence triable as a warrant case is made out is no justification for completing the case as a summons case. Such a procedure is illegal.

120. When several accused are tried together and some are charged with offences triable as warrant cases and others with offences triable as summons cases the procedure throughout should be that of a warrant case.

121. Similarly in the investigation of a complaint which forms the subject of two distinct charges arising out of the same transaction, one of which is a warrant and the other a summons case, the procedure should be that prescribed for warrant cases.

122. The attention of the Courts is invited to the provisions of Section 25 of the Central Provinces Children Act (C.P. X of 1928) regarding the attendance of the guardians of youthful offenders when dealing with cases in which persons under the age of sixteen are charged with any offence.

123.

(1)When a presiding officer makes a local inspection he must record without unnecessary delay, a memorandum of inspection, as required by Section 539-B of the Code, referring to any relevant facts observed. Where no relevant facts have been observed a note about the making of the inspection should be made in the order sheet. No inspection shall be made without due notice to the parties.(2)A presiding officer may find it helpful to examine witnesses at the scene of a local inspection. In this event he must record these witnesses statement at the time they are made and in the presence of the accused who must have an opportunity of cross-examining them. Under no circumstances it is permissible of a presiding officer who is trying a case to hold a kind of police investigation, questioning all kinds of people and hearing statements, which must to some extent influence his mind, neither recorded nor made in the presence of the accused.

124.

(1)The attention of the Courts is invited to the provisions of Section 516-A of the Code. When the property concerned consists of livestock it should wherever possible be placed in the custody of a supratdar, security being taken from him for its production whenever ordered, and arrangements made for payment to him of the expenses incurred by him for feeding and looking after the live-stock.(2)Orders for the safe custody of property pending the conclusion of the enquiry or trial should invariably be made as soon as the articles are produced in Court. When such articles consist of valuables, jewellery or money, whether in currency notes or coins, exceeding Rs. 100 in aggregate value, they should be sent for safe custody to the treasury or subtreasury officer. Other articles should remain in the custody of the nazir (which term wherever used in this Chapter also includes a naib-nazir).(3)Property sent for safe custody should be accompanied by a memorandum in Form No. 198 or 199 on Schedule V-Cr. J.E. as may be appropriate. Valuables, jewellery or money shall invariably be made up into a sealed packet in the presence of the presiding officer. If the value of the packet exceeds Rs. 100 the sealed packet and memorandum shall be sent to the treasury or sub-treasury officer through the nazir for retention in the treasury in sale custody and the treasury or sub-treasury officer will proceed in accordance with Financial Rules 9 and 10. In other cases the property and memorandum shall be sent to the nazir. The nazir shall endorse on the memorandum the receipt of the property and also the serial number the property bears in the Register of Property made over to the nazir in criminal cases. If the property consists of or contains a sealed packet which is not to be forwarded to the treasury or sub-treasury officer, the nazir shall keep the packet in his safe. The memorandum shall be returned to the Court and filed in the record of the enquiry or trial. All property whether sent to the treasury or sub-treasury officer, or kept by the nazir, shall be entered in the abovementioned register and details of the property as shown in the accompanying memorandum noted in the appropriate columns.(4)When the property is required at any intermediate hearing the Court shall endorse a requisition on the memorandum, and send the memorandum to the nazir. As soon as the day's hearing concludes the property shall be returned to the nazir, who shall if necessary re-deposit it in the treasury. If it consists of or contains valuables, jewellery or money, such valuables, jewellery or money shall be made into a sealed packed in the presence of the presiding officer as directed in sub-rule (3):Provided that in trials before the Court of Session the property shall be produced and taken back by the nazir of the District Magistrate's office.(5)After the conclusion of the enquiry or trial, an order for the disposal of any property produced should be recorded in accordance with the provisions of Section 517 of the Code. In this connection the attention of the Courts is invited to the explanation to this section which enables the Court to return the sale proceeds of stolen property to the person from whom such property was stolen, though such property itself is not forthcoming.

125. Special care should be taken for the safe custody during the pendency of the enquiry or trial of documents that are forged or suspected to be forged. Ordinarily they should not be retained with the record but should be deposited with the nazir in a sealed cover after such hearing. See also Part II Chapter 18, Rule 466.

126. Oaths and affirmations made under Section 5 of the Indian Oaths Act (X of 1873) shall be administered according to the following forms:-

I. Affirmation(1)For a WitnessThe evidence which I shall give shall be the truth, the whole truth, and nothing but the truth.(2)For an InterpreterI shall well and truly interpret questions put to, and evidence given by, witnesses in this case.(3)For JurorI shall well and truly do my duty as a member of the jury in this case.II. OathThe affirmation given above with the addition of the following invocation:-So help me God.

127.

(1)The plea of the accused should be recorded as nearly as possible in the words he himself uses and it should be made clear, if he pleads guilty, that he has comprehended the ingredients of the offence and admitted them. For example, an essential ingredient in an offence may be guilty knowledge or intention. Before an accused can be convicted on a plea of guilty in such a case it must be clear from his plea that he not only admits the material facts but also the necessary guilty knowledge or intention.(2)The filing of a written statement by the accused or his pleader does relieve the Magistrate of the duty of recording the plea of the accused.

128. The following instructions of the summoning of post office officials and records should be carefully followed:-

(a)Section 95 of the Code lays down the procedure for the production of post office or telegraph office records before Courts of criminal jurisdiction. Sub-section (3) of Section 94 of the Code expressly exempts a letter, postcard, telegram or other document or any parcel or thing in the custody of the postal or telegraph authorities from the operation of sub-sections (1) and (2) of that Section and a Court desiring the production of any such letter or telegram must proceed under Section 95. The intention of this section appears to be that an officer should be deputed by the Court concerned to go to the office where such letter or telegram is, and that the postal or telegraph authorities should be directed to make over the document to the officer so deputed, who will then be in a position to prove that the document was produced from the custody of the postal or telegraph authorities.(b)The attendance of telegraph office clerks should be required only if they are in a position to prove the handwriting of the message or otherwise identify the writer or person who handed it in for transmission or to give material evidence on other relevant matters which cannot be proved from other sources.

129. The following instructions issued for the guidance of postal officials are reproduced for the information of Criminal Courts:-

A summons from a Court of civil or criminal jurisdiction to produce any of the records of a post office or a certified extract from or copy of any of such records must be complied with; the receipt of such a summons and such particulars as are known to the postmaster regarding the case should be at once reported to the Postmaster-General, in case he should see fit to raise any objection in Court

under Section 123 or Section 124 of the Indian Evidence Act (I or 1872) to the production of any of the records. When any journal or other record of a post office is produced in Court and admitted in evidence, the officer producing it should ask the Court to direct that only such portions of the records as may be required by the Court shall be disclosed.

130. When any journal or record of a post office is produced in Court, the Court shall not permit any portion of such journal or record to be disclosed other than the portion which seems to the Court necessary for the determination of the case then before it.

131. The following instructions for the dress of officers and soldiers appearing before a Criminal Court (other than a Court established under military law) have been approved by Governor-General in Council:-

(a)An officer or soldier required to attend a Court in his official capacity should appear in uniform with sword or side-arms. Attendance in an official capacity includes attendance-(i)as a witness, when evidence has to be given of matters which came under the cognizance of the officer or soldier in his military capacity;(ii)by an officer for the purpose of watching a case on behalf of a soldier or soldiers under his command.(b)An officer or soldier required to attend a Court otherwise than in his official capacity may appear either in plain clothes or uniform.(c)An officer or soldier shall not wear his sword or side-arms if he appears in the character of an accused person or under military arrest or if the presiding officer of the Court thinks it necessary to require the surrender of his arms, in which case statement of the reasons for making the order shall be recorded by the presiding officer, and, if the military authorities so request, forwarded for the information of His Excellency the Commander-in-Chief.(d)Fire-arms shall in no circumstances be taken into Court.

132. The Code gives ample power to Magistrates to prevent the summoning of unnecessary witnesses and this powers should not be ignored. As the expenses of witnesses are paid by Government there is no inducement for the defence to curtail the number of witnesses and many are summoned only to be given up. A discreet use of the power referred to above will prevent the abuse. The defence of the accused, if properly recorded, should disclose to the Magistrate whether the evidence of the witnesses named for the defence is or is not necessary.

133. Every application for the issue of process for the attendance of witnesses in criminal cases shall, if the party presenting the application is represented in the case by a legal practitioner, contain a certificate signed by such practitioner, that he has satisfied himself that the evidence of each of the witnesses is material in the case.

134. Deleted.

135.

(1)Magistrates should carefully exercise the discretion vested in them by Section 345 (2) of the Code in granting permission to compound an offence. In granting permission it is necessary to have regard not only to the actual offence committed but to the circumstances in which the application for permission to compound is made. In districts where crimes of violence are common permission to compound should ordinarily be refused where serious injury has been caused except when the assault has been provoked by an act of the person injured. In every case in which a presiding officer allows the party to compromise, his reasons should be recorded in his order.(2)The decision whether permission to compound should be given is one for the Magistrate and not for the police. The power to decide is given to the Magistrate alone, and the opinion of the police is not to be sought before arriving at a decision.Summary Trials

136. Offences specified in Section 260 of the Code may be tried summarily by a District Magistrate or a Magistrate of the first class empowered in that behalf of by a bench of Magistrates invested with the powers of a Magistrate of the first class and specially empowered in this behalf by the Provincial Government. Certain offences specified in Section 261 of the Code may be tried summarily by any bench of Magistrates invested with the powers of a Magistrate of the second or third class specially empowered in this behalf; subject to the exceptions specified in Rule 137 below, it is desirable to try by summary procedure as far as possible all Petty cases that can be so tried.

Note 1. - A summary trial is summary only in respect of the record of the proceedings and not in respect of the proceedings themselves which should be as complete and carefully conducted as if they were recorded at length.Note 2. - It is illegal to make use of the summary procedure in cases of bad livelihood or other proceedings not being trials of any of the offences mentioned in Section 260 or 261 of the Code.

137. The following cases should not be tried summarily:-

(a)cases which are prima facie likely in the event of a conviction to call for more severe punishment than can be awarded on summary trial, e.g., cases of cattle theft and cases against previously convicted offenders;(b)cases which are prima facie likely to be long and complicated;(c)cases arising out of disputed title; and(d)cases in which, for any particular reason, it is desirable that there should be a full record of the evidence for future reference, e.g., cases in which Government servants of any rank are concerned as accused persons.Note. - Summary procedure though strictly legal, in such cases, is not appropriate and should not be followed.

138. In summary trial the procedure prescribed for summons cases should be followed in summons cases and that prescribed for warrant cases should be followed in warrant cases subject to the modifications made by Sections 263 and 264 of the Code as to the record required.

139. It is desirable that all witnesses on both sides should be examined on the same day in summons cases tried by summary procedure. There is not need to summon the prosecution witnesses for the first hearing on which the particulars of the offence of which he is accused have to be stated to the accused under Section 242 of the Code. If at this hearing the accused does not admit the offence of which he is accused the case should be adjourned for the production of the witnesses of both sides under Section 244. If on the adjourned date of hearing the accused does not produce his witnesses but ask for a future adjournment to secure their attendance, the Magistrate can, in the exercise of his discretion under Section 244 (2), refuse to adjourn the case and proceed to judgement.

140.

(1)Where the sentence passed is not appealable the procedure prescribed in Section 263 of the Code should be followed; where the sentence passed is appealable that prescribed in Section 264 of the Code should be followed.(2)In appealable cases a judgement should be drawn up embodying (a) the substance of the evidence and (b) the particulars mentioned in Section 263. In non-appealable cases the particulars required by Section 263 should be recorded. These particulars include full information as to the nature of the offence alleged and proved, the plea of the accused and his examination, the finding and, in case of a conviction, a brief statement of the reasons therefor and the sentence or other final order.Cases under Section 476 of the Code

141. Where Civil or Criminal Court makes a written complaint under Section 476 of the Code the Court shall forward along with the written complaint a copy of the order directing the filing of the complaint and any documents in respect of which the offence complained of has been committed, precaution being taken to ensure the safe custody of the documents while in transit. It will then be for the prosecuting authority or the Court dealing with the complaint to secure from the file of the complaining Court such other documents as are necessary. Original documents should be sent for only where this course is unavoidable, i.e., where certified copies cannot be used, and they should be detained only as long as they are essentially required. If any original documents from the record of the complaining Court is brought

on the record of the Court trying the complaint it should be returned immediately the case has been disposed of.

Where an original document is requisitioned the complaining Court should send along with it a certified true copy so that the original may. be returned as early as possible.Cases to be committed to Courts of Session

142. The Magistrate holding a commitment enquiry should invariably refer to the list of dates for holding sessions which is published annually in the Madhya Pradesh Gazette, and endeavour to complete his proceedings in time for the case to be tried at the session next following the date of their commencement. In particular there should be no avoidable delay in making the order of commitment required by Section 213 (1) of the Code.

143. The Magistrate holding an enquiry shall report the commencement of each commitment proceeding to the Sessions Judge as soon as the accused is produced, and immediately after the commitment he shall send an intimation to the Court of Session through the District Magistrate if he himself is not the District Magistrate. If articles in the case have been sent to the Chemical Examiner the information required by Rule 156 below must also be given. The Court of Session will then fix a date for the trial and inform the District Magistrate of the date fixed.

144. The Magistrate on charging the accused and recording in an order his reasons for commitment shall send the record of the enquiry with the charge and the order directly to the Sessions Judge, reporting at the same time the section under which the offence charged is punishable and the number of witnesses cited for the prosecution and for the defence and estimating the probable duration of the trial. Any weapon or article to be produced before the Court of Session, if not sent to the Chemical Examiner, shall be forwarded to the nazir of the District Magistrate's office to be produced at the trial. If for any special reason e.g., where the committing Magistrate thinks fit to examine supplementary witnesses under Section 219 of the Code, it is necessary to detain the record the report should make known the detention and the reasons for it.

145. When two or more persons are accused of the same offence or of offences arising out of the same transaction, the Magistrate should not convict some and commit others to the Court of Sessions. If any one of the accused is charged with an offence beyond the jurisdiction of the Magistrate, or one which in the opinion of the Magistrate ought to be tried by the Court of Session, all the accused persons implicated, against whom there is prima facie sufficient evidence, should be committed for trial.

146. A translation of the police case-diary is prepared by the translator attached to the Session Judge's office. The committing magistrate should, therefore, obtain the case-dairy from the District Superintendent of Police as soon as the case is committed, and send it to the Sessions Judge.

Note. - The translation is intended solely for the use of the Court of Session and the High Court and neither the accused nor any person on his behalf should be permitted to see it at any stage of the proceedings.

147. Immediately after the commitment order the committing Magistrate shall make a note showing whether the accused or each of the accused where there are more than one, is or is not able to engage a counsel for his defence in the Court of Session. If any accused is committed on a capital charge to the Court of Session and the committing Magistrate considers that such accused is unable to engage a counsel for his defence in that Court, the Magistrate shall ask the District Magistrate to take action as required by Rule 132 of the Law Department Manual.

The Order Sheet

148. An order sheet in form Nos. 144 and 203 on Schedule II shall be used in all trials and shall form part of the record of each trial.

149. In cases before the Court of Session the sheet shall open with an entry recording receipt of intimation that commitment has been ordered, and the receipt of the committing Magistrate's proceedings shall also be recorded. The preliminary proceedings such as the appointing of a date for the trial and the selection of assessors shall then be entered.

Note. - With a view to have the facts of case brought out in their logical sequence, the Public Prosecutor should be asked to report as to the witness he wishes to examine and the sequence in

which he intends to examine them on the opening and the following days of the trial.

150. The order sheet shall clearly show the course of a trial or enquiry from first to last in chronological order. It shall contain a note of very order made and shall show the date of every hearing and the proceeding at the hearing. It should be a faithful, complete and concise history of the trial or enquiry and of all proceedings taken in it so that a Court of appeal or revision may be able to trace at once from the sheet the whole course of the proceedings.

151. Interlocutory orders should normally be entered in the order sheet but lengthy interlocutory orders should be separately recorded, the order sheet merely containing a note that such orders have been delivered. Final orders, except final orders of a purely formal nature such as the dismissal of a complaint in the absence of the complainant, must not be written on the order sheet.

152. An order for payment of process-fees should invariably fix a time for such payment. In the right hand margin of the order sheet against such an order the Court reader shall note the date on which the process-fee so directed to be paid was actually paid and the date on which the process was issued. Omission to pay the process-fee should like wise be noted.

153. Routine entries and the order sheet, especially preliminary orders of the kind referred to in Rule 149, may be made by the Court reader but shall be signed at the close of the proceedings each day, as well as at the conclusion of the trial, by the presiding officer after he has satisfied himself of their correctness. The responsibility for all orders in the order sheet is entirely on the presiding officer and the permission contained in this rule for routine entries to be made by Court readers must not be construed as detracting from that responsibility.

Dismissal of Cases in Default

154. Before a case is dismissed by reason of the absence of the complainant the presiding officer should consider not only whether such an order is legal but whether it is justified by the circumstances.

155. Applications for revision of orders of dismissal in default frequently urge (i) that the case was not called, (ii) that the case was dismissed very early in the day, (iii) that the presiding officer being on tour the complainant has no notice or insufficient notice, of the place of sitting, and the record often furnishes no definite information of these points. The following instructions shall accordingly be followed:-

(a)If a complainant is absent when his case is first called, a note of the fact should be made in order sheet and the case called later. The time of dismissal should invariably be entered in the order sheet.(b)When the presiding officer is on tour cases instituted on complaint shall not be dismissed unless the complainant has had due notice of the place of hearing.The Sending of Articles to the Chemical Examiner

156. The procedure to be followed in sending articles to the Chemical Examiner will be found in Government Book Circular V-3 and the proof of such sending is dealt with in Chapter 7, Rule 207. It is necessary, in view of the delays involved in the examination, that a Magistrate should decide as early as possible whether he is going to make a reference to the Chemical Examiner or not, and if he decides to make a reference to make it at once. The careful following of the prescribed procedure is the personal responsibility of the Magistrate.

157. When, a Magistrate forwards articles to the medical authorities for despatch to the Chemical Examiner he should mark each with a letter or number, in writing or by a label. The medical authorities will then be able to quote this mark in their forwarding list against the number by which they describe the article themselves. As far as possible every' article should be given a separate mark. For instance, a lock and key, a pestle and mortar, and other articles which go in pairs though each part is separable, should be separated and marked separately.

158. The Magistrate should also state in his forwarding letter whether he requires the origin of the blood-stains on any article to be determined, and where the blood-stains are suspected to be human it should be stated explicitly that they are suspected to be human. If the origin of the blood-stains is required, the Magistrate should add in his forwarding letter-

(a)a complete medico-legal history of the case;(b)details of the medical examination, if any, of the accused and the victim;(c)the circumstances under which the articles were seized;(d)details of the

confession, if any.If further articles are to be sent later this should be mentioned in the letter sending the first group of articles. As far as possible all articles should be sent at one and the same time.

159. When a case in which articles have been sent to the Chemical Examiner is committed to the Court of Session the intimation required by Rule 143 above shall mention the fact that articles have been sent to the Chemical Examiner and the date on which they were sent. In fixing the date for trial the Sessions Judge should take this information into account.

160. Committing Magistrates should take particular care to see that articles on which the Chemical Examiner's report is required by the police after the accused has once been produced in Court are not delayed in the police office.

Chapter 6

Examination of the Accused and ChargeExamination of the Accused

161. The provisions of Section 343 of the Code should be carefully followed. That Section empowers the Court to put questions to the accused at any stage of the enquiry or trial to enable him to explain any circumstances appearing in evidence against him. The questions put should be confined to the points brought out in the evidence and should not be in the nature of cross-examination of the accused, nor should the power given by the section be used to elicit information from the accused to fill up gaps in that prosecution evidence.

Note 1. - Section 342 is intended for the benefit of the accused and he should be given every chance of explaining any circumstances appearing in the evidence which has been given against him.Note 2. - In addition to the statement of his age as given by the accused the Court should give its own estimate of his apparent age "and if it considers necessary, order a medical examination of the accused about his age and also ask the prosecution to produce documentary evidence on the point of his age, if it is readily available" in order to assist the Appellate Court and the authorities before whom the case may afterwards come for the exercise of the prerogative of mercy.

162. It is generally desirable to remind the accused of the chief points in the testimony of each witness and to question him upon each. The accused seldom takes any written notes of the prosecution evidence and it may be unfair and unjust to expect him to remember all these points.

163. A general and vague question such as "You have heard what the witnesses have said. What have you to say?" is to be deprecated. It is usually best to refer to each witness separately, for, among other reasons, the partiality or otherwise of each witness is a subject upon which the accused should ordinarily be given a hearing.

164. The first examination of the accused may often be made with advantage at an early stage in the proceedings. For instance, in a case of theft if the accused admits possession of the alleged stolen property, it may be possible to dispense with the examination of some witnesses who can then be discharged without further delay.

165. Section 342 of the Code makes it obligatory for a Court to examine the accused generally on the case after the witnesses for the prosecution have been examined and before the accused is called on for his defence. Even when the accused has been examined at an earlier stage, the Court must examine him generally after the close of the prosecution case, i.e. after the examination and cross examination of the prosecution witnesses and their further cross-examination if any, after the charge is framed and before he is called upon to produce his defence, so as to give him an opportunity to explain any points which are not included in the questions put to him at earlier stages. After the Court has asked all the questions it considers necessary, it is still desirable to ask the accused whether he has anything else to say.

166. If the accused or his pleader puts in a written statement it should be filed with the record; but the filing of a written statement does not relieve the Court of the duty imposed by Section 342 of the Code of examining the accused after the close of the prosecution evidence.

167. Section 364 of the Code prescribes the mode in which the examination of an accused should be recorded. The questions put to the accused and the answers given by him should be distinctly and accurately recorded in full in the language in which he is examined, and if that is not practicable in the language of the Court or in English. In cases in which the examination is not recorded by the Magistrate himself he must record a memorandum thereof in the language of the Court or in English if he is sufficiently acquainted with

the latter language.

168. The examination of an accused shall be shown or read or interpreted to him and made conformable to what he declares to be the truth. It shall then be signed by the accused and also by the Magistrate. The Magistrate shall then certify under his own hand that the examination was taken down in his presence and hearing and that the record contains a full and true account of the statement made by the accused. These formalities must be strictly complied with.

The Charge

1. General

169. The provisions of Chapter XIX of the Code as to the framing of the charge should be carefully followed. Sections 221 to 223 show the form in which a charge should be drawn up and the particulars which should be entered therein; and Sections 233 to 239 show how charges may be joined, when they should be in the alternative form, and what persons may be charged jointly. Special care is needed in the joinder of charges.

170.

(1)The following forms of charges have been prescribed:-(a)Charge with one head (Form No. 185 on Schedule V).(b)Charge with one head when committing the accused for trial (Form No. 186 on Schedule V).(c)Charge after a previous conviction for the purpose of Section 75 of the Indian Penal Code (Form No. 187 on Schedule V).(d)Charge with two or more heads (the forms prescribed by item XXVIII (II) of Schedule V of the Code itself).In every case care should be taken to use the proper form.(2)The correct framing of charges is of importance. Specimen drafts are given in standard works of practice (like that of Ratanlal & Dhirajlal Thakore) and should be consulted.

171. If the law relating to the offence gives it any specific name, the offence shall be described in the charge by that name. If the law does not give any specific name, so much of the definition of the offence shall be law and section of the law against which the offence is said to have been committed shall always be mentioned in the charge.

172. Nothing which is not essential to the offence should be included in the charge, except 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. It is unnecessary, for instance to specify in a charge of murder the weapon with which murder was committed.

173. In prosecutions for giving false evidence under Sections 193, 194 and 195 of the Indian Penal Code the particular statements alleged to be false should invariably be set out in the charge to enable the accused to understand fully the offence with which he stands charged.

174. In the case of theft if the property, which it was the thief's intention (as shown by the circumstances or by his admission) to take, consisted of a number of contiguous articles, which were reached by one and the same act of trespass or which were the subject of a single enterprise, the moving of each article in the course of removal of the whole bulk of property cannot ordinarily be considered to be a distinct theft. The transaction in such a case was single, although it may have been achieved in detail; and the fact that the spoil taken consisted of several things, whether belonging to the same or the different owners, does not necessarily break up the unity of the transaction. If, on the other hand, the property taken consisted of a number of articles so distantly or diversely situated as to require a distinct act of trespass or a distinct enterprise for the removal of each, the transaction should ordinarily be held to have been not single but complex, and its achievement to have involved the commission of more than one separate theft; e.g.-

(a)A thief enters a house and removes one by one all the articles of value which he finds there. As all the property is got at by one and the same act of trespass, the theft is single although some of the articles may have belonged to friends of the owner of the house.(b)A thief goes to a threshing floor, where the grain of four cultivators is stored, and steals a little from every heap. Unless it is shown that he had distinct designs against the several owners, it is plain that there was but one act of thieving accomplished through one and the same trespass.(c)A thief snatches from a man's hand a bag containing articles belonging to several persons. The theft thus achieved by a single enterprise is not made multiple by the act that the things snatched had different owners.(d)A cattle-lifter drives off a herd of six head of cattle, being the bullocks of half a dozen separate cultivators, which were in the charge of a boy. This is a single act of theft, the enterprise being single; it is not six thefts because

there were six owners.Note. - These instructions do not, however, in any way fetter the discretion of Magistrates vested in them by Section 235 of the Code with regard to the framing of separate charges or the holding of separate trials whenever it appears appropriate to do so.

2. Previous Convictions

175. Sub-section (7) of Section 221 of the Code directs that, if the accused having been previously convicted of any offence is liable, by reason of such previous conviction, to enhanced punishment or to punishment of a different kind, for a subsequent offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court may think fit to award for the subsequent offence, the fact, date and place of the previous conviction shall be stated in the charge, An admission by an accused person of a previous conviction, or the mere recording of the fact that previous convictions have been proved against the accused will not suffice. To render the accused liable to a sentence which cannot be passed except on proof of a previous conviction, the fact, date and place of previous conviction must be set forth in the charge before sentence is passed.

Note 1. - A previous conviction for the purpose of affecting the punishment which a Court is competent to award is a conviction the penalty following which had been undergone by the accused (in whole or in part) at the time when he committed the offence for which he is being tried. Not all convictions on record at the date of the charge are, however, always to be reckoned as previous convictions for the purposes of Section 75 of the India-Penal Code.Note 2. - When a person has been convicted at or about the same time of more offence than one and after undergoing the accumulated penalties for those offences commits another offence and is again convicted, each of the previous convictions is a separate conviction in relation to the present conviction.

176. It is not necessary to state previous convictions in the charge unless-

(a)the accurately is liable to a sentence which cannot be passed except on proof of a previous conviction, and(b)it is intended to prove the previous convictions for the purpose of affecting the punishment which the Court may think fit to award. It will thus appear that where Section 75 of the Indian Penal Code or any other similar provision of the law is applicable the details of previous convictions must be stated in the charge whether the Court thinks lit to award the enhanced punishment prescribed by that provision or not. But where it is not applicable, these details need not be stated in the charge, even if the Court thinks fit to award a sentence which though within maximum provided by law for a first offence, is still higher than it would have awarded if the trial were for a first offence.

177. A previous conviction may be proved, in addition to any other mode provided by any law for the time being in force-

(a)by an extract duly certified to be a copy of the sentence or order;(b)by a certificate signed by the superintendent of the jail in which the sentence was executed;(c)by the production of the warrant under which the punishment was suffered;together with in each of these cases evidence as to the identity of the accused person with the person so convicted.Note. - An extract from a register of previous convictions is not an extract of the kind contemplated by clause (a) of Section 511 of the Code.

178. If the name, father's name and caste of the person sentenced which are given in the copy, certificate or warrant, tally with those claimed by the accused under trial, the agreement may be treated as a circumstance appearing in the evidence against him which he should be called upon under Section 342 of the Code to explain. If on examination he denies his identity with the person described in the document, it will be necessary to call a witness or witnesses having personal knowledge that the accused has been previously convicted.

179. In cases of the kind referred to in the last sentence of Rule 176 the previous convictions must be formally proved if they are not admitted. In using them for his limited purpose the Magistrate should be guided by the analogy of Section 30 of the Code. The judgement should be temporarily closed as soon as the conclusion that the accused is guilty has been arrived at therein. The order sheet should then show that the accused has been questioned as to certain previous convictions alleged but not up to that stage admissible in evidence, the actual questions and answers being recorded as an addition to the examination made under Section 342 of the Code. Whether these convictions are admitted or denied the documents constituting legal proof of them shall be filed with the record. Finally the judgement should be completed and finding and sentence recorded.

Chapter 7

Recording of Evidence

180. The evidence of each witness should, in the cases referred to in Section 256 of the Code, be taken down by the Sessions Judge or Magistrate with his own hand and in his mother tongue, unless he is prevented by any sufficient reason from taking down the evidence, of any witness, in which case he should record the reasons of his inability to do so and should cause the evidence to be taken down in writing from dictation in open Court:

Provided that-(i)if the Sessions Judge or Magistrate is sufficiently acquainted with the English language, he should take down the evidence in that language.(ii)if the Sessions Judge or Magistrate is not sufficiently acquainted with the English language but is sufficiently acquainted with the language of the Court, he should take down the evidence in the language of the Court.

181. Whenever an interpreter is employed to interpret evidence given in a language not understood by the accused or the court, Session Judges and District Magistrates are authorized to pay to such an interpreter any reasonable remuneration not exceedings Rs. 10 a day. District Magistrates are also authorized to sanction, within the limits mentioned above, similar charges incurred by Magistrates subordinate to them. The charges on this account shall be debited to the head indicated below:-

(a)When paid by a Sessions Judge to the head "27-C-Civil and Sessions Courts-Countersigned Contingencies, Diet-money and travelling expenses of witnesses.(b)When paid by a District Magistrate or a Magistrate, to the head "27-D-General Establishment-Countersigned Contingencies. Diet-money and travelling expenses of witnesses."

182. Depositions should be recorded on the printed forms supplied. It is a convenience to Appellate Courts if lengthy depositions are divided into numbered paragraphs. When a deposition cannot be completed in one sheet, the printed forms for the continuation of depositions should be used for all sheets after the first, each such sheet being marked in the right hand top corner with a number denoting its order in the deposition : thus the first continuation sheet will be marked "2", the second "3". and so on. The deposition of each witness should be recorded on a separate sheet and in the manner prescribed in Chapter XXV of the Code. It is illegal to record the deposition of one witness at length and to enter against the names of other witnesses that they "state as above". Depositions should be recorded in the first person.

183. The headings, both of deposition sheets and of continuation sheets, are invariably to be filled up by the presiding officer himself. In the former, the word "oath" will be substituted, when required, for 'affirmation'. The age of the witness slated in the heading will be estimated by the presiding officer, if the witness does not appear to be able to state his own age correctly. If, for any special reason, it is necessary to record the witness own statement as to his age, it will be recorded in the body of the deposition. The particulars as to the name, parentage, residence and occupation of the witness are a part of the deposition itself and are not to be recorded till the oath or affirmation has been administered. The occupation of the witness must be slated with precision. For instances, "servant" is not a sufficient description : it must be stated what kind of servant the witness is. Similarly, "private service", which means nothing more than private employment as opposed to public employment, must be resolved into a particular kind of employment. A witness should not be recorded as by occupation a Government servant, for it is generally useful to know of what standing he is and it is particularly important sometimes to know whether he is a police officer or not. It should be borne in mind that a witness well known locally may not be well known in the Court to which the record may ultimately have to be submitted. If the witness is a married woman her husband's name should replace that of her father.

Note 1. - The name of a European witness should be recorded in full. It is not necessary to record his father's name, and in the case of a well known official the age may be omitted from the heading.Note 2. - Except where it is relevant for the purpose of legal proceedings a witness should not be asked to reveal his caste as a matter of course. It will, however, be open to the Court to ask a witness if the circumstances so justify.

184. In depositions recorded in English the use of Hindi or Marathi words or phrases (not being technical, revenue or law terms) should be avoided if there is a complete and corresponding English equivalent. If a Hindi or Marathi word, other than a word of very common and unambiguous meaning, is used its nearest English equivalent should be added in brackets. This should be treated as important. It is often necessary to know in what sense a lower Court is using a Hindi or Marathi word. Similarly Indian dates should be followed by their English equivalents in brackets.

185. The presiding officer should not omit to make a note about the demeanour of a witness when such demeanour is noteworthy and affects his estimate of the value of the evidence given by the witness.

186. Each deposition should be signed (not merely initialled) by the presiding officer, who should add to his signature at least the initials indicating his official designation, so that the deposition may be complete in itself.

Note. - Every alteration, interlineation and erasure made in any deposition or part of a record of judicial proceedings shall invariably be attested at the time by initials of the presiding officer. He may type depositions or memoranda of evidence, but he shall sign every page of such typed matter.

187.

(1)In all cases to which Section 360 of the Code applies the evidence of each witness must be read over or interpreted (as the case may be) to him in Court by the presiding officer himself or by an officer of the Court. If the witness admits the correctness of the record, or when any necessary corrections have been made, the presiding officer should certify to this effect by making and separately signing a suitable endorsement at the foot of the deposition.(2)If the witness denies the correctness of any part of the evidence when it is read over or interpreted to him, the presiding officer may, instead of correcting the record, make a memorandum thereon of the objection made by the witness, and shall add such remarks as he thinks necessary.

188. It is important that the whole of the evidence given by each witness should appear in one place, and should not be scattered at intervals through the record. Therefore when a witness is for any reason recalled and further examined after the close of his original deposition such further examination should appear as a continuation of the original deposition being headed as follows for the sake of distinction:-

"Recalled for further examination on this (here enter the date) after the" (here show the stage of the proceedings immediately preceding the recall of the witness, e.g., if the first witness for the prosecution is called after the 10th, the entry would be "10th witness for the prosecution."

189. When in the depositions any witnesses or accused persons are referred to they should be described by their name, or by their name and number, but not by their number only. When there are two or more accused this is particularly important if future confusion is to be saved.

190. Care should be taken to make depositions as clear as possible. In particular different words or phrases should not be used in different parts of the deposition to describe the same objects and documents. A person should be referred to in consistent manner e.g., he should not be referred to by his family name at one place and by his personal name at another.

191. The recording of evidence should as far as possible proceed de die en diem. Unnecessary adjournments and detention of witness not only inflict hard-ship but result in the waste of public money in the payment of daily allowance. This is a matter to which inspecting officer should devote special attention.

192. When a witness is being examined whose evidence has to be read with reference to a map, the presiding officer should, as far as possible, record the evidence in such a way that the places mentioned by the witness are identifiable on the map.

193. The imperative language used in Sections 5, 60, 64, 136 and 165 of the Indian Evidence Act indicates that whether objection to evidence is or is not raised by any party the Court should compel observance of the law. It is, therefore, the duty of the presiding officer to ascertain by a few questions put to each witness at the proper time, whether he is speaking of matters within his own knowledge, or merely of those which he has heard from others; and if the former, what are his means of knowledge. Under Section 165 of the Evidence Act the presiding officer may, in order to discover or to obtain proper proof of relevant facts, question a witness at any time about any fact, relevant or irrelevant; but he should not ordinarily interfere after the examination-in-chief has been finished and question the witness upon points to which the cross-examination will properly be directed, as to do so may render the subsequent cross-examination ineffective.

194.

(1)It is also necessary to bear in mind the express prohibition, except on conditions stated, laid by Section 122 of the Evidence Act on disclosure of communications made during marriage. The presiding officer should be vigilant to see that the section is observed if the spouse of a party is called as a witness in the case.(2)When a Government official desires to claim privilege under Section 120 of the Evidence Act, it is desirable, even if it is not essential, that he should put in a statement stating that he has considered the documents carefully and has come to the conclusion

that they cannot be produced without injury to the public interest. Attention is drawn to the observation of Lord Simon L.C. in Duncan V. Cammeil Laird & Co., (1942) A.C. 624 at 642, which are quoted in I.L.R. [1946] Nagpur 385, at 386.

195. When a witness is being cross-examined, the presiding officer should guide himself by the provisions of Sections 146, 148, 151 and 152 of the Evidence Act, and disallow any question which appears to him to be improper. He should see that much is not made of trifling discrepancies, that the examination is not protracted beyond reasonable limits even if the questions put be logically relevant, and that the witness is not subjected to questions which merely invite repetition of the story which he has already given in his examination-in-chief in the hope that he will change it in the repetition. In this connection Section 136 of the Evidence Act should be borne in mind, as it empowers the presiding officer to ask a party proposing to give evidence in what manner the alleged fact, if proved, will be relevant. The cross examiner must not be allowed to bully or take unfair advantage of the witness. Use should be made of disciplinary power conferred by Section 150 when its exercise appears to be called for.

196. While it is necessary for the Judge or Magistrate to check random and pointless questioning he should be careful not to frustrate a skilful cross-examination by interposing when the drift of the questions is not immediately apparent and some questions are repeated. Where long and complicated leading questions are put to ignorant witnesses to which only a plain affirmative or negative is required in answer, it is necessary for the Judge or Magistrate to make sure that the witness understands the full implications of the questions and that his answer represents his independent mind. It is generally desirable to record the actual questions and answers in such a case so as not to give a wrong impression that the whole of the statement is in the words of the witness. He should endeavour to follow the line and purpose of the cross-examination closely and should only ask the examiner to explain the relevancy of a line of enquiry when it obviously processes no point or bearing upon the case.

197. A witness may be questioned in cross-examination not only on the subject of enquiry but upon any other subject, however remote, for the purpose of testing his credibility, his memory, his means of knowledge, or his accuracy. The moment it appears that a question is being asked which

does not bear upon the issue or give promise of helping the Court or to estimate the value of the witness testimony, it is the duty of the Court to interfere as well to protect the witness from what then becomes an injustice or insult as to prevent the time of the Court from being wasted. The Court should also prevent any evidence being given to contradict a witness in contravention of Section 153 of the Evidence Act.

Note. - When a witness is confronted with a previous statement reduced to writing, whether made to the police or in a deposition, a copy of the statement should be filed with the record.

198.

(1)The admissibility of statements made out of Court is sometimes misunderstood. There are two general rules:-(a)A statement, oral or written, made by a person not examined as a witness is inadmissible to prove the truth of the facts stated, unless the statement is covered by Section 32 or 33 of the Evidence Act.(b)A statement, oral or written, made by a witness out of Court is not substantive evidence, but may be used within the limits of Section 175 ibid to corroborate what the witness has said in Court or it may be used under Section 155 (3) ibid to contradict him.(2)Evidence may be given that a person not examined as a witness was heard to make a statement is true or false, just as evidence may be given that he was seen to do a certain thing, for the witness is deposing to what he himself heard or saw, but evidence that somebody else said something is not direct evidence that what he said was true and is ordinarily inadmissible to prove the truth of what he said-vide Section 60 of the Evidence Act. Chapter XLI of the Code provides for certain exceptions.(3)The rule that a witness may be corroborated by a previous statement under Section 157 of the Evidence Act is qualified by Section 162 (1) of the Code which renders inadmissible and statement made to a police officer in the course of an investigation, except to contradict the witness in accordance with the provisions of that sub-section, and many inadmissible statements are recorded in some Courts when the investigating officer examined, statement that offend against either Section 162 (1) of the Code or Section 60 of the Evidence Act. Section 162 (1) of the Code does not apply to dying declarations or statements covered by Section 27 of the Evidence Act-vide Section 162 (2) of the Code. A statement made to the police before the investigation has begun-it is immaterial whether it is called a first information report or not-is not barred by Section 162 (1) of the Code, but ordinarily it is not substantive evidence and can at most be used to corroborate or contradict the person who , made it if he is examined as a witness.(4)(a)Relevant statements made by an accused out of Court are admissible in evidence unless they are confessional statements barred by Section 24 or 25 or 26 of the Evidence Act or were made to a police officer in the course of the investigation and are therefore barred by Section 162 (1) of the Code. These sections, however, are qualified by Section 27 of the Evidence Act which provides that when any fact is deposed to as discovered in consequence of information received from an accused, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.(b)It is not always that a suspected or accused person gives information or makes the discovery. It sometimes happens that he is asked to produce articles of which information has been given by someone else, and produces them with such a statement as "Here

they are." The circumstances which explain the statement must be ascertained from the witnesses and recorded. The investigation officer should be asked to explain what prompted him to go to such and such a man and make the enquiries which led to the discovery, and what his enquiries were. In house-breaking cases there may be a number of informations and discoveries, and in each case the record should show clearly what was the information leading to a particular discovery and whether it was the first news the police had of that part of the property s whereabouts. To make all these points clear the record of evidence should bring out as clearly and fully as possible :-(i)when the statement (and there may be several) giving the information was made, and where, and in whose presence;(ii)when the discovery was made, and where, and in whose presence;(iii)by which accused, if there are several;(iv)and through what circumstances the statements or discovery came to be made.(c)It is essential to have it on record how the property was produced and to describe where it was produced from. It is not enough to say boldly that "the accused produced the property" when in fact he produced it with difficulty from a well-concealed hiding-place in his roof or on the other hand produced it readily from bedside the wall of an open courtyard where it lay visible to any chance passer-by.(d)With this clearness of introductory and surrounding circumstance must go a full record of the statement made. The words admissible under Section 27 of the Evidence Act must be recorded in full and not cut down to a meaningless fragment. An investigating officer is required by Police Regulation 760 to make at the time a memorandum of the exact words used, and should be required when giving evidence to refer to the memorandum to refresh his memory under Section 159 of the Evidence Act. He should also be asked to explain when and how he made it. It appears that he has no authority to ask witnesses to attest such a document.(e)Presiding officers must bear in mind that the responsibility for obtaining in full and clear record of these points is on them and not on counsel, and they should be vigilant to see that all necessary details and explanation are brought on record so as to give a clear and unbroken account of what happened.

199. Care should always be taken to record medical evidence so fully and intelligently as to render a second examination of the witness by another Court unnecessary. It is not enough for the witness to repeat mechanically the technicalities of an injury report or a post-mortem report. The presiding officer should see that there is a proper examination of the medical witness on all salient points e.g., if a man dies as a result of blows from an axe the state of his liver or other abdominal organs is immaterial but the nature of his wound is material; if from lathi blows the state of the skull (abnormal thinness for instance) or brittleness of bones is material, and rigor mortis or the contents of the stomach are often of importance as an aid to ascertaining the time of death if this is in dispute. The presiding officer should question him after his evidence is recorded, so as to make sure that he has understood and fully appreciated the evidence.

Note 1. - Post mortem and other medical reports should be formally proved. It is not necessary that the entire contents of the report should be taken down in evidence. It is sufficient for the medical witness to state explicity that the report embodies the observations he made at the time. Such formal

proof of the report does not, however, absolve the presiding officer of the duty of directly examining the witness on the more important points.Note 2. - When a presiding officer suspects that an enquiry report in a medico-legal case or a post-mortem examination report is false he shall report it to the District Magistrate, who shall forward it to the Inspector-General of Civil Hospitals with such remarks as he sees fit to make.

200. The deposition of a medical officer is to be fully interpreted to the accused, who is to be allowed every opportunity to cross-examine. In order to ensure that the deposition may, in all cases, admissible under Section 509 of the Code, the presiding officer shall sign at the foot of it a certificate in the following form:-

"The foregoing deposition was taken in the presence of the accused who had an opportunity of cross-examining the witness. The deposition was explained to the accused and was attested by me in his presence".

201. Presiding officers should take medical evidence in all cases which they have reason to believe to be cases of grievous hurt whenever such evidence can be obtained without disproportionate cost or inconvenience. It is, however, the duty of the Court to determine on the facts established by the evidence whether a charge of grievous hurt can or cannot be sustained. It is not for the medical officer to decide whether the hurl does or does not amount to grievous hurt under the law.

Note. - The law does not allow the compulsory examination of the person either of a man or of a woman. No Court, therefore, should direct the examination, by a medical officer of any part of a living woman's person unless she expressly consents. If she consents and an examination is ordered, her consent should be recorded before the examination is made. Similarly, if she is asked whether she is willing to undergo an examination and she refuses to do so, refusal should be recorded. For a minor the consent of the parent or guardian is sufficient.

202. Whenever a medical officer is questioned about the result of his examination of any person, corpse or substance, evidence should always be taken to prove that the person, corpse or substance examined by him and to the examination of which he testifies, is the person, corpse or substance in question in the case. For this purpose the evidence of the person who conveyed the corpse or substance to the medical officer should be taken and, in cases where the examination by the medical officer of a living person is in question, the identity of the person examined by him with the person in question in the case should be placed beyond doubt by actual identification

in Court, if the person is able to be present, and if not, by the evidence of the person who conducted him to the medical officer.

203. If in any particular case the evidence of a medical witness is not available, the details, such as the fact of death, the symptoms, appearances, wounds, etc. must be ascertained as correctly as possible from the evidence of non-professional eye-witnesses. The Court cannot assume any such facts from mere reports not admissible as evidence.

204. If a medical officer is about to be transferred to another district the presiding officer should endeavour to avoid the expense of bringing him from that other district as witness by examining him before he goes. If he has already gone the presiding officer should consider whether he cannot be examined on commission. If the presiding officer considers it necessary nevertheless that the medical officer should be summoned he should add to the summons an endorsement in his own hand saying that he considers the personal attendance of the medical officer desirable and that a commission is not being issued. If the officer to be summoned is a Civil Surgeon a subordinate Magistrate should satisfy the District Magistrate to whom he is subordinate, that a commission is not desirable. In cases likely to go to the Court of Session the issue of a commission by the Magistrate is usually undesirable because of the provisions of Section 507 (2) of the Code and Section 33 of the Indian Evidence Act.

205. Whether it is necessary to have the evidence of the Chief Inspector or an Inspector of Explosives taken in a Magistrate's Court which is a long way from their headquarters and the case is such as would normally be committed to the Court of Session the evidence may, in suitable cases, be taken on commission.

206. In cases where chemical examination of explosive substances is considered necessary they should be sent to the Chemical Examiner of Explosives to the Government of the Central Provinces and Berar. A fee of Rs. 30 shall be paid to him for each test.

Note. - As the transport of explosive substances is invariably attended with a certain amount of risks they should not be sent by rail unless it is absolutely necessary. They should be carefully packed and sent by hand in charge of a police officer. A small basket filled with straw makes a convenient holder

and the articles may be carried wet or dry as required. Substances containing sulphide of arsenic or sulphide or chlorate of potassium should be immersed in water.

207. In cases where the report of the Chemical Examiner is tendered it is absolutely necessary that evidence should be taken to connect the articles reported on by the Chemical Examiner with the case before the Court and every step taken with regard to such article must be proved from their discovery to their despatch to the Chemical Examiner. In the absence of such proof, the report of the Chemical Examiner is valueless as evidence.

Note. - Instructions on the transmission of substances to the Chemical Examiner and Government Analyst, Agra will be found in the Book Circulars of the Government of the Central Provinces and Berar, No. V-3.

208. (a) When the evidence of an officer connected with the Mint is required as to the genuineness or otherwise of a coin the Court should in suitable cases send the coin to the Mint under cover of its Court seal and at the same time issue a commission for the examination of such officer as a witness.

"(b) The Court, as far as possible, should issue commissions under Section 503 of the Code for the examination of Officers of the Indian Security Press (Stamp Press), the Currency Note Press and the Central Stamp Store, Nasik Road, as witnesses where their evidence is required in cases arising out of forged currency notes, stamps (Postal, Revenue, Judicial, etc.), petrol coupons, excise banderols and the like which are manufactured in the Indian Security Press and the Currency Note Press."

209. It is desirable that discrimination should be exercised in requiring the attendance of a Government Examiner of Questioned Documents. He should not be called on to appear in unimportant cases or in cases where his evidence is not likely to be of real use. If a Magistrate considers that a Government Examiner should be summoned to give evidence the approval of the District Magistrate must be obtained before the issue of summons. As long a notice as possible should be given to the Government Examiner when called to give evidence.

210. The rules regulating application and payment for the services of the Examiner of Questioned Documents appointed by the Government of India are printed as an Appendix to this Chapter.

211. The rules regulating payments for the services of the Examiner of Questioned Documents appointed by the Provincial Government are printed in Part III, Chapter 23, Rule 565.

212. When a railway official is required to attend Court the presiding officer should endeavour to detain him as little as possible.

213. When a Government Inspector of Railways is required to attend Court as an expert witness in connection with railway accidents the summons should be served on him through the Chief Government Inspector of Railways, Department of Posts and Air (Railway Inspectorate), Government of India, New Delhi, who will, make himself responsible that the summons is served on the Government Inspector.

Appendix IRules regulating application and payment for the services of the Examiner of Question Documents appointed by the Government of India.

1. Applications should be sent direct to the Government Examiner of Questioned Documents, Intelligence Bureau, Ministry of Home Affairs, New Delhi or Simla, as the case may be, according to the location of the head-quarters of the Government of India at the time. (The Simla season ordinarily begins about the middle of April and ends about the middle of October).

2. Applications received direct from private individuals will not be entertained.

3. Acceptable application fall into two classes:-

(A)Official applications from Local Governments or officers subordinate to them, including the presiding officers of Criminal Courts, and from High Courts-(B)Other applications. These include-(i)Case from private parties in civil suits in Indian Courts, (These will be accepted only on application from the Court in which the case is being heard. The party concerned must move the Court and it will rest with the Court to take the further steps necessary to obtain the services of the Government Examiner of Questioned Documents).(ii)Cases from Municipal Corporations, District Boards, Municipalities and other local bodies and from universities and railway administrations, in India. (Applications from recognized universities will be received direct. Applications from railway administrations should be submitted through the Agent of the railway concerned. Applications from municipal corporation will be received direct but from other local bodies will be accepted only if received through the local District Magistrate who should himself before forwarding the application,

that it is desirable that the Government Examiner of Questioned Documents should be consulted).(iii)Civil, Criminal and other cases from Indian States. (These cases will be accepted only if forwarded by the Durbar or Government concerned through the local Political Officer).

4. Applications falling under class B will ordinarily be accepted but may be refused at the discretion of the Government Examiner of Questioned Document if they cannot be undertaken without detriment to his other work.

5. An inclusive fee will be charged in each case in which an opinion is given and will normally cover the opinion, the cost of photographs and the giving of evidence, limited in class B cases to one day. The inclusive fee for class A cases (see Rule 3) will be Rs. 185 and for class B Rs. 200. (This fee does not cover travelling allowance which is governed by Rule 15 below).

6. Subject to the exception stated at the end of this rule, the fee is payable in advance in all cases and each application should be accompanied by a certificate in the following form:-

"Certified that the sum of rupees one hundred and eighty-five (Rs. 185)/two hundred (Rs. 200), has been deposited in the ..... Treasury on..... 20...., on account of the Government Examiner of Questioned Documents fees in [.....] and this amount has been shown under head XLVI-Miscellaneous-Central-Other Fees, Fines and Forfeitures-fees for the services of the Government Examiner of Questioned Documents, in the Cash Account of Central Subjects for the month of..... 20....., and appears at item No. ..... in the relevant Receipt Schedule.Signature of Treasury Officer.Countersigned.(Signature of officer submitting the case.)"In special circumstances, which should be stated in the application class A Cases will be accepted without this certificate, but the certificate should be forwarded as soon as possible.

7. In cases where the cost of photographs is exceptionally heavy the fee will the concurrence of the Director, Intelligence Bureau, Ministry of Home Affairs, be Rs. 150 plus the actual cost of the photographs.

In class B cases the authority submitting the case will be informed of the extra cost involved before it is incurred and will be required to certify that it has been deposited before the Government Examiner of Questioned Documents proceeds with the case.

8. In case in which an opinion is given but no photographs are taken the fee will be Rs. 150 only.

9. In cases in which no opinion is given but photographs are taken only the actual cost of the photographs will be charged.

10. No reduction in the fee will be allowed if evidence is not required or is taken on commission.

11. In class B cases an additional fee of Rs. 190 will be charged for each day after the first day on which evidence is given, whether in Court or on commission, or on which the officer is detained. The presiding officer or the commission will be requested to certify, before the second and each subsequent day's work is begun, that the fee for that day and also for any intervening day or days of detention has been deposited, and subsequently to furnish a certificate as in Rule 6 above.

12. In cases falling under class B the Government Examiner or his Assistant will be prepared to attend Courts, provided that he can do so without detriment to his other work. When evidence is taken on commission, the commission should be issued to the senior Subordinate Judge, Delhi or Simla, as the case may be, and normally should be so worded that either the Government Examiner or his Assistant can give evidence.

13. Preston officers of Courts are requested to detain the Government Examiner of Questioned Documents or his Assistant for the least possible time compatible with the requirements of the case. They are also requested to accept, so far as possible, the time and dates for attendance offered by these officers, because the latter frequently have to attend several courts in the course of one tour.

14. The Government of India in the Ministry of Home Affairs reserve the right to impose an extra charge in any case in which they consider that the usual fee is incommensurate with the time and labour spent on the case.

15. When the Government Examiner of Questioned Documents or his Assistant is required to travel in order to give evidence or for any other purpose, the authority or party employing his services will be required to pay travelling allowance at the rates laid down for first grade officers in the Supplementary Rules of the Government of India for journeys on lour. Travelling allowance will also be payable for the peon accompanying the

officer at the rates fixed for Government of India peons. These payments will be adjusted as directed in the Home Department letter No. F-128-VII-27 Police, dated the 12th January 1928 (See Appendix II).

In class B cases the presiding officer of the Court concerned will be required to certify that the cost of travelling allowance has been deposited before the Government Examiner of Questioned Documents or his Assistant undertakes the journey.Appendix IIProcedure for the payment and audit of travelling allowance drawn by the Government Examiner of Questioned Documents or his Assistant during lour (vide Home Department letter No. F-121-VII-27 Police, dated the 12th January 1921).

1.

(1)The Examiner or his Assistant should submit his travelling allowance bills to the Accountant-General, Central Revenues, for audit and payment;(2)As soon as journey is completed, that is, in respect of any complete journey from headquarters to headquarters the examiner or his Assistant should send a statement to the Accountant-General, Central Revenues, showing the total amount of travelling allowance claimed or drawn and the distribution of the entire amount among the various Courts for recovery;(3)In cases where several Courts are attended, the cost should be distributed between them in proportion to the distances by rail from headquarters;(4)As the travelling allowance is debitable to the various Local Governments or the parties concerned, the recoveries should be treated as follows:-(i)recoveries from the various Local Governments should be taken in reduction of expenditure, provided they are effected within the accounts of the same year; if not, they should be shown as receipts; and(ii)recoveries from parties such as local boards, local bodies and private persons should be taken as receipts.

2. The principles laid down above apply to the payment and audit of the travelling allowance of the peon accompanying the Examiner or his Assistant.

3. If after the Examiner or his Assistant has actually commenced a tour, intimation is received from a Court included in the tour to the effect that his evidence will not be required on the date originally fixed, the Court shall pay the difference between the expenditure actually incurred on the tour and the expenditure that would have been incurred if attendance in that Court had not been included in the tour. This shall be specifically made clear when the bill is sent to the Court for acceptance.

4. The Examiner and his Assistance shall observe the provisions of Supplementary Rule 30 when they frame their programmer for tour.

Chapter 8

Trials by Courts of Sessions

1. Arrangements for Holding Sessions.

214.

(1)Not later than the 15th November in each year each Sessions Judge should fix the number of sessions to be held during the calendar year following and the dates on which they are to begin. The number of sessions to be held and the time allowed for their disposal should be regulated for each revenue district or subdivisions, as the case may be, by the average number and duration of trials. It is important that sessions should be held as frequently as possible, regard being had to the due performance of the other duties of the officer concerned. The arrangements made should be immediately reported to the Registrar, High Courts of Judicature at Nagpur, for approval and when approved should not be departed from without the express sanction of the High Court. Short adjournments to secure attendance of absent witnesses may, however, be given without any such sanction.(2)A consolidated list of the dates fixed for holding sessions will be published in the Central Provinces and Berar Gazette as early as possible in December each year.

215. Unless there are good and sufficient reasons, which should be reported at once to the High Court, every case committed to the Court of Session should be tried at the next ensuing sessions held for the district or sub-division from which the case is committed.

216. If the time allowed for a particular sessions proves insufficient and interferes with the dates fixed for another sessions to be held in another district or sub-division, the proper course to adopt is not to leave untried any cases fixed for the first sessions and which are ready for trial, but to transfer as many of these cases as may be necessary to an Additional Sessions Judge where practicable, or to transfer as many cases as may be necessary from the beginning to the end of the. sessions to be held in the other district or sub-division as to cause as little inconvenience as possible. Immediate intimation of the cases so transferred should, however, be given to the District Magistrate concerned and the matter reported to the High Court for information.

217. The course to be pursued with respect to commitments received during a sessions must be left to the discretion of the Court concerned, to be exercised with regard to the convenience of the parties and the state of its file. The rule should be to take up such cases during the sessions if they can be brought before the Court ready for trial, and if they can be taken up without material disarrangement of the file of the Court. They should not as a rule be taken up if that course would necessitate the disarrangement of another sessions, about to be held in another district; but this might be done in cases of special importance.

Note. - Where for some reason unexpected delay intervenes and a case set down for hearing at a particular sessions cannot be heard, the Sessions Judge before postponing it to the next sessions should consider whether he ought not to ask for a special sessions, bearing in mind the principle that no man is to be kept in suspense for his life longer than is justifiable in the circumstances. In such cases an early request for a special sessions should be made to the High Court.

2. Assessors and Jurors

218. A list of jurors and assessors shall be maintained for each district or sub-division as the case may be. A knowledge of English is an essential qualification for every juror. The names of persons considered fit to be jurors should be distinguished on the list by prefixing thereto the letter "J" in brackets. The list shall be prepared in the first instance by the Deputy Commissioner of the district and sent by him to the Sessions Judge of the division who return it with such remarks, if any, as he may deem necessary.

219.

(1)Clauses (a) to (k) of Section 320 of the Code exempt certain persons from liability to serve as jurors or assessors, and under clause (1) the Provincial Government has exempted certain other persons from such liability. It is not, therefore, open to the Sessions Judge or the Deputy Commissioner to exclude arbitrarily from the list any person who is liable and qualified to serve as a juror or assessor and who is not likely to be successfully objected to under clauses (b) to (h) of Section 278 of the Code.(2)If the Court of Session at the conclusion of an exceptionally lengthy trial desires in exempt the jurors from liability to serve in circumstances not covered by Section 330 of the Code it may make a reference to the Registrar of the High Court recommending that such jurors be exempted under clause (1) of Section 320 of the Code.(For the list of exemptions granted by the Provincial Government see the Appendix to this Chapter).(3)The following are the rules regulating payment of expenses to jurors and assessors attending sessions trials:-(a)The Sessions Courts are authorised to pay, at the rate specified below, the expenses of jurors and assessors attending sessions trials.(b)The allowances to be paid to the jurors and assessors are intended to reimburse

them for the reasonable expenses incidental to their journey for attendance in Court.(c)Travelling expenses will be granted according to the rates specified below in all cases in which the Court deems such expenses to be reasonable, having due regard to the distances to be traversed and the position and the circumstances of the jurors or assessors:(i)When the journey is by road the actual expenses incurred up to a maximum of four annas per mile.(ii)When the journey is performed by rail, actual expenses not exceeding one and a half times the 2nd class railway fare for the journey:Provided that no juror or assessor shall be entitled to travelling expenses unless his place of residence is more than five miles distant from the Court which he attends.(d)Subsistence allowance will be paid to the jurors and assessors at the rate of Rs. 2 only per day of hearing for attending jury or sessions trials, irrespective of the period for which they attend such trials.

220. In addition to the particulars required by Section 321 of the Code the list should show against each person included what language or languages he understands. Sufficient margin should be left for the entries required by Section 331 of the Code.

221. The annual revision of the list prescribed by Section 324 (6) of the Code is compulsory by law. No precise time is fixed by the High Court for the revision, as it can only be made conveniently when the Sessions Judge is at the headquarters of the district of which the list is to be revised. In order, however, that it may appear to the High Court that the duty is duly performed a note shall be appended to the quarterly sessions statements showing in respect of each district in the session division the date on which the last revision was made and the date fixed under Section 323 for hearing objections to the next revision.

222. Sub-section (2) of Section 326 of the Code requires that the names of persons to be summoned to serve as jurors or assessors shall be drawn by lot in open Court. For this purpose there should be serially numbered counters corresponding to the serial numbers of the persons entered in the list prescribed by Section 321 as finally revised. For these counters a bag should be provided and the drawing should be effected by taking at random out of the bag as many counters as there are jurors or assessors required to be summoned. The corresponding names of the jurors or assessors will be found on reference to the list. If there appears against the name of any person an entry of the kind referred to in sub-section (3) of Section 331 of the Code, showing him to have six months, another counter should be drawn in his place.

223. Under Section 284 of the Code it is not necessary that at the time of the trial assessors should be chosen by lot like jurors and the Court has power to select from among the assessors who are in attendance those who may seem most likely to give efficient assistance in any particular case. The law provides for the choosing of at least three assessors, but it is desirable that four assessors should, as far as practicable, be chosen. The names of the assessors chosen should be noted in the order sheet.

Note. - The choice of assessors is entirely with the Sessions Judge and in making his choice he should be guided by such factors as the nature of the case, the person to be tried, and the state of public feeling and should select only those who appear likely to afford efficient assistance in arriving at a correct decision.The selection of members of communities, whose religious views are such as to prevent them from giving a fair opinion, to act as assessors in murder trial would be an unwise exercise of discretion by the Judge. Section 284 of the Code envisages a positive selection by the Judge and not the mere empanelling the required number of assessors.

224. Under sub-section (1) of Section 269 of the Code, the State Government have directed that the trial of offences specified below alleged to have been committed within the Nagpur, Wardha, Jabalpur, Hoshangabad (excepting Narsimhapur sub-division). Nimar, Amravati, Yeotmal, Akola and Buldana revenue districts, when held before the Courts of Sessions shall be by jury:-

(a)all offences punishable with imprisonment for life or with imprisonment extending to a term of ten years or upwards but not punishable with death, and(b)all abetments of, and attempts to, commit any such offence :Provided that all offences of Criminal conspiracy directed against the State or servants of the State under Chapter V-A and all offences under Chapter VI or Chapter VII of the Indian Penal Code including abetments of and attempts to commit any such offence shall not be by jury:Provided further that the trial of offences under Sections 304, 306, 307, 376, 377, 392, 394, 395, 399 and 400 of the Indian Penal Code including abetments and attempts to commit any such offence shall not be by jury.Note. - With regard to the volume and/or complexity of the evidence in the case and if the Sessions Judge considers that the case is not likely to be concluded within two weeks from its commencement or that it would involve consideration of evidence of a highly technical nature, he should immediately move the High Court for its being allowed to be tried by a Judge without a jury.

225. Under sub-section (2) of Section 274 of the Code, the State Government have directed that in the districts of Nagpur, Wardha, Jabalpur, Hoshangabad (except Narsimhapur sub-division), Nimar, Amravati, Yeotmal, Akola and Buldana, a jury shall consist of seven persons.

[See Law Department Notification No. 85/XVH-B, dated the 9th January 1956].[Judicial Department Notifications No. 2781-1537-V and 2783-1537-V, dated the 15th November 1922. No. 1585-1382-V, dated the 21st July, 1928, No. 710-297-V dated the 26th March, 1930, No. 3138-2746-V, dated the 3rd December 1936 and No. 1492-1239-XIX, dated the 2nd August, 1940].

226. Under Section 326 of the Code the number of jurors to be summoned shall be not less than double the number required for the trial. A suitable method for the selection of the jurors will be to place fourteen cards bearing the serial numbers appearing against the names of each of the fourteen jurors on the list in a box. The box should then be shaken and cards drawn out one by one. The jurors corresponding to the first seven numbers drawn will constitute the jury. In the event of any juror being successfully challenged, the juror bearing the next number drawn should be empanelled. When the jurors have been finally selected their names should be noted in the order sheet, the foreman being specially designated as such.

227. It is desirable to maintain the position of jurors or assessors in public estimation and to make their duties as little irksome as possible. They should be treated with consideration and respect and a proper place should be provided for them to wait in when their presence in Court is not necessary.

228. Documents exhibited in evidence including those which are transferred from the record of the committal proceedings to the record of the sessions trial shall be endorsed with the endorsement prescribed in Chapter 18, Rule 458, of Part II. This will enable the Judge to find out at a glance by whom a particular document was proved.

Note 1. - Documents should be carefully shifted and irrelevant matter should be excluded. The practice of putting all documents produced in the committal proceedings automatically to witnesses is objectionable.Note 2. - When a witness is confronted with a previous statement reduced to writing whether made to the police or in a deposition, a copy of the statement should be filed with the record.

229. Under Section 166 of the Evidence Act assessors and jurors may through or by leave of the Court, put such questions to witnesses as the Judge himself might put and which he considers. It is usually desirable that the Judge should put the question on behalf of the assessors and jurors.

230. The opinion of each assessor should be elicited and recorded in such a manner as to show not only his general opinion, but also as far as possible the ground on which the opinion is based. The grounds should be elicited by putting specific questions to him on the important and salient points on which the decisions of the case really depends and inviting his opinions on them. This will enable the Judge and also the High Court to form some estimate of the value of the opinions given. Where the Judge differs from the assessors he should make a mention of their opinions in his judgement.

231. It is not necessary that the charge to the jury' should be reduced to writing before delivery, although it is usually desirable. It is essential however, that the "heads of charge" [Section 367 (5) of the Code] placed on the record should represent with absolute accuracy the substance of the charge and be such as to enable the High Court to determine whether the case was fairly and properly placed before the jury. The heads of charge should embody the decisions of the Judge under Section 298 of the Code and should contain explicit directions to jurors as to their duties under Section 299 of the Code. The decision of the Judge on questions of law should be fully stated in the record of "heads of charge". It should be borne in mind that jurors have no experience of the value of evidence and that they are unable to understand propositions which come naturally to an experienced Judge. The charge to the jury should, therefore, be in the most simple and intelligible language. If the charge to the jury is not reduced to writing before delivery it must be taken down by a stenographer.

232. If the Judge agrees with the verdict of the jury it is not necessary for him to give reasons in his judgement for so agreeing.

233. If the Judge, disagreeing with verdict, is clearly of opinion that it is necessary for the ends of justice to submit the case to the High Court under Section 307 of the Code, he shall submit it with the records without delay. The records shall be accompanied by a true copy in duplicate of the grounds of his opinion and of the heads of his charge to the jury. The records shall not be detained for preparing any [copy] other than the above, and should any person apply for copies his application shall be returned immediately with a direction to make it to the High Court.

AppendixExemption from service as jurors and assessors has been granted by the Provincial Government to-(1)Secretaries, Under Secretaries and Assistant Secretaries to Government;(2)(i)the following officers of the East Indian Railway, Bengal, Nagpur Railway, the Rajputana-Malwa Railway and the Indian Midland Railway:-Engineers in charge of the line,Engineering Inspectors in charge of the line,District Locomotive Superintendents,Assistant Locomotive Superintendents,Locomotive Foremen,Drivers of Locomotive Engines,District Traffic Superintendents,Assistant Traffic Superintendents,Station Masters,Guards;(ii)Loco-Inspector of the Bengal-Nagpur Railway;(iii)the following officers of the Great Indian Peninsula Railway:-District Engineers, Construction,Resident Engineers, Construction,Divisional Engineers,Resident Engineers, Way,Assistant Signal and Interlocking Engineers,Permanent Way Inspectors,Sub-Permanent Way Inspectors,Apprentice Platelayers,Signal and Interlocking Inspectors,Assistant Signal and Interlocking Inspectors,Apprentice Signal and Interlocking Inspectors,Supervisors (Line),Maistries (Line),Divisional Transportation Superintendents in charge of Divisions and their Assistants,Station Superintendents,Deputy Station Superintendents Loco-Foremen,Assistant Loco-Foremen,Loco-Inspectors,Transportation Inspectors,Carriage Foremen,Assistant Carriage Foremen,Carriage Inspectors,Head Train Examiners,Station Masters,Assistant Station Masters,Controllers,Assistant Controllers,Yard Controllers,Assistant Yard Controllers,Yard Foremen or Inspectors,Assistant Yard Foremen or Inspectors,Drivers,Guards,Divisional Telegraph Inspectors,Maintenance Telegraph Inspectors,Train Inspectors,Assistant Train Inspectors,Cabin Supervisors,Assistant Cabin Supervisors;(3)all persons residing more than ten miles from the places at which Courts of Session hold their sittings, with the exception of those persons whose names are at present on the list, and who may desire to continue to serve as jurors and assessors.

Chapter 9

Judgement and Finding

234. Instructions regarding judgements in this chapter are applicable to all judgements whether original or appellate of all Courts subordinate to the High Court. Most of these instructions are also applicable to orders passed under Section 118 or Section 123, sub-section (3) of the Code.

235. judgements should be typed or written legibly on half sheets of foolscap, with the left-hand third of each page left blank as a margin. If a judgement is not written by the presiding officer with his own hand or if it is typed, every page of it must bear his signature.

236. No Court has power to alter or review a judgement once it is signed except for the purpose of correcting a clerical error or for the purpose of revising a sentence of whipping under Section 395 of the Code.

237. A judgement should be as concise as the nature of the case permits. The use of Hindi or Marathi words or phrases not conveying any technical meaning should as far as possible be avoided, but if it becomes necessary to use them the nearest English equivalents except where the words are common and the meaning unambiguous must be added in brackets. Similarly where reference to Indian dates becomes necessary their corresponding English dates should be mentioned in brackets.

238. Before proceeding to judgement the presiding officer should finally revise the record with a view to seeing that all material on which the judgement is based is on the record and in a condition to be the basis of the judgement, e.g., that all documents requiring to be proved have been proved.

239. judgements should be temperately worded. If a presiding officer finds it necessary to criticise the conduct of an official of another department in a judgement the criticism must be worded with the utmost care having regard to the fact that in many cases the official has had no opportunity to refuse criticism or explain the action criticised. Personal imputation should not be made. A copy of the judgement should be supplied to the official superior of the official criticised.

240.

(1)A judgement should be divided into consecutively numbered paragraphs of a reasonable length. They should not as a rule exceed about three-quarters of a typed page and their division into sub-paragraphs should, be avoided. This is mainly to facilitate reference to any particular portion of the judgement during the argument in the Appellate or Revisional Court.(2)The opening paragraph should state briefly who is accused of doing what, giving more or less the details in the charge, so that it can be readily gathered from the start what the judgement is about.(3)The next paragraph or two paragraphs should give the admitted facts and state briefly the prosecution case and the defence, clearly distinguishing between what is admitted and what is not. Matters like the relative position of places and villages and distances between them and how the parties and witnesses are related to each other should be indicated where such details are necessary for a clear understanding of the case.(4)Then the points that arise for decision should be dealt with one by one, marshalling the evidence for and against and considering the arguments and giving a clear finding on one point before passing on to the next. Witnesses should not be referred to by number alone. Accused persons, where there are two or more, should invariably be referred to by name, and if it is necessary for further identification by number as well. The various points should be dealt with in separate paragraph, but some points may require more than one paragraph. It is inadvisable to consider the question of motive first, as that tends to invite the argument that the Court thereby pre-judges the

merits of the case.(5)A point that is obvious and undisputed should not be laboured. For example, if a man is found with his head almost severed from his body, it can seldom be necessary to discuss the evidence that he was hale not long before; it will generally be sufficient to indicate the nature of his injuries and to say that it is obvious and has not been disputed that he was murdered, and that the only question for decision is who murdered him.(6)After all the points that arise for decision have been decided the decision on the case as a whole will follow. With the punishment, if any, either in the same or next paragraph. If the accused is found to have committed more than one offence, separate sentences should be passed for each offence, unless this infringes Section 71 of the Indian Penal Code, but the sentences may of course run concurrently.(7)The number of witness examined is of no particular interest, and the judgement should not contain a list of the witnesses with a resume of what each states. The evidence should be marshalled as each point is considered, as stated in sub-rule (4) above. A Judge or Magistrate should not start to write a judgement until he has got it clear in his own mind what points he has to decide, how he is going to decide them, and the reasons for his decisions. Then he should try to deal with these points as lucidly and concisely as possible. A judgement is unlikely to be lucid throughout unless it is carefully read over afterwards and corrected where necessary.(8)These remarks are intended primarily for the guidance of Trial Courts, but the general principles should be borne in mind by Appellate and Revisional Courts.

241. Instance of abuse of authority or misconduct by the police coming to the notice of a presiding officer should be reported to the District Magistrate by supplying him with a copy of the judgement or otherwise as may be convenient. When such a report is made by a Sessions Judge, the District Magistrate should report to the Sessions Judge the action taken. If the Sessions Judge is not satisfied with the action taken he may refer the matter to the Registrar of the High Court.

Note. - Attention is invited in this connection to the instructions contained in the Book Circulars of the Government of the Central Provinces and Berar, No. V-2.

242. The making of personal imputations or the passing of strictures couched in intemperate language against committing Magistrates by Sessions Judges or Courts of first instance by Appellate Courts is extremely objectionable and has been the subject of adverse remarks by the Privy Council. If there is real reason for complaint as to the manner in which a trial or commitment proceedings have been conducted the proper course is to communicate the complaint to the District Magistrate.

243. Accused persons or witnesses should invariably be referred to in judgements not merely by their serial numbers on the record but also by their name. When two or more persons bear the same name further details like parentage, caste or residence, sufficient to identify the persons intended

should be added. It is not intended that all these details should be given at the time of each reference. This may become cumbersome and tedious, but it should be borne in mind that sufficient particulars must always be given to ensure that no confusion is caused regarding the identity of the person intended by lack of such details.

244. Whenever an enhanced sentenced is passed on conviction of an accused under the provisions of Section 75 of the Indian Penal Code, the Court shall set forth in its judgement each previous conviction proved against the accused or admitted by him, specifying the date of the conviction, the section under which it was made, and the sentence impose.

245. In every case resulting in conviction, in which a sentence of imprisonment is passed, judgement should, as far as possible, be pronounced in the forenoon and at the headquarters of the Court, care being taken to see that the next day is not a holiday. The time and the place of the pronouncement of the judgement, and in case the rule could not be observed the reasons for non-observance, should be specified in the order-sheet. This rule must invariably be observed if the accused is on bail during the trial and on conviction is sentenced to undergo a term of imprisonment.

246. Every presiding officer before handing over charge on transfer or departure on leave must write judgements in all original cases in which evidence is closed and in all appeals in which he has heard the arguments. Where by reason of illness or the sudden handing over of charge a subordinate Magistrate cannot comply with this rule he shall submit a report to the District Magistrate giving the date on which evidence stood closed or when the arguments stood concluded with full reasons for failure to deliver judgement.

247. Every presiding officer hearing, conducting or deciding a criminal proceeding (inclusive of trial or appeal) is responsible for seeing that the final record and the final order or the judgement in such proceedings shall disclose the criminal powers (e.g., Magistrate, 3rd class, Magistrate empowered under Section 30 of the Code, District Magistrate. Sessions Judge, etc.) which such officer exercised in hearing or deciding such proceedings, and shall also disclose the powers specially conferred upon

him, for example the power to try cases summarily or the power to pass sentences of whipping, if in those proceedings he had occasion to exercise those powers.

248.

(1)The attention of the Courts is invited to the provisions of Sections 545 and 546-A of the Code which empower the Courts in certain cases to order the payment of certain expenses or compensation out of a fine and to order payment of certain fees paid by a complainant.(2)Payments ordered under Section 546-A should, in appealable cases, not be made until the period allowed for presenting the appeal has lapsed or, if an appeal is preferred, until the decision of the appeal. It should be noted that payments which can be ordered under Section 546-A are rigorously restricted and do not include such matter as diet-money or fees for writing the complaint.(3)Compensation under Section 545 should be freely and liberally granted in appropriate cases. Where compensation is awarded out of the fine imposed and only a part of the fine is recovered the compensation should, in the absence of express orders to the contrary, be paid out of the amount recovered.

249. The attention of the Courts is invited to the provisions of Section 519 of the Code. A list of articles taken from an accused person at the time of his arrest will ordinarily be found in the challan and will be of value as indicating whether action under the section is possible.

250. When an offence is punishable with death but the Court convicting the accused for the offence inflicts upon him a lesser penalty, the Court should state in its judgement its reasons for doing so.

251. In all cases in which sentences of exceptional severity or unusual leniency are passed or in which varying degrees of punishment are awarded to different persons convicted of the same offence in one trial the judgement shall contain the reasons which guided the Court in the determination of the punishment.

252. In cases of culpable homicide not amounting to murder Section 304 of the Indian Penal Code makes provision for two distinct maximum penalties, transportation for life for the more heinous type of the offence, and imprisonment of either description for a term extending to ten years for the less heinous. Whenever a person is convicted under Section 304 of the Indian Penal Code the judgement must state explicitly whether the act by which death is caused was done with the intention of causing death or such

bodily injury as is likely to cause death, or whether the act was done with the knowledge that it was likely to cause death or such bodily injury as is likely to cause death.

253. When an accused is convicted under a provision of a statute containing several sub-sections with different punishments, prescribed for the various offences dealt with e.g., Section 454 of the Indian Penal Code, the judgement shall state under which sub-section the accused was charged as convicted.

254. When a Sessions Judge or a Magistrate of the first class not acting in the exercise of summary powers or a Magistrate of the second class convicts an accused person of an offence punishable under Chapters XII, XVI, XVII, or XVIII of the Indian Penal Code or under Section 109 or 110 of the Code or under the Central Provinces and Berar Prohibition Act, 1938 (C.P. VII of 1938), he shall cause the finger prints of the accused to be taken in the space reserved for that purpose on the revers of the special forms (No. 188 on Schedule V) prescribed for finding and sentence in such cases. In every such case two forms shall be used, a set of finger prints being taken on each. One form shall constitute the finding and sentence by the Judge or Magistrate and shall form part of the record of the case. The other shall be filled up and certified as a true copy of the finding and sentence, and shall be retained with the record of the case until the disposal of the appeal or application for revision, if one is preferred, or until the expiry of the period for appealing if no appeal is preferred. If the conviction is not set aside in appeal or revision, the certified copy of the sentence and finding shall be forwarded to the District Superintendent of Police of the district from which the case was brought. On the copy so forwarded a certificate stating the result of the appeal or revision shall be endorsed and shall be signed by the forwarding Judge or Magistrate himself.

255. As soon as practicable after the judgement is pronounced a copy of it free of charge should be sent-

(a)on the conviction of a military pensioner to the Deputy Controller of Military Pensions, Lahore, through the District Magistrate if the Court convicting the offender is subordinate to such Magistrate. If possible the place whereof the convict pensioner last drew his pension should be stated in the covering letter or memorandum forwarding the copy of the judgement;(b)to the Secretary to the Government of India, Ministry of Defence (Army Branch), New Delhi, in any case in

which a commissioned officer, British soldier or non-commissioned officer has been tried for a criminal offence.Note 1. - If the judgement is not in English a translation into English should be appended to a copy of the original.Note 2. - For the purpose of this clause judgement shall include an order of discharge.(c)to the immediate superior of the person convicted when any person subject to Naval, Military or Air Force law is convicted and otherwise than for default in payment of a fine not amounting to Rs. 200/-(See also Chapter 13);(d)to the Controller of Emigrant Labour, Shillong in a case tried under the Tea Districts Emigrant Labour Act (XXII of 1932);Note. - In this case the copy of the judgement sent must be a typed copy.(e)to the Registrar, High Court of Judicature, Nagpur, in a sessions trial which ends in the acquittal of all the accused persons;(f)to the District Magistrate, in sessions trials and appeals.Note. - The copy must be supplied as early as possible in order to present the District Magistrate with the opportunity for considering whether it is desirable to recommend the filing of an appeal against, or an application for revision of, the judgement.

256. Whenever a Government official or pensioner is convicted of an offence an intimation of such conviction and a copy of the judgement should be sent to the head of the office or department in which he is employed. A subordinate Magistrate should forward the intimation through the District Magistrate.

257.

(1)Magistrates intending to act under Section 250 of the Code should pay careful attention to the provisions of that Section. If the Magistrate intends to act under that Section he shall, by his order of discharge or acquittal, call upon the complainant to show cause forthwith why he should not be ordered to pay compensation.(2)If the complainant having been served with a summons fails to appear on the appointed day the Magistrate may proceed ex parte and make an order under Section 250 if he deems fit to do so.Note. - The discouragement of false and either frivolous or vexatious accusations is very important and magistrates should not neglect to use in perfectly clear cases an instrument at once so readily available and so effectual for that purpose.

258.

(1)The judgement should contain clear orders as to the disposal of property produced in the case.(2)When a Criminal Court is, under the provisions of Sections 517,523, or 524 of the Code, required to pass an order in regard to the disposal of a counterfeit coin, to the order should direct that the counterfeit coin be forwarded to the treasury officer.(3)When transmitting the coin to the treasury officer, the Court should furnish a short description of the case and should send any implements, such as dies, moulds, etc., which may have been found.(4)All counterfeit coins and implements received by the treasury officer shall be forwarded to the Mint at Calcutta or Bombay through the Assistant to the Inspector-General of Police, Criminal Investigation Department.(5)Moulds, dies and other implements used as exhibits in a note forgery case should be disposed of by the Courts which tries the case. Ordinarily they should be delivered to the police for destruction. It is for the police and not for the Courts to make over to the local Criminal

Investigation Department any particular exhibits which are considered to be of special interest and fit for preservation.

Chapter 10

SentenceGeneral

259. The determination of the sentence to follow conviction is a matter which is difficult, often more difficult than the decision whether there shall be a conviction. The imposition of sentences in a routine manner is to be strongly deprecated. The discretion granted to the Courts both as to the amount of the punishment and the kind of punishment is extremely wide and it is incumbent on the Courts to exercise this discretion wisely. The imposition of an exceptionally severe sentence when a mild sentence or even release after admonition suffices, and the imposition of a mild sentence when the circumstances call for severe or even the maximum sentence are equal weaknesses. Presiding officer should note that this discretion is the awarding of sentences is a matter which weighs heavily in evaluating their capabilities.

260. Section 53 of the Indian Penal Code lays down the punishments to which offenders under that Code are liable. The Courts should however not overlook the fact that punishments of different kinds have been added by other enactments e.g., the Indian Whipping Act (IV of 1909), the Reformatory Schools Act (VIII of 1897), the Central Provinces Borstal Act (C.P. IX of 1928), the Central Provinces Children Act (C.P. X of 1928) and that certain Acts, e.g., the Central Provinces Children Act (C.P. X of 1928) the Central Provinces Probation of Offenders Act (C.P. I of 1936), modify in certain cases the provisions of the Indian Penal Code and other enactments dealing with punishment. The Courts should moreover not overlook their powers under Section 562 of the Code of release in lieu of punishment.

Note. - The punishment of juvenile delinquents is dealt with separately in the next Chapter.

261. It may happen that a sentence appropriate for the offence is one which the presiding officer is not empowered to pass. The presiding officer may also lack power to deal with the offenders under Section 562 or 565 of the Code. In such a case he should refrain from passing a sentence which

though within his powers is altogether inappropriate in relation to the facts of the Case. Provisions are made in the Code to meet all such contingencies (e.g., Section 349) and the procedure laid down therein should be carefully followed. Similarly, when a Magistrate of the first class is of opinion that an offender, owing to previous convictions or other circumstances, deserves a severer sentence than he can impose, he should report the case to the District Magistrate to have it transferred to a Magistrate empowered under Section 30 of the Code.

262. Where a person is convicted of an offence which is made up of parts each of which constitutes an offence or when a person is convicted of more offences than one, the limitations imposed by Section 71 of the Indian Penal Code and Section 35 of the Code must be adhered to. When a person is convicted of more than one offence, the Court should be careful to pass a separate sentence for each offence, so that if the conviction is set aside on appeal with respect to one of the offences, there will be no room for doubt as to the sentences passed with respect to the rest. The Court has a discretion to make such sentences run concurrently, and this discretion should be exercised so as to make the effective sentence proportionate to the gravity of the offence. Under Section 397 of the Code the Court has power to order, in a case where an accused person is already undergoing imprisonment for another offence, that a subsequent sentence of imprisonment passed on him shall take effect at once and run concurrently which the sentence he is undergoing.

263. It may happen that the least sentence which can be inflicted under law against an offender is unsuitable in view of the particular circumstances of the case; e.g., a distraught mother of an infant jumps in a well with the infant who dies but the mother is saved. In such a case the only course left to the Court is to pass a lawful though unsuitable sentence and recommend the case to the Provincial Government for action under Section 401 or 402 of the Code.

264. All cases in which women are found guilty of murdering their newly born children shall be submitted direct to the Provincial Government for consideration whether commutation or reduction of the sentence should be allowed.

265. The following procedure should be followed when recommending, suspension, remission or commutation of sentences other than death sentences:-

(a)When any District Magistrate or Sessions Judge considers that a recommendation should be made to the Provincial Government to exercise the powers vested in it by Sections 401 and 402 of the Code of suspending, remitting or commuting the punishment to which any accused person has been sentenced, such recommendation shall be submitted direct to the Provincial Government, together with the record of the case, after the decision of the appeal, if any, or after the expiry of the period allowed for appeal.(b)When a District Magistrate receives, under Rule 884 of the Jail Manual, a petition for mercy from a prisoner other than a condemned prisoner, he shall observe the following instructions :(i)Where the original sentence has been passed by the Sessions Court, the District Magistrate shall forward the petition through the Sessions Judge, who shall forward it to the Provincial Government with his remarks, if any.(ii)The District Magistrate shall note in his forwarding remarks whether an appeal has been or can still be preferred, and whether the appeal (if preferred) is pending or has been decided.(iii)When submitting such petition the District Magistrate or the Sessions Judge shall submit the record of the case only when a recommendation is made that clemency by shown to the petitioner. In all other cases only a concise statement of the facts of the case shall be submitted.

266. Before passing sentence the Court should, as a rule, instead of relying on memory actually refer to the specific provision of law prescribing the sentence. Failure to take this simple precaution sometimes results in the passing of a sentence not warranted by law, e.g., a sentence of fine only on conviction under Section 235 of the Indian Penal Code.

267. It is the Court which must determine in each case the nature and the extent of the sentence suitable to the crime and the criminal, and the latter has absolutely no voice in such determination or choice of the alternative forms of sentences prescribed for the offence. The request of an offender for the award of an appealable sentence should, therefore, have little influence on the Court if the Court is of opinion that the offence is a trivial one and does not deserve an appealable sentence. On the other hand the Courts must not impose a non-appealable sentence with the deliberate object of depriving an offender of the right of appeal.

268. The attention of the Court is drawn to the necessity of passing sentences of special severity in cases where any portion of the permanent way of a railway is removed from its place and stolen. A theft of this kind is specially heinous not on account of the value of the property stolen which is

frequently trifling but on account of the terrible risk which it is likely to cause to life and property. If such cases the value of the property stolen is no criterion of the proper measure of punishment. Cases of wrecking or attempting to wreck a train punishable under Section 126 of the Indian Railways Act (IX of 1890) similarly require sentences of special severity.

269. The attention of all Magistrates is drawn to the necessity of exercising care in inflicting punishment on members of aboriginal tribes. Certain sections of the Indian Penal Code dealing with matrimonial and allied offences make criminal certain acts which the custom of aboriginal tribes sanctions. The existence of such customs will not detract from the criminality of the act but can be taken into consideration in awarding sentences as a ground for leniency.

270. It is permissible in awarding sentence to take into consideration any long period of detention which a prisoner has undergone before conviction. This principle is sometimes apt to be overlooked and the Criminal Courts are reminded of their duty to observe it.

Sentence of Death and Transportation

271. The attention of Courts of Session and of all Magistrates exercising powers under Section 30 of the Code is directed to the terms of Section 59 of the Indian Penal Code. The correct mode of proceeding is to sentence the offender to transportation under the section under which the offence is punishable, mentioning at the same time that under Section 59 of the Indian Penal Code transportation is awarded instead of imprisonment, simple or rigorous, as the case may be. It is incorrect to sentence the accused to a term of imprisonment and then to direct that the imprisonment so awarded shall be converted to transportation under Section 59 of the Indian Penal Code. Use should be made of the provisions of this section whenever it is legal and suitable. It is illegal unless the punishment awarded for one offence alone is seven years or upwards; nor can a term of seven years or more be made up by adding two sentences together and then commuting the aggregate period of imprisonment to one of transportation.

272. The attention of the Courts of Session is drawn to Section 56 of the Indian Penal Code and to Section 1 of the Penal Servitude Act, 1855 (XXIV of 1855), which provide that whenever any European or American is convicted of an offence punishable under the Indian Penal Code with transportation, he shall be sentenced to penal servitude instead of transportation.

273. When an accused is sentenced to death by a Court of Session, it must-

(a)direct, as sentence, that he be hanged by the neck till he is dead,(b)submit its proceedings to the High Court for confirmation of the sentence, and(c)inform the convict of the period within which, if he wishes to appeal, the appeal must be preferred.Sentence of Imprisonment

274. The Indian Penal Code provides for imprisonment of two kinds, simple and rigorous, and unless a particular kind only is prescribed, the Court has to choose one or the other forms as may be suitable to the offence committed. If it is found that in any statute the statute has failed to specify the kind of imprisonment that may be awarded for an offence, then it is open to the Court under Section 3 (2) of the General Clauses Act (X of 1867) to award imprisonment of either description as may be found to be appropriate.

275. It is improper to impose a sentence of simple imprisonment where the offence indicates moral turpitude, on the ground that the accused in the opinion of the Court is unsuited physically for labour. It is for the jail authorities to prescribe the kind of labour suited to a particular person. The Court has merely to consider the length of imprisonment proper to the crime, and the character and status of the offender.

276. Short sentences of imprisonment are seldom, if ever, suitable as punishment for offences against property and, except where the offender is a well to-do person guilty of an offence of any anti-social character e.g., profiteering in commodities in short supply, who is unlikely to be deterred from a repetition of the offence by even a heavy tine, should as far as possible be avoided in other cases. A short period of imprisonment increases the probability that a casual offender may become a habitual offender. If a moderately long sentence of imprisonment is not justified, it should be possible to apply the provisions of Section 562 of the Code or to punish with fine or, in suitable cases with whipping. The imposition of short sentences of imprisonment is a matter to which inspecting officers should

pay special attention.

277. The existence of previous convictions is by no means always a proper ground for passing a heavy sentence for a petty offence. If several years have elapsed since the expiry of the last sentence, the question whether the previous convictions, taken with the facts elicited by evidence, show that the accused can at the time of trial be considered a habitual criminal should receive careful consideration. In all cases in which a very severe sentence is inflicted for a petty offence the judgement should show that the Magistrate has, for reason stated, come to the conclusion that the offender is incorrigible.

278. Section 73 of the Indian Penal Code provides for solitary confinement subject to certain limitations. This form of punishment which is appropriate for the more heinous class of offences under the Indian Penal Code in which rigorous imprisonment can be awarded, cannot be awarded for offences under any special or local Acts, unless it is specifically so provided.

Sentence of Fine

279. Fines should be regulated so as to accord with the circumstances of the offender and should not under any circumstances be excessive (Section 63 of the Indian Penal Code). Fines are sometimes imposed which are manifestly impossible of realization, while there is reason to fear that many which are imposed in petty cases, though realized, are paid only with difficulty. In dealing with petty cases fines should not be fixed at particular amounts as a matter of course, without much thought as to how they will be felt by the particular individual on whom they are imposed. It is a first principle in inflicting this mode of punishment that it is necessary to have as much regard to the pecuniary circumstances of the offender as to the character and magnitude of the offence. Fines should never in any case be imposed which are not likely to be realized at all, and they should never be imposed in petty cases with such severity as not to be easily realizable. Indiscriminate imposition of fines without due regard to the capacity of the accused to pay only result in the waste of the time of the Court and the police in attempting to realize the amounts, in the harassment of the convict or his dependents, or in the vicarious payment of the fine by persons interested in the convict.

280. to 289. Deleted.

Chapter 11

Punishment of Juvenile Delinquents

290. Reference has been made in previous chapters to the treatment of juvenile delinquents. The punishment of juvenile delinquents has been the subject of extensive legislation and all presiding officers should make themselves fully conversant with the law on this point. A number of the more important aspects are referred to in this chapter.

291. The awarding of punishment to juvenile delinquents and adolescents is a matter which requires the utmost care. The awarding of an unnecessarily severe or an unsuitable sentence may result in turning a juvenile delinquent into a hardened malefactor.

292. Under Section 82 of the Indian Penal Code nothing is an offence which is done by a person under seven years of age, and under Section 83 nothing is an offence which is done by a child above seven years of age and under 12 who has not attained sufficient maturity of understanding to Judge the nature and consequences of his conduct. These exceptions are, however, not applicable to offences referred to in Section 130 of the Indian Railways Act (IX of 1890).

293. Deleted.

294. Section 562 (1) of the Code provides in certain circumstances for the release on probation of good conduct of any person under 21 years of age convicted for the first time of an offence not punishable with death or transportation for life.

295. Section 8 of the Reformatory Schools Act (VIII of 1897) provides in certain circumstances for the detention of youthful offenders as defined in the Act in Reformatory Schools instead of their undergoing a sentence of imprisonment or transportation to which they have been sentenced. Criminal Courts should note that the definition of "youthful offender" in Section 4 of this Act has been amended, and that the minimum period of detention

prescribed by Section 8 of the Act has been reduced from three to two years under Section 3 of the Central Provinces Children Act (C.P. X of 1928) as amended by Section 2 of the Central Provinces Act (C.P. VI of 1935).

296. Under Section 31 of the Reformatory Schools Act, Criminal Courts empowered under Section 8 of the Act may, if they think fit, order a youthful offender to be discharged after admonition or to be delivered to his parent, guardian or adult relative on the execution of a bond by the latter. For the purpose of this section the definition of "youthful offender" in the Act has been amended to include girls.

297. When a Court not empowered under Section 8 of the Reformatory Schools Act considers a case a proper one to be dealt with under that section or under Section 31 of the Act it should refer the case to the District Magistrate under the provision of Section 9 or 31 (4) of the Act as the case may be.

298. The following rules have been framed by the Provincial Government under Section 8 of the Reformatory Schools Act:-

"I. No boy shall be sent to a Reformatory School if under ten years of age, for a less period than seven years; if over ten years of age, for a less period than five years, unless he shall sooner attain the age of eighteen years.II. In determining whether a juvenile offender is a proper person to be sent to a Reformatory School, the Court should be guided by the following considerations:-(1)The most proper subjects for reformatory treatment are those boys who are without proper parental or other control, and who have committed an offence or offences against property.(2)As a rule no boy should be sent to the reformatory on a first conviction unless there is reasonable cause for supposing that he is being trained up to, or likely again to lapse into, crime.Explanation. - There would ordinarily be reasonable cause for this supposition if, among other circumstances,-(a)either of the boy's parents is a habitual criminal; or(b)the offence of which he is convicted is one anguring great depravity (that is, a general corruption of morals apart from the specific criminality of the particular act); or(c)the boy is destitute.(3)As a rule it is not desirable to send a boy to a reformatory before he has completed the ninth year of his age.(4)Boys who appear to be habitual offenders should be committed (if at all) at an early stage in their career, being less amenable to reforming influences as they approach the age of fifteen years.(5)No boy should be sent to reformatory who has been convicted of an unnatural offence or of gross indecency indicative of habitual immorality.[Notification No. 4717, dated the 27th May, 1897, as amended by Notification No. 1330, dated the 16th June, 1910, and No. 1202-435-V, dated the 22nd June, 1934 and notification No. 13467, dated the 15th November, 1905.]

299. The Central Provinces Borstal Act (C.P. IX of 1928) applies to male adolescents, i.e., offenders not less than 16 or more than 21 years of age and is intended to provide for the rehabilitation of male adolescents convicted of certain offences and who by reason of criminal habits, tendencies or association with persons of bad character are likely to benefit by detention in a Borstal Institution. The jail at Narsinghpur has been declared such an institution. Presiding officers should note that the Act has not been extended to females under Section 34 and that it is applicable only to a limited class of offences defined in Section 2 (4). In particular the Act is not applicable if the offence committed is punishable with death.

300. Under Section 11 of the Reformatory Schools Act and under Section 12 of the Central Provinces Borstal Act an enquiry into the age of the offender and an express finding upon it are necessary before an order of detention under either Act is passed. If necessary, medical opinion on the point may be obtained.

301. Section 26 of the Central Provinces Children Act (C.P. X of 1928) forbids the imposing of a sentence of death or transportation on any child or youthful offender as defined in the Act and permits the passing of a sentence of imprisonment against a youthful offender as defined in the Act subject to rigorous limitations. Sections 27 to 30 of the Act provide means of dealing with youthful offenders, which are of great importance and should be carefully studied. Section 4 of the Central Provinces Probation of Offenders Act (C.P. I of 1936) also contains provisions modifying the ordinary' rules of punishment of persons under 21 years of age.

Chapter 12

Appeals and RevisionsAppeals from Prisoners in Jail

302. Petitions of appeal may be presented either to the superintendent of the jail by the prisoner himself or to the Court of appeal by a pleader [as defined in Section 4, clause (r), of the Code].

303. A power of attorney, if filed, shall be signed by the prisoner whose signature shall be attested by the superintendent of the jail. If this attestation is wanting the document shall be sent to the superintendent for verification.

304. Unauthorized petitions of appeal presented on behalf of prisoners in jail by their relatives or friends shall not be acted upon by any Appellate Court.

305. On receipt from the superintendent of a jail of a petition or appeal, together with a copy of the judgement or order appealed against, the District Magistrate shall forward the papers to the proper appellate authority along with the magisterial records of the case. If the appeal lies to the High Court of judicature from a judgement or order of the Court of Session, the District Magistrate shall forward the papers and records through the Court of Session where the appropriate records of that Courts shall be added and the whole shall then be passed on.

306. If an appeal forwarded from jail is time-barred it shall be dismissed summarily. If it appears from the petition of appeal that the prisoner wishes to be represented by counsel the Court shall not proceed with the appeal until seven days have elapsed since the date of its receipts unless counsel appears earlier. If counsel does not appear within seven days, or if it appears from the petition of appeal that the prisoner does not wish to be represented, the Court shall ordinarily proceed with the appeal at once.

307. When appeal is admitted and the appellant is in jail and not represented by counsel, a notice of the date of hearing under Section 422 of the Code shall be sent to him through the superintendent of the jail in which he is confined. The notice shall be returned to the Court after the prisoner's signature thereon has been taken and attested.

Appeals in General

308. Several persons complaining of an order or judgement in a criminal case affecting them all may make a joint appeal and one copy of the judgement or order complained of shall be sufficient :

Provided that the Appellate Court may require separate petitions to be made by petitioners whose cases are, in its opinion, conflicting. Where a joint petition is allowed one Court-fee and one power of attorney shall be sufficient.

309. An appeal shall be presented by the appellant or his pleader, under Section 419 of the Code, to the Appellate Court or its ministerial officer duly authorized in this behalf. The clerks of Court of Sessions Judges are authorized to receive appeal (vide Notifications Nos. 2580 and 2581 dated the 12th March, 1930). District Magistrates should authorize suitable ministerial officers to receive appeals in the absence of the Magistrates to whom the appeals would otherwise be presented. If a ministerial officer receive an appeal under this rule he shall immediately fix a date for the appellant or his pleader to appear before the Court. If the appeal is presented to the Court itself and if the appellant or his pleader so desires an adjournment shall be given in order to afford him an opportunity to be heard in support of the appeal.

Note. - The following procedure may be followed in places where are Additional Sessions Judges but no clerks of court. The memorandum of appeal may be presented to the Additional Sessions Judge who shall fix a date, information of which shall be given to the person presenting the appeal. The Additional Sessions Judge shall thereupon transmit the appeal to the Sessions Judge who, if he decides to transfer the appeal for hearing by the Additional Sessions Judge, shall pass the requisite order and return the appeal to the Additional Sessions Judge. If the Sessions Judge decides to hear the appeal himself he shall fix a date after the date fixed by the Additional Sessions Judge and informing the latter of the date so fixed. The Additional Sessions Judge shall thereupon inform of the person presenting the appeal of the date fixed for hearing before the Sessions Judge.

310. The following are the officers to whom notices of appeal shall be given under Section 422 of the Code:-

(a)the District Magistrate in all appeals filed before the Court of Sessions or the High Court of Judicature,(b)the prosecuting inspector or sub-inspector of police in appeals to the District Magistrate's Court or to Courts of Magistrates subordinate to the District Magistrate.

311. When an appeal is filed in a case in which the prosecution was instituted under the order or at the instance of any railway administration or of a railway official as such, the Court of appeal shall invariably give notice to the railway authorities concerned of the time and place of hearing of the appeal.

312. A copy of the judgement and final order of the Appellate Court shall be sent to the Court from whose order the appeal was preferred.

313. The District Magistrate shall communicate to the District Superintendent of Police in cases cognizable by the police and to the District Excise Officer in cases under the Excise and Opium Acts all orders passed, whether on appeal or revision by which an accused person is acquitted or by which a finding or sentence is altered.

A note of this having been done shall be endorsed on the record.

314. The result of every appeal from a sentence under which the appellant is in confinement shall for his information be notified by the Appellate Court in the prescribed form (No. 23 of Schedule V) under the signature of the presiding officer, direct to the officer in charge of jail in which the appellant is confined :

Provided that when the Appellate Court is the High Court of Judicature, the result shall be so notified by the Court from whose order the appeal was preferred.

315.

(1)When the sentence under which the appellant is in confinement is reversed or modified, the Appellate Court shall issue a fresh warrant in conformity with its decision, after including therein all appropriate endorsements on the original warrant, and shall send the new warrant direct to the officer in charge of the jail in which the appellant is confined. The original warrant shall at the same time be cancelled and transmitted by the Appellate Court to the Court from whose order the appeal was preferred, to be attached to the original record.(2)When a sentence is modified or reversed in appeal by the High Court of Judicature, the warrant shall be signed and issued by the Court to which the appellate judgement or order is certified under Section 425 of the Code : provided that if it is shown that delay in the release of a prisoner would otherwise be caused, the warrant may be issued direct by the High Court of Judicature and the fact intimated to the Lower Court.(3)When a sentence of death is commuted under Section 402 or 402-A of the Code the Court which passed the sentence shall issue a supersession warrant to the superintendent of the jail where the prisoner is in confinement. The supersession warrant shall be issued on form No. 156 or 157 on Schedule V, as the case may be, with necessary modifications.

316. When the execution of a sentence is suspended pending an appeal, the accused shall be treated as an under-trial prisoner and the period of suspension included in the term of the sentence.

317. When the appellant has been admitted to bail pending the hearing of the appeal, the following special rules shall apply:-

(a)When a sentence is reversed on appeal, the Appellate Court shall return the original warrant with a copy of its order to Court by which the appellant was admitted to bail, with a direction to discharge him.(b)When a sentence is modified on appeal Appellate Court shall prepare a fresh warrant in conformity with its order, and shall send it with the original warrant and with a copy of its order to the Court by which the appellant was admitted to bail, with directions to take measures to secure his surrender and recommitment to jail on the modified warrant, if under the latter the appellant remains liable to imprisonment.(c)When a sentence is confirmed on appeal, the Appellate Court shall return the original warrant with a copy of its order to the Court by which the appellant was admitted to bail, with directions as in sub-rule (b) of the rule.(d)When the appellant surrenders to his bail in the Appellate Court, the Court shall-(i)if the sentence is reversed on appeal, discharge him;(ii)if the sentence is modified or confirmed on appeal and the Appellate Court is not the High Court of Judicature, send him in charge of a police officer with the modified or the original warrant, as the case may be, to the superintendent of the jail of the district in which the appeal has been heard. With directions to recommit him to jail;(iii)if the sentence is modified or confirmed on appeal, and the Appellate Court is the High Court of Judicature, either release him on bail for appearance before the Lower Court, or send him to the superintendent of the jail at Nagpur, in the manner directed in clause (ii).(e)It is the duty of the Court to which the appellant surrenders, in view of the provisions of Section 426, sub-section (3) of the Code, to endorse on the warrant the date of his release on bail and of his subsequent surrender.

318. No Court shall issue a judicial order or communicate the purport of a warrant or process by telegram.

319. When an Appellate Court annuls a sentence and directs that the prisoner shall be retired, and a warrant for the prisoner's release on bail is not received, the prisoner shall be remanded to the under-trial ward (unless he is under-going some other sentence), and the superintendent shall apply to the Court for a warrant for his custody pending trial if such warrant is not at the same time furnished. Such warrant shall set forth the Court by which the prisoner is to be tried, and the date on which he is to be produced before the Court.

Revisions

320. The provisions contained in Rules 308 and 309 of Chapter 12 regarding memoranda of appeal will apply with appropriate changes to petitions for revisions.

321. Any petition presented by a prisoner or prisoners for revision of a sentence from which no appeal lies, or from which an appeal has been made and rejected, shall be forwarded by the superintendent of the jail direct to the High Court of Judicature, the following particulars being noted on it:-

(a)the name of the sentencing authority.(b)the offence committed with section and Act under which sentence was passed.(c)the date of sentence.(d)the order or sentence.(e)whether any appeal was preferred against the order or sentence, and, if so, with what result.(f)and the date of decision of appeal (if any).Such a petition shall be drawn up like a petition of appeal, but no copy of any judgement or order need accompany it.

322. When a petition for revision has been rejected by the High Court of Judicature, no second petition in respect of the same sentence shall be forwarded.

323. All reports under Section 438 of the Code shall be drawn up in English in the prescribed tabular form (No. 196 on Schedule V) containing -

(a)A brief analysis of the case.(b)The sentence or order of the subordinate Court, with the name of, and the powers exercised by, the Magistrate passing it.(c)The particular portion of the finding, sentence, or order, which is considered incorrect, illegal, or improper, or the particular portion of the proceedings which is considered irregular.(d)The grounds upon which it is suggested that the High Court of Judicature should exercise the powers conferred by Section 439 of the Code.(e)A note showing how much of the sentence passed has been already undergone by the accused; and, if the sentence was of fine or whipping, whether the fine has been realized or the whipping inflicted.

324. The reports shall be drawn up by the reporting officer himself, and submitted to the High Court in duplicate, both copies being signed by the reporting officer. If the case has been disposed of the report shall be accompanied by the records of the original and revisional Courts. If the case is pending no records shall be sent until the High Courts call for them. If there is insufficient space in the printed form for setting out the illegality, impropriety or irregularity adequately, a separate statement or order should be attached with the form.

325. More than one case should not be reported upon in one form.

326. The inferior Court should, whenever it may seem desirable to do so, be called on to submit an explanation with regard to the point on which it is proposed to make the reference, and the explanation should be sent with the

report.

327. In cases in which an appeal lies from the sentence or order in respect of which it is proposed to make a report, the report should not, except for some special reason, be made until the period of appeal has expired.

328. It is important to observe that the provisions of Section 391 of the Code extending the period during which the execution of a sentence of whipping may not be carried out in the case of an appeal being preferred, do not apply to a report under Section 438 of the Code, so that when a re-commendation is made that a sentence of whipping be reversed, the execution of such sentence should always be suspended by express order under the provisions of the latter section.

329. Under Section 422 of the Code decision or orders of the High Court recorded on revision are to be certified to the Court by which the finding, sentence, or order revised was recorded or passed, and it is for the Court to which the decision or order is so certified to pass such order as may be conformable to that decision or order. It is accordingly for that Court to issue a fresh warrant when necessary, cancelling the warrant originally issued and filing it with the record of the case. But if it is shown that delay in the release of a prisoner would otherwise be caused the warrant may be issued direct by the High Court of Judicature and that fact intimated to the Lower Court.

330. The result of every application for revision of a sentence under which the applicant is in confinement shall be notified direct to the officer in charge of the jail in which the applicant is confined by the Court from order the application for revision was preferred.

331. Applications for revision of orders passed by Magistrates of the second or third class are frequently made to the Sessions Court instead of to the Court which hears appeals from such Magistrates. Courts authorized to act under Section 435 of the Code are considered to act suo motu and they have discretion to refuse to consider an application on its merits if any proper reason for refusal exists. A Sessions Judge would be justified in refusing to consider the merits of an application if no reason was apparent why the application was not made to the office who would have dealt with the appeal had the order been appealable. In view of the provisions of Section 435 (4)

the application should in such cases be returned for presentation to the proper Court.

332. It is open to a party to move a Court by application to exercise its revisional powers. There is no period of limitation for such applications, but a Court can refuse to act if it considers that there has not been reasonable diligence, and it is open to a Court to hold that there has not been reasonable diligence when the period between the passing of the order complained of and the making of the application exceeds thirty days, excluding time properly spent in obtaining any copy required to be submitted with the application.

Chapter 13

Trial of Persons Subject to Military, Naval or Air Force LawNote 1. - The relevant provisions of law referred to in this Chapter are printed in the Appendix to the Chapter.Note 2. - The words "Civil Court" occurring in the Chapter mean a Court other than a court-martial.

333. Criminal cases against persons subject to military, naval or air force law shall not be tried by any Magistrate who does not exercise the powers of a Magistrate of the first class.

334. In the event of the arrest by the police of any person subject to military, naval or air force law the District Magistrate shall give immediate intimation of the arrest to the Officer Commanding of the unit which the person arrested is serving.

335.

(1)Under Section 54 (6) of the Code the police may arrest without warrant any person reasonably suspected of being a deserter from His Majesty's Army, Navy or Air Force.(2)The procedure to be followed in respect of a deserter from His Majesty's Army is contained in Section 154 of the Army Act.(3)The procedure in respect of a deserter subject to naval law is contained in the rules made under Section 549 (1) of the Code of Criminal Procedure, printed below in Rule 338. If a deserter has been arrested on a warrant issued under Section 50 of the Naval Discipline Act or Section 50 of the Indian Navy (Discipline) Act he shall be dealt with according to the orders contained in the warrant.(4)The procedure in respect of a deserter from His Majesty's Air Force is similar to that for a deserter from His Majesty's Army.(5)The necessary enquiries may be made under the orders of the District Magistrate by any Magistrate of the first class subordinate to him, but the District Magistrate himself shall forward the descriptive return to the proper authority. The name of the

police officer who actually arrested the deserter should be entered against "Name, occupation and address of the person by whom or through whose means the deserter (or absentee without leave) was apprehended and secured". The police officer should be examined on oath or affirmation with respect of the circumstances of the arrest and the deserter should be given the opportunity to cross-examine. This deposition should be forwarded with the descriptive return.

336. Although the Naval Discipline Act and the Indian Navy (Discipline) Act do not supersede the authority of the ordinary Courts where an offence mentioned in those Acts is punishable or cognizable by common or statute law (Section 101 in both Acts), the rules made under Section 549 (1) of the Code and reproduced in Rule 338 below require that where a person subject to naval law is brought before a Magistrate charged with such an offence the procedure laid down in those rules shall be followed.

337. The instructions in Rule 335 above do not apply to deserters from the Indian Army. The procedure governing these persons will be found in Section 123 of the Indian Army Act (VIII of 1911). A similar procedure, given in Section 61 of the Indian Air Force Act (XIV of 1932), applies to deserters from the Indian Air Force.

338. The attention of the Courts is invited to the provisions of Section 549 (1) of the Code. The following rules have been made under that Section :-

(1)These rules may be called the Criminal Procedure (Military Offenders) Rules.[Home Department Notification No. F-102-35, dated the 12th March 1935, as subsequently amended].(2)Where a person subject to military, naval or air force law is brought before Magistrate and charged with an offence for which he is liable under the Army Act, the Naval Discipline Act, the Naval Discipline Act as modified by the Indian Navy (Discipline) Act, 1934, or the Air Force Act, to be tried by the a Court-martial, such Magistrate, unless he is moved by the competent military, naval or air force authority to proceed against the accused under the Code of Criminal Procedure, 1898, shall before proceeding give notice to the Commanding Officer of the accused, and until the expiry of a period of five days from the date of service of such notice, shall not-(a)convict the accused under Section 243, acquit him under Section 247 or Section 248, or hear him in his defence under Section 244 of the said Code, or(b)frame a charge against the accused under Section 254 of the said Code, or(c)make an order committing the accused for trial by the High Court or the Court of Session under Section 213 or sub-section (1) of Section 446, of the said Code, or(d)transfer the case for enquiry or trial under Section 192 of the said Code, or(e)issue an order under sub-section (1) of Section 445 of the said Code for the case to be referred to a Bench.[Government of India, Legal Department, Notification No. F-248-44-C and G (Judicial), dated the 8th May 1945.](3)Where within the period of five days mentioned in Rule (2), or at any time thereafter before the Magistrate has done any act or issued any order referred to in that rule, the Commanding Officer of the accused gives notice to

the Magistrate that, in the opinion of competent military, naval or air force authority as the case may be, the accused should be tried by a Court-martial, the Magistrate shall stay proceedings and, if the accused is in his power or under his control, shall deliver him, with the statement prescribed by Section 549 of the said Code, to the authority specified in the said section.(4)Where a Magistrate has been moved by competent military, naval or air force authority, as the case may be, under rule (2), and the Commanding Officer of the accused subsequently give notice to such Magistrate that in the opinion of such authority, the accused should be tried by a Court-martial, such Magistrate, if he has not before receiving such notice done any act or issued any order referred to in rule (2), shall stay proceedings and, if the accused is in his power or under his control, shall in the like manner deliver him, with the statement prescribed in Section 549 of the said Code, to the authority specified in the said Section.(5)Where an accused person, having been delivered by the Magistrate under rule (3) or (4), is not tried by a Court-martial for the offence of which he is accused, or other effectual proceedings are not taken, or ordered to be taken, against him, the Magistrate shall report the circumstance to the Provincial Government.(6)In these rules "competent military authority" means the Brigade Commander, "competent naval authority" means the Flag Officer Commanding, Royal Indian Navy, or the Hag Officer, Bombay, or the Commodore, Bay of Bengal and "competent air force authority" means the Air Officer Commanding, Indian Command, or any Group Commander, Air Common South-East Asia of India Command.[Government of India, Legal Department, Notification No. F-235-45-C and G (Judicial), dated the 20th June 1945].(7)These rules extend to the whole of India, including Berar.

339. It should be noted that the rules reproduced in Rule 338 do not govern persons subject to the Indian Army Act (VIII of 1911) or the Indian Air Force Act (XIV of 1932) since in those two Acts (Sections 69 and 70 of the Indian Army Act and Sections 79 and 80 of the Indian Air Force Act) a specific authority has been empowered to decide whether in case of dual jurisdiction proceedings should be instituted before a Criminal Court or a Court-martial.

340.

(1)When a person subject to the Army Act commits an offence under conditions precluding trial by Court-martial, his Commanding Officer will at once inform the police and the nearest Magistrate and under the orders of the Brigade Commander the offender will be handed over to the civil power for trial. After a person, subject to the Army Act, accused of an offence such as is referred to in the proviso to the Army Act, Section 41, has been handed over to the civil power for trial the competent authority may instruct the Advocate-General to apply to the High Court for the committal or transfer of the case to the High Court under the Code of Criminal Procedure, 1898, Section 526-A.(2)If a person, subject to the Indian Army Act, 1911, is charged with an offence and if the offence be one which cannot be tried by Court-martial under the Army Act, or if, although so triable the military authority decides not so to try the offence and the surrender of the person of the accused is desired by the civil authorities, a requisition shall be addressed with that object to the military authority by the senior executive police officer present in the station. If the charge is of a non-cognizable offence the police officer making the requisition should obtain a warrant signed by a

Magistrate. The requisition should ordinarily be made by a police officer not below the rank of Assistant Superintendent of Police.

341. The procedure in case of civil offences committed by persons subject to the Indian Army Act is as given below:-

(a)All civil offences except those specified in the proviso to the Indian Army Act, Section 41, can be tried either by Court-martial or by a Civil Court.(b)Offences under the Indian Army Act, Sections 27 (d), 35 (a) and (b), and 39 (b) and (d), as well as most offences under Section 37 can also be tried by a Court-martial or a Civil Court.(c)The procedure to be followed in a case where there is dual jurisdiction is laid down in the Indian Army Act, Sections 69 and 70, the prescribed military authority being the General Officer Commanding-in-Chief Command, or the District, Brigade or Station Commander. (See also Manual of Indian Military Law, Chapter VI, paragraphs 1 to 3).If the Offender is in military/civil custody, the Officer Commanding Unit/Magistrate will take steps to request the prescribed military authority to decide the Court before which proceeding shall be instituted, but in those cases falling under Section 41 of the Indian Army Act, in which death has resulted, the decision shall rest with the District Commander or the General Officer Commanding-in-Chief Command.

342. The following rules for the defence of British and Indian soldiers charged with criminal offences and prosecuted by Government in civil (as opposed to military) Courts are reproduced from Rule 388 of the Regulations for the Army in India, Provisional Issue, 1st July 1937:-

(i)When soldiers are to be tried by a Civil Court upon any criminal charge, the Brigade Commander should consult the District Magistrate, and arrange with him for the selection and remuneration of a pleader, advocate or barrister, as the importance and necessities of the case may require.(ii)Except in cases in which the Government of India are interested the maximum amount that may be paid to the pleader, advocate or barrister is Rs. 100 for each day that he appears in the case on behalf of one or more accused before a High, Chief or Sessions Court, or Rs. 50 for each day that he appears in the case on behalf of one or more accused before any other Court. These amounts include expenses of every description which counsel may incur. These fees are maxima, and should not be paid in every case, but terms arrived at for the whole case, omitting for instance, days on which counsel appears merely to ask for an adjournment. In a joint trial, when the local military authority is satisfied that the accused require different lines of defence, he may authorize the separate payment of fees for each accused so defended.(iii)(a)The amount to be paid to counsel will be definitely settled before-hand, subject to the maxima laid down in clause(ii). If suitable counsel cannot be obtained for the remuneration admissible under these rules, the case will be reported to superior authority and the orders of Government obtained.(b)In High Courts in which counsel may not plead unless instructed by a solicitor may be employed and his bill of costs, which should include counsel's fees [subject to the restrictions laid down in clause (ii)], and all other expenses incurred in the case, should be submitted to the Legal Remembrancer of the Local Government and his certificate obtained that the amount of the bill is reasonable before it is submitted for the orders of

Government.(iv)When counsel is provided for the defence of a soldier at the first trial in a Civil Court, counsel can also be provided when considered necessary on appeal, subject to the limitations laid down in clauses (ii) and (iii).(v)For the purposes of this concession the term "soldier" used in clause (i) includes British Regimental and India Unattached List, Warrant Officers, Non-Commissioned Officers and privates, army reservists called up for training or called out for service, Warrant officers of the Indian Medical Department, all Viceroy's Commissioned Officers, Indian Regimental Warrant Officers, Non-Commissioned Officers and privates when at duty, and regimental reservists called up for training or called out for service. It does not include Viceroy's Commissioned Officers, Indian Regimental Warrant Officers, Non-Commissioned Officers and privates when on leave, enrolled non-combatants or any other classes not mentioned above.

343. There is no provision under the Naval Discipline Act or the Indian Navy (Discipline), Act for the free defence of persons subject to those Acts when charged with an offence before a Court other than a Court-martial.

344. Officers and soldiers attending a Civil Court on duty will wear uniform with sword and side-arms.

[Instruction No. 756 of the Instructions by His Excellency the Commander-in-Chief issued under the Regulations for the Army in India. Provisional Issue, 1st July, 1937],

345. In the case of a conviction of a British soldier and his being sentenced to imprisonment application should be made to the local military authorities for military escort if no European police are available. British soldiers should not be sent to jail handcuffed under the escort of Indian policemen.

346.

(1)A copy of the judgement or final order in all cases in which Commissioned Officers have been tried by Civil Courts for criminal offences should be supplied to the Secretary to the Government of India, Ministry of Defence (Army Branch), New Delhi.(2)A Court should make a prompt report of conviction of any army officer mentioned in column (1) to the officer mentioned in column (2) of the following table:-

Officer convicted	Officer to whom the conviction to be reported
(1)	(2)
(1) A Non-Commissioned Officer	Brigade Commander.
(2) An Indian Warrant Officer	Brigade Commander.
(3) An Indian Commissioned Officer	His Excellency the Governor-General.
(4) A Viceroy's Commissioned Officer	His Excellency the Commander-in-Chief.

[Instruction Nos. 400 and 401 of the Instructions by His Excellency the Commander-in-Chief issued under the Regulations for the Army in India, Provisional Issue 1st July 1937].

347. Copies of judgements, with a translation of vernacular judgements, shall be supplied free of charge on application by the head of the unit or department concerned.

348. When a military pensioner is convicted and sentenced to imprisonment by a Criminal Court for a criminal offence, a copy of the judgement should be immediately sent by the Criminal Court free of charge to the Deputy Controller of Military Pensions, Lahore, stating the place from where the pensioner last drew his pension. In the case of a Criminal Court subordinate to the District Magistrate, the copy should be sent through the District Magistrate.

349. Conviction in a Criminal Court does not necessarily entail loss of pension. The withholding of a pension after such conviction is at the discretion of the military authorities, who will take into consideration the punishment already inflicted. In awarding sentences, Magistrates should therefore omit from consideration any possible effect the sentence may have on the pension of the accused.

350. In exercise of the power conferred by Section 169 of the Army Act, 1881 (44 and 45 Vict., C. 58), and in supersession of Military Department Notification No. 198-Judicial, dated the 25th March 1880, and the Home Department Notification No. 1698, dated the 8th November 1888, the Governor-General in-Council is pleased to declare that, for the purpose of conversion into Indian currency of all sums of money expressed in British currency in the said Act, a penny shall be held to be equivalent to one anna.

[Army Department Notification No. 231, dated the 1st April 1937, and No. 875, dated the 20th November 1937].

351. Whenever a military recruit acquitted by a Criminal Court is found to be without the means of returning to his unit, the Court should arrange for the issue of a railway warrant to his destination.

[Government of India, Home Department Letter No. 178/44-Police, of the 19th January 1945].AppendixNaval Discipline Act, 1896, 29 and 30 Viet., C. 109(as amended by the Naval

Discipline Act, 1915, 5 Geo. 5, C. 30)Sections 50, 56 and 101.

50. Every officer in command of a fleet or squadron of Her Majesty's ships or of one of Her Majesty's ships, or the senior officer present at a port, or an officer having, by virtue of sub-section (3) of Section 56 of this Act, power to try offences, may, by warrant under his hand, authorise any person to arrest any offender subject to this Act, for any offence against this Act mentioned in such warrant; and any such warrant may include the names of more persons than one in respect of several offences of the same nature; and any person named in any such warrant may forthwith, on his apprehension, if the warrant so directs, be taken on board the ship to which he belongs, or some other of Her Majesty's ships; and any person so authorised may use force, if necessary, for the purpose of effecting such apprehension, towards any person subject to this Act.

56. Any offence triable under this Act may be tried and punished by Court-martial; and any offence triable under this Act, not committed by an officer (except in the cases by this Act, expressly provided for), and not hereby made capital, may, under such regulations as the Admiralty may from time to time issue, be summarily tried and punished by the officer in command of the ship to which such offender belongs, subject to the following restriction; that is to say-

(3)The power by this Section vested in an officer commanding a ship may-(a)as respects persons on board a tender to the ship, be exercised in the case of a single tender absent from the ship, by the officer in command of such tender, and in the case of two or more tenders absent from the ship in company or acting together, by the officer in immediate command of such tenders;(b)as respects persons on board any boat or boats belonging to the ship, be exercised when such boat or boats is or are absent on detached service, by the officer in command of the boat or boats;(c)as respects persons subject to this Act on detached service either on shore or otherwise or such of those persons as are not for the time being made subject to military law by an order under Section one hundred and seventy-nine of the Army Act, 1881, be exercised by the officer in immediate command on shore, of those persons; and(d)as respects persons subject to this Act quartered in naval barracks, be exercised by the officer in command of those barracks.

101. Nothing in this Act contained shall be deemed or taken to supersede or affect the authority or power of any Court or Tribunal of ordinary civil or criminal jurisdiction, or any officer thereof, in Her Majesty's dominions in respect of any offence mentioned in this Act which may be punishable or

cognizable by the common or statute law, or to prevent any person being proceeded against and punished in respect of any such offence otherwise than under this Act.

Army Act, 1881 (44 and 45 Vict., C. 58) Sections 154, 163 and Schedule 4

154. With respect to deserters the following provisions shall have effect:-

(1)Upon reasonable suspicion that a person is a deserter, it shall be lawful for any constable, or if no constable can be immediately met with, then for any officer or soldier or other person, to apprehend such suspected person, and forthwith to bring him before a Court of summary jurisdiction.(2)Where a person is brought before a Court of summary jurisdiction charged with being a deserter under this Act, such Court may deal with the case in like manner as if such person were brought before the Court charged with an indictable offence, or in Scotland an offence.(3)The court, if satisfied either by evidence on oath or by the confession of such person that he is a deserter, shall forthwith, as it may seem to the Court most expedient with regard to his safe custody, cause him either to be delivered into military custody in such manner as the Court may deem most expedient or until he can be so delivered, to be committed to some prison, police station, or other place legally provided for the confinement of persons in custody, for such reasonable time as appears to the Court reasonably necessary for the purpose of delivering him into military custody.(4)Where the person confesses himself to be a deserter, and evidence of the truth or falsehood of such confession is not then forthcoming, the Court shall remand such person for the purpose of obtaining information as to the truth or falsehood of the said confession, and for that purpose the Court shall transmit, if sitting in the United Kingdom to a Secretary of State, and if in India to the general or other officer commanding the forces in the military district or station where the Court sits, and if in a colony to the general or other officer commanding the forces in that colony, a return (in this Act referred to as a descriptive return) containing such particulars and being in such form as is specified in the [Fourth Schedule] to this Act, or as may be from time to time directed by a Secretary of State.(5)The Court may from time to time remand the said person for a period not exceeding eight days in each instance and not exceeding in the whole such period as appears to the Court reasonably necessary for the purpose of obtaining the said information.(6)Where the Court causes a person either to be delivered into military custody or to be committed as a deserter, the Court shall send, if in the United Kingdom to a Secretary of State, and if in India or a colony to the general or other officer commanding as aforesaid, a descriptive return in relation to such deserter, for which the clerk of the Court shall be entitled to a fee of two shillings.(7)A Secretary of State shall direct payment of the said fee.

163.

(1)The following enactments shall be made with respect to evidence in proceedings under this Act, whether before a Civil Court or a Court-martial; that is to say-(a)The attestation paper purporting to be signed by a person on his being attested as a soldier, or the declaration purporting to be made by any person upon his re-engagement in any of Her Majesty's regular forces, or upon any enrollment

in any branch of Her Majesty's service, shall be evidence of such person having given the answers to questions which he is therein represented as having given:The enlistment of a person in Her Majesty's service may be proved by the production of a copy of his attestation paper purporting to be certified to be a true copy by the officer having the custody of the attestation paper without proof of the handwriting of such officer, or of his having the custody of the paper.(b)A letter, return or other document respecting the service of any person in or the discharge of any person from any portion of Her Majesty's forces, or respecting a person not having served in or belonged to any portion of Her Majesty's forces, if purporting to be signed by or on behalf of a Secretary of State, or of the Commissioners of the Admiralty, or by the commanding officer of any portion of Her Majesty's forces, or any of Her Majesty's ships, to which such person appears to have belonged, or alleges that he belongs or had belonged, shall be evidence of the facts stated in such letter, return, or other document.(c)Copies purporting to be printed by a Government printer of Queen's regulations of royal warrants, of army circulars, and of rules made by Her Majesty, or a Secretary of State, in pursuance of this Act, shall be evidence of such regulations, royal warrants, army circulars, and rules.(d)An army list or gazette purporting to be published by authority, and either to be printed by a Government printer or to be issued, if in the United Kingdom, by Her Majesty's Stationery Office, and if in India, by some office under the Governor-General of India or the Governor of any presidency in India, shall be evidence of the status and rank of the officers therein mentioned, and of any appointment held by such officers, and of the corps or battalion or arm or branch of the service to which such officers belong.(e)Any warrants or orders made in pursuance of this Act by any military authority shall be deemed to be evidence of the matters and things therein directed to be stated by or in pursuance of this Act, and any copies of such warrants or orders purporting to be certified to be true copies by the officer therein alleged to be authorised by a Secretary of State or Commander-in-Chief to certify the same shall be admissible in evidence.(f)Evidence of the delivery at the then last registered place of abode of a man enrolled in the Army Reserve of a note issued by the proper officer under the direction of a Secretary of State or of the delivery of a letter containing such notice addressed to the said place of abode, shall be evidence that such notice was brought to the knowledge of such man.(g)Where a record is made in one of the regimental books in pursuance of any Act or of the Queen's regulations, or otherwise in pursuance of military duty, and purports to be signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts thereby stated.(h)A copy of any record in one of the said regimental books purporting to be certified to be a true copy by the officer having the custody of such book shall be evidence of such record.(1)A descriptive return within the meaning of this Act, purporting to be signed by a justice of the peace, shall be evidence of the matters therein stated.(2)For the purposes of this Act the expression "Government printer" means any printer to Her Majesty, and in India any Government Press.* * *Fourth ScheduleForm of Descriptive ReturnDescriptive return of..... who ..... at..... on the..... day of....., and was committed to confinement at..... on the..... day of..... as a deserter [or absentee without leave] from the..... Bn. of the..... Regiment of.....

Age.

Height. Feet Inches

Complexion.

Hair.

Eyes.

Marks.

In uniform or plain clothes.

Probable date and place of attestation.

Probable date of desertion or beginning of absence, and fromwhat place.

Name, occupation, and address of the person by whom or throughwhose means the deserter [or absentee without leave]() wasapprehended and [secured]().

Particulars in the evidence on which the prisoner iscommitted, and showing whether he surrendered or was apprehended,and in what manner and upon what grounds. The fullest possibledetails to be given.

I do hereby certify that the prisoner has been duly examinedbefore me as to the circumstances herein stated, and has declaredin my presence that [he]() the before mentioned corps, and I[recommend]() for a reward of ..... s.	- Signature-Residence- Post Town - Signature of Prisoner.-Signature of informant.	} of committing magistrate

Or where the prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming.

I hereby certify that the abovenamed prisoner confessed to thecircumstances above stated, but that evidence of the truth orfalsehood of such confession is not forthcoming, and that thecase was adjourned until the ..... day of ..... for the purposeof obtaining such evidence from a Secretary of State.	- Signature.-Residence.-Post Town.

The Indian Army Act, 1911 (VIII of 1911), Section 27, 35, 37, 39, 41, 69, 70 and 123

27. Any person subject to this Act who commits any of the following offences, that is to say,-

(d)uses or attempts to use criminal fore to or commits an assault on his superior officer, whether on or off duty, knowing or having reason to believe him to be such; shall, on conviction by court-martial, be punished with death, or with such less punishment as is in this Act mentioned.

35. Any person subject to this Act who commits any of the following offences, that is to say,-

(a)commits extortion, or without proper authority exacts from any person carriage, porterage or provisions; or(b)in time of peace, commits house-breaking for the purpose of plundering, or plunders, destroys or damages any field, garden or other property;shall, on conviction by Court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

37. Any person having become subject to this Act who is discovered to have made a wilfully false answer to any question set forth in the prescribed form of enrolment which has been put to him by the enrolling officer before he appears for the purpose of being enrolled, shall, on conviction by Court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

39. Any person subject to this Act who commits any of the following offences that is to say,-

* * * *(b)strikes or otherwise ill-treats any person subject to this Act being his subordinate in rank or position; or* * * *(d)by defiling any place of worship, or otherwise, intentionally insults the religion or wounds the religious feelings of any person; shall, on conviction by Court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

41.

(1)Every person subject to this Act who either within British India or at any place beyond British India, commits any civil offence shall be deemed to be guilty of an offence against military law, and, if charged therewith under this Section shall, subject to the provisions of this Act, be liable to be tried for the same by court-martial, and on conviction to be punished as follows, that is to say,-(a)If the offence is one which would be punishable under the law of British India with death or with transportation, he shall be liable to suffer any punishment other than whipping assigned for the offence by the law of British India; and(b)in other cases, he shall be liable to suffer any punishment other than whipping assigned for the offence by the law of British India, or such punishment as might be awarded to him in pursuance of this Act in respect of an act prejudicial to good order and military discipline:Provided that a person subject to this Act who at any place within British India or at any place, other than such frontier posts as may be specified by the Governor-General-in-Council by notification in this behalf, in which Central Government or the Crown Representative exercises jurisdiction by virtue of the Government of India Act, 1935, or of any Order in Council made under the Foreign Jurisdiction Ac, 1890, and while not on active service commits the offence of murder or culpable homicide not amounting to murder in relation to a person not subject to military law or the offence of rape, shall not be deemed to be guilty of an offence against military law and shall not be tried by a Court-martial.(2)The powers of a Court-martial to try and to punish any person under this section shall not be affected by reason of the fact that the civil offence with which such person is charged is also a military offence.

69. When a Criminal Court and a Court-martial have each jurisdiction is respect of an offence, it shall be in the discretion of the prescribed military authority to decide before which Court the proceedings shall be instituted and, if that authority decides that they shall be instituted before a

Court-martial, to direct that the accused person shall be detained in military custody.

70.

(1)When a Criminal Court having jurisdiction is of opinion that proceedings ought to be instituted before itself in respect of any alleged offence, it may, by written notice, require the prescribed military authority as its option either to deliver over the offender to the nearest Magistrate to be proceeded against according to law, or to postpone proceedings pending a reference to the Governor-General-in-Council.(2)In every such case the said authority shall either deliver over the offender in compliance with the requisition or shall forthwith refer the question as to the Court before which the proceedings are to be instituted for the determination of the Governor-General-in-Council, whose order upon such reference shall be final.

123.

(1)Whenever any person subject to this Act deserts, the commanding officer of the corps, department or detachment to which he belongs shall give written information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a Magistrate, and shall deliver the deserter, when apprehended, to military custody.(2)Any police officer may arrest without warrant any person reasonably believed to be subject to this Act and to be travelling without authority, and shall bring him without delay before the nearest Magistrate, to be dealt with according to law.The Indian Air Force Act, 1932 (XIV of1932), Sections 61, 79 and 80

61.

(1)Whenever any person subject to this Act deserts, his commanding officer shall give written information of the desertion such civil authorities, as in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a Magistrate, and shall deliver the deserter, when apprehended, to air force custody.(2)Any police officer may arrest without warrant any person reasonably believed to be subject to this Act and to be travelling without authority and shall bring him without delay before the nearest Magistrate, to be dealt with according to law.

79. Any person subject to this Act who commits any offence against it may be tried and punished for such offence in any place whatever.

80. When a Criminal Court and a Court-martial have each jurisdiction is respect of a civil offence, it shall be in the discretion of the prescribed air force authority to decide before which Court the proceedings shall be instituted and, if that authority decides that they shall be instituted before a Court-martial, to direct that the accused person shall be detained in air force custody.

The Indian Navy (Discipline) Act, 1934 (XXXIV of1934) Sections 50 and 101

50. Every officer in command of a fleet or squadron of His Majesty's ships, or of one of His Majesty's ships, or the senior officer present at a port, or an officer having by virtue of sub-section (3) of Section fifty-six of this Act power to try offences, may, by warrant under his hand, authorise any person to arrest any offender subject to this Act for any offence against this Act mentioned in such warrant; and any such warrant may include the names of more persons that one in respect of several offences of the same nature; and any person named in any such warrant may forthwith, on his apprehension, if the warrant so directs, be taken on board the ship to which he belongs, or some other of His Majesty's ships; and any person so authorised may use force, if necessary, for the purpose of effecting such apprehension, towards any person subject to this Act.

101. Nothing in this Act contained shall be deemed or taken to supersede or affect the authority or power of any Court or Tribunal of ordinary civil or criminal jurisdiction, or any officer thereof, in His Majesty's dominions, in respect of any offence mentioned in this Act which may be punishable or cognizable by the common or statute law, or to prevent any person being proceeded against and punished in respect of any offence otherwise than under this Act.

Chapter 14

The Recovery of Fines

352. If a person at the time of being sentenced to the fine, whether or not in addition to other punishment tenders payment in whole or in part to the presiding officer imposing the fine, the presiding officer shall personally receive the amount tendered and grant under his hand a receipt in the

prescribed form (No. XV-99-O.R.). He shall make an entry of the payment in the order sheet of the case and sign it. If the fine is not paid or is paid only in part the presiding officer shall note the fact in the order sheet of the case, thus-

"Fine not paid/paid to the extent of Rs.....Recovery proceedings for Rs..... started".and shall make a similar entry in the Register of Original Cases under the particulars of sentence. He shall at once open recovery proceedings which shall be registered as a miscellaneous judicial case in accordance with Part VI, Chapter 24, Rule 575, item (8). The first order sheet of such proceedings is Form No. 197 on Schedule V. The first entry shall be filled up by the presiding officer in his own hand.

353. Presiding officer shall at any stage of the proceedings receive fines imposed by themselves or by their predecessors in office, if tendered in their court.

354. When a fine or portion of a fine in default of payment of which an offender is undergoing imprisonment is realized, the Court which imposed the fine shall send intimation (in Form No. 98 on Schedule V) to the superintendent of the jail in order to ensure the due release of the offender. The receipt attached to the form of intimation when returned with the signature of the superintendent shall be attached to the counterfoil preserved in Court. The presiding officer shall satisfy himself by a weekly examination of the counterfoils that the receipt has been returned by the jail authorities for any intimation issued during the current week.

355. When intimation is issued in respect of a prisoner who has been transferred from the original jail in which he was confined to a new jail the superintendent of the original jail shall forward it by registered post to the superintendent of the new jail along with particular of the prisoner's date of transfer. The superintendent of the new jail shall acknowledge the intimation by return of post and retain it, at the same time forwarding the form of receipt which came attached to it to the issuing Magistrate.

356. When in addition to a substantive sentence of imprisonment a person is sentenced to imprisonment in default of payment of fine and the fine is paid before the prisoner is sent to jail in intimation of realization shall be attached to the warrant in such a way that the receipt may be readily detached for return to Court.

357. The superintendent of a jail (or in his absence the jailor) is authorized to receive fines offered at the jail. He shall certify all such receipts to the Court from which the warrant issued.

358. The superintendent of a jail shall endorse on the warrant all realizations of fine whether made by him or intimated to him in accordance with the procedure referred to in the preceding rules.

359. The following rules have been made under sub-section (2) of Section 386 of the Code.

(1)Under sub-section 1(a) of Section 386 of the Code it is in the discretion of the Court passing a sentence of fine to issue a warrant for the levy of the amount by attachment and sale of movable property belonging to the offender although the sentence provides for his imprisonment in default. The warrant may be issued only by the Court by which the offender is sentenced, i.e., by the Judge or Magistrate who passes the sentence or by his successor in office (see Section 389).(2)Every warrant issued under Section 386, sub-section (1), clause (a) shall be directed for execution to the Tehsildar within whose jurisdiction the offender resides.(3)If the fine is imposed by a Court of Session, the Judge should, in the absence of any special direction to the country in the law under which the fine is imposed, direct the warrant to the District Magistrate, who will endorse it to the Tehsildar to whom he would direct such a warrant if he issued it himself.(4)All warrants addressed to or issued by a Tehsildar shall be executed by the staff of revenue persons attached to the tehsil. Peons are prohibited from receiving any money tendered by an offender and must in every case, as far as possible, execute the warrant entrusted to them, leaving the defaulter to make his own arrangements for paying the amount due before the sale takes place under sub-rule (5).(5)(i)Except in the case of perishable property at least a week shall ordinarily be allowed to elapse between attachment and sale, so as to give lime for notice of the intended sale to reach those interested.(ii)If the attachment is objected to, the objection should be summarily inquired into and disposed of by the officer executing the warrant either by admitting the claim or by referring the objector to a civil action if his claim seems prima facie groundless. In the latter case the sale of the property seized shall be stayed for such time as may appear reasonable in order to give to objector an opportunity of establishing his right. If, however, the nature of the property is such that an immediate sale would be for the benefit of the owner, the sale shall be effected and the proceeds shall be held in deposit for such time as aforesaid.(iii)Sales shall ordinarily be effected by auction, and on fixed days, preferably bazar days, at the Tehsildar's or any Magistrate's Court, during the hours of public business.(iv)The amount of fine is fully levied when the gross sale-proceeds equal such amount, and any expense attendant on the attachment and sale shall form a per contra charge against revenue from fines.(6)When a Tehsildar has realized a fine or part of a fine in the manner above provided, he shall forthwith dispose of it in the manner prescribed for the disposal of fine's and return the warrant to the Magistrate who issued it with an endorsement that he has done so. In the endorsement shall be noted the date of payment into the treasury and the number of the treasury receipt. If the offender is in jail, the Magistrate shall at once notify the payment to the superintendent of the jail. The necessary entries shall then be made by the Magistrate in the fine registers and the warrant shall be

attached to the file of the case.(7)The District Magistrate to whom a warrant has been directed by a Court of Session shall, on return of the warrant by the Tehsildar, at once forward the warrant to the Court of Session, and, if the offender is in jail send the requisite intimation to the superintendent of the jail where the offender is confined, noting on the warrant that he has done so.

360. A warrant should generally be issued at once when a fine is not paid in full at the time when it is imposed, unless there is reasonable ground for believing that it will be realized without the issue of a warrant. Where the offender has been sentenced to fine only the expediency of suspending the execution of the sentence of imprisonment in default of payment should be considered (Section 388).

361. When the whole amount of the fine has not been recovered on first warrant, a fresh warrant should ordinarily be issued once a quarter, until either the whole amount is recovered or it is ascertained that the fine or the outstanding balance is irrecoverable.

362. When the Collector receives a warrant under clause (b) of subsection (1) of Section 386 of the Code, he should send it to the nearest Civil Court by which a decree for the amount to be recovered could be executed. Under sub-section (3) of the same section such a warrant is deemed to be a decree passed by that Court. The Collector should then, with due regard to the provisions of Order 27, Rule 2 of the Civil Procedure Code, authorize a suitable person as his agent to apply for the execution of this decree and to conduct these proceedings in execution. Government is liable to pay the necessary Court-fee and process fees for these proceedings.

363. The provisions of Section 70 of the Indian Penal Code do not render it compulsory to retain the fine or such portion of it as may remain unrealized on the register for the full term of six years from the date of the sentence , if all possible means of realizing it have been tried and have failed. Any Sessions Judge, any District Magistrate and, with the written permission of the District Magistrate or District Judge, as the case may be, any Magistrate or Civil Court subordinate to the District Magistrate or District Judge may at any time write-off as irrecoverable amount of which the payment has been ordered in his Court or in the court of his predecessor in office, if it appears to him that the amount cannot be recovered.

364. Fines realized whether by payment into Court, by attachment and sale, or otherwise shall as far as possible be credited by the officer who received them into the treasury or sub-treasury on the day of receipt and in any case not later than the first working day after receipt. Courts at a distance from a treasury or sub-treasury shall remit receipts as often as is convenient but not less frequently than once a month. When only one remittance is made in any month it should reach the treasury on or before the last working day of the month or the sub-treasury on or before the 27th of the month. With the sanction of the District Magistrate remittances may be made by money order, the cost of the order being debited to contingencies.

365.

(1)Fines other than fines referred to in subsequent parts of this rule imposed and realized by officers acting magisterially should be taken in the treasury account to the Head "XXI-Administration of Justice-General Fees, Fines and Forfeitures-Magisterial fines". Fines imposed and realised from accused persons by Sessions Courts should be credited into the treasury under the Head "XXI-Administration of Justice-General Fees, Fines and Forfeitures- Other items."(2)The provisions of certain existing Acts, specified in the list appended to this sub-rule, which allocated to a particular purpose the fines or penalties imposed under those Acts were omitted by the Government of India (Adaptation of Indian Laws) Order, 1937. With effect from the 1st April 1939, no fine should be credited to any local or other fund. The nature of the receipt which till the 31st March, 1939 were allocated to local bodies but which are not to be credited to local funds with effect from the 1st April 1939 is specified in column (2) of the list. Fines specified in the second column of the list should be credited to Government under the heads of account specified in column (3) of the list. Under the Central Provinces and Berar Grant-in-aid to Local Bodies Act, 1939, the Provincial Government will make to local bodies a grant-in-aid approximately equal to the income lost by the credit to Government of fines formerly assigned to such local bodies. To facilitate the administration of the above decision the following procedure shall be followed in dealing with such fines.(3)Subject to deductions under Section 545 of the Code all fines realized by courts should be paid into the treasury with challans in triplicate in Form No. 5 of Schedule V. The major, minor and detailed heads to which the fines are to be credited as shown in the list should be entered in the challan. Of the two copies of the challan received back from the treasury one copy should be retained in Court and the other sent to the local body to which the fine would have been assigned but for the changes referred to in sub-rule (2).List of Acts referred to in sub-rules (2) and (3)

Title of the Act	Nature of receipts at present credited to localbodies	Head of account under which the receipts incolumn (2) should be credited to Government account
(1)	(2)	(3)
(1) The Indian Police Act,	Fines realized under	Major head-XXI-Administration of Justice.

	1861.	Section 34 of the Act.	Minor head-GeneralFees, Fines and Forfeitures. Detailed head-Fines realized underSection 35 of the Indian Police Act, 1861.
(2)	The Public Gambling Act, 1867.	Fines realized under the Act	Major and Minor head-As for (1) above. Detailed head-Finesrealized under the Public Gambling Act, 1867.
(3)	The Hackney Carriage Act, 1879.	Do	Major and Minor hear-As for (1) above. Detailed head-Finesrealized under the Hackney Carriage Act, 1879.
(4)	The Vaccination Act, 1880.	Do	Major and Minor head -As for (1) above. Detailed head-Finesrealized under the Vaccination Act, 1880.
(5)	The Prevention of Cruelty to Animals Act, 1890.	Do	Major and Minor Head-As for (1) above. Detailed head-Finesrealized under the Prevention of Cruelty to Animals Act, 1890.
(6)	The Central Provinces Village Sanitation and Public ManagementAct, 1920.	Do	Major and Minor head-As for (1) above. Detailed head-Finesrealized under the Central Provinces Village Sanitation andPublic Management Act, 1920.
(7)	The Central Provinces Village Panchayat Act, 1920	Fines realized under Section 22 and fees levied under Sections41 and 38 of the Act.	Major and Minor head-As for (1) above. Detailed head-Fees andfines realized under the Village Panchayat Act, 1920.
(8)	The Central Provinces Primary Education Act, 1920.	Fines realized under the Act.	Major and Minor head -As for (1) above. Detailed head-Finesrealized under the Central Provinces Primary Education Act, 1920.
(9)	The Central Provinces Local Self-Government Act, 1920.	Do	Major Minor head-As for (1) above. Detailed head-Finesrealized under the Central Provinces Local Self-Government Act,1920.
(10)	The Central Provinces Municipalities Act, 1922.	Do	Major and Minor head-As for (1) above. Detailed head-Finesrealized under the Central Provinces Municipalities Act, 1922.
(11)	The Central Provinces Cotton Market Act, 1922.	Fines and damages recovered under the Act.	Major and Minor Head-As for (1) above. Detailed head-Fines anddamages recovered under the Central Provinces Cotton Market Act,1922.
(12)	The Nagpur Improvement Trust Act, 1936.	Fines realized under the Act.	Major and Minor head-As for (1) above. Detailed head-Finesrealized under the Nagpur Improvement Trust Act, 1936.

366. Sale-proceeds of confiscated opium if realized by judicial officers should be credited to "XXI-Administration of Justice-General Fees, Fines and Forfeitures-Other items."

367. If the Court directs payment of a reward to an informer out of the fine imposed under Section 16 of the Public Gambling Act (III of 1867), the amount of fine remaining after providing for the reward shall be credited as directed in Rule 365 (3) above. The amount of the reward should be credited under the head "Revenue Deposits".

368. If under Section 545 of the Code, the Court directs a portion of the fine to be applied to any of the purposes stated in that Section the amount of fine excluding that portion should be credited as directed in Rule 365 (3) above. The balance should be credited under the head "Revenue Deposits".

369. Sums realized under Section 546-A of the Code shall be credited to the head "Revenue Deposits".

370. The Courts should note that payments under Section 545 of the Code may in a case subject to appeal be made only after the period allowed for presenting the appeal has elapsed or, if an appeal is presented, after the decision of the appeal. The Courts should adapt this principle in dealing with payments ordered under Section 546-A of the Code and in making payments of rewards to informers under the Public Gambling Act.

Chapter 15

Bail and Recognizance

371. The Courts should note that there is a difference between bail and recognizance. Section 496 of the Code and Form XLII of Schedule V of the Code contemplates two kinds of security, namely :

(a)Security with sureties,(b)The simple recognizance of the principal. The word "bail" properly speaking applies to the first class and this is the meaning usually attached to it in practice and procedure in the Courts.

372. When a person other than one accused on a non-bailable offence is sentenced to imprisonment, and an appeal lies from that sentence, the convicting Court may under Section 426 (2-A) of the Code release him on bail for a period sufficient to enable him to present his appeal and obtain the orders of the Appellate Court under sub-section (1) of Section 426. The power of the Appellate Court under sub-section (1) can be exercised only in respect of a person whose appeal is pending before it. The suspension of a sentence of imprisonment referred to in this sub-section is incidental to the granting of bail and is not distinct from it.

373. Forms No. XXV and XLII on Schedule V of the Code indicate what a bail-bond should be. In dealing with such forms Courts should bear in mind the provisions of Section 555 of the Code. The forms are designated to indicate what the form of such bonds should be and are not intended to be rigorous. It is open to the Court to vary them as the circumstances of each case require.

374. The attention of the Courts is invited to the provisions of Section 514-B of the Code in connection with the execution of a bond by a minor.

375. A person accused of a bailable offence claim to be released on bail as a matter of right. In such a case the Court need not give any reasons for granting bail, the fact that it is a bailable offence being in itself a sufficient reason. In lieu of bail it is open to accept a recognizance (i.e. a bond without sureties) of the accused.

376. The power of the Court to release on bail is not restricted to bailable cases. In this respect the attention of the Courts is invited to the provisions of Section 497 of the Code.

377. In demanding bail from an accused person, presiding officers should among other factors bear in mind the social status of the accused in fixing the amount of bail. The object of bail is to secure the attendance of the accused at the required time and place without keeping him under arrest and the amount should be fixed so as to effect this object. Care should be taken that it is not fixed at such a high figure as to amount virtually to a refusal of bail. The amount of bail and the offence charged should always be stated on the face of an order directing an accused to be detained in default of his

furnishing bail.

378. It is a hardship to detain parties under trial in prison an hour longer than the law requires.

379. Under Section 513 of the Code a deposit of cash or Government promissory notes may be made in lieu of the execution of a bond except a bond for good behaviour.

380. If at any time and for any reason it appears that the security demanded is or becomes insufficient, it is open to a Court granting the bail to re-arrest the person and demand sufficient security from him.

381. The Courts should exercise freely their power to release on bail-

(a)person seriously ill,(b)women in an advanced state of pregnancy or soon after child birth, and(c)minors.If for any reason bail cannot be furnished or granted, arrangement for the medical assistance of persons mentioned in clauses (a) and (b) should be made and they should be detained in a hospital or dispensary for prisoners and not be moved to undergo trial in Court until the officer in charge of the hospital or dispensary certifies that they are fit to undergo such trial.

382. Whenever the solvency of a surety is to be verified a statement of his assets and liabilities declared to be true and complete to the best of his knowledge and belief should be obtained from him and verified before he is accepted. Only realizable assets should be taken into consideration.

383. The responsibility for accepting a surety as solvent for the required amount is primarily that of the presiding officer who has demanded the security either of his own accord or on being directed to do so by a Superior Court, and in ordinary cases he should discharge it himself by making such summary enquiry as in the circumstances of the case he may think fit. When the case is important or the amount of security demanded is large the presiding officer may ask the nazir or the naib-nazir to enquire into the solvency of the surety and submit a report or ask the surety to produce a certificate of solvency from the Tehsildar.

Note. - It is nowhere laid down that the production of a solvency certificate is essential and in most cases a summary enquiry by the presiding officer or nazir or naib-nazir should be sufficient. This should not, however, be considered as in any way limiting the right of a presiding officer to demand a solvency certificate in case of doubt or involving large sums. In every' case it is the duty of the

presiding officer to regulate this procedure in the manner that will cause least inconvenience to parties consistent with efficient control.

Chapter 16

Warrants of Execution of Sentences, the Classification and Residence of PrisonersWarrants of execution of sentences

384. Warrants of execution issued by the Court which has passed a sentence shall invariably be prepared from the original record and never under directions orally given by the presiding officer.

385. Warrants must be legibly written with all the details provided for in the prescribed form. If the prisoner has an alias or aliases, it or they should be inserted after the name under which the present conviction is made. The age of the prisoner should be entered as it appears to the Court and as not stated by the prisoner himself. If the conviction is of abetment of an offence or attempt to commit an offence the section relating to the offence abetted or attempted to be committed should be entered as well as Section 109 or Section 511 of the Indian Penal Code as the case may be.

386. Any number occurring in the warrant (as with regard to term of transportation or imprisonment, strips or amount of fine) is to be entered both in words and figures.

387. As prisoners the often transferred to central jails, the warrants and the endorsements should not be written in a purely local script such as Nimari. Where the presiding officer knows English, the warrants and its endorsements should be prepared in English. In other cases, Hindi is preferable to Marathi as being more generally known by the central jail officials.

388. A short description of the prisoners character history and occupation (so far as known) should be endorsed on warrant. Previous convictions (if any) under Chapters XII, XVI, XVII and XVIII of the Indian Penal Code and Section 110 of the Code are important points in a prisoner's history, and not only, the number of them should be set out, but also the particulars of each sentence and the Section under which it was passed. If it is known that there

are no previous convictions, or if no previous convictions are alleged, or if previous convictions are alleged but not proved, or if no information as to previous convictions is forthcoming, the fact should be noted. The last column of the endorsement is intended to show as briefly as possible the distinctive features of the case, as for example in a case under Section 323 of the Indian Penal Code, that the accused committed a brutal and unprovoked assault on an old man, in a case under Section 376 ibid, that he forcibly ravished a little girl about 10 years of age, in a case under Section 457 ibid, that he dug a hole in the wall of a house and stole property to such an amount and so forth.

Note. - In cases of theft the amount or value of the property stolen is a distinctive feature, and information on this point should be included in the last column of the endorsement.

389. The warrant and its endorsements must be signed in full by the presiding officer of the Court and never by any other person for him. The presiding officer is responsible for the correctness of the warrant and he is bound to satisfy himself that it is correct before signing it. No pressure of work can be accepted as an excuse for the neglect of this important duty.

390. The date for the execution of a sentence of death confirmed by the High Court shall be fixed by the Court of Sessions and such date shall be the twenty-first day from the date of receipt of the order by the latter Court, or if the twenty-first day is a Sunday or other public holiday, the next succeeding working day. The date shall be specified in the warrant addressed to the superintendent of the jail in which the convict is confined.

391. In all cases in which an under-trial prisoner who has been admitted to the jail is released by the Court instead of being sent back to the jail, whether after discharge or acquittal, or after conviction and infliction of a sentence of whipping or of fine or of imprisonment till the rising of the Court, an intimation shall at once be sent to the superintendent of the jail on the remand warrant (Form No. 153 on Schedule V). Before releasing the prisoner the Court shall examine the warrant under which he was produced, and if there is a memorandum attached to it stating that the prisoner has to be produced under warrant in another Court, the Court shall call upon the officer in charge of the police, escort to produce that warrant, and if it is in order, shall, instead of releasing the prisoner, send him back to jail under the

same escort, and shall make a note of the circumstances in the intimation.

392. The instruction concerning the preparation of warrants in these rules apply mutatis mutandis to amended warrants issued in accordance with Chapter 12, Rules 315 and 329.

Classification of Prisoners

Part I – . - Under-trial Prisoners

393. Under-trial prisoners shall be divided into two classes; (1) special class, and (2) ordinary class.

394. The trying Court may admit to the special class an under-trial prisoner who, in its opinion, has, by social status, education or habit of life, been accustomed to a superior mode of living. Unless otherwise directed by the State Government or the District Magistrate, the jail authorities shall observe the aforesaid classification.

Part II – . - Convicted Prisoners

Section I-Classification as habitual and non-habitual criminals

395. The attention of all Criminal Courts is drawn to the definition of habitual criminals for purposes of jail classification adopted by the Provincial Government in the Jail Manual. Every Judge or Magistrate must note on the warrant committing a prisoner to jail-

(a)whether the prisoner is liable to be classified as a habitual criminal;(b)whether the prisoner, if so liable, shall or shall not be so classified.

396. The following persons shall be liable to be classified as "habitual criminals", namely:-

(a)any person convicted of an offence whose previous conviction or convictions under Chapter XII, XVI, XVII or XVIII of the Indian Penal Code taken by themselves, or with the facts of the present case, show that he habitually commits an offence or offences, punishable under any or all of those Chapters;(b)any person committed to, or detained in prison, under Section 123 (read with Section 109 or Section 110) of the Code;(c)any person convicted of any of the offences specified in (a) above, when it appears from the facts of the case, even though no previous conviction has been proved, that

he is, by habit, a member of a gang of dacoits or thieves, or a dealer in slaves or in stolen property;(d)any member of the following criminal tribes :(1)Badak, (2) [Banjara], (3) Baori, (4) Barwar, (5) Beria, (6) Bhampta, (7) Chhapparband, (8) Chita Pardhi, (9) Dakhani Kanjar, (10) Dom, (11) Gopal, (12) Harni, (13) Irani, (14) Kailkari, (15) Kanjar (Kabutri Nut), (16) Kolhatee, (17) Mang Garodi, (18) Marwari Baori (Baghri), (19) Mina, (20) Nut (Muslim), (21) Pasi, (22) Sanchaloo Waddar, (23) Sansi, (24) Sonaria, (25) Takankar;(e)any person convicted of an offence and sentenced to imprisonment under the corresponding sections of the Indian Penal Code and the Code of Criminal Procedure as applied by order under the Indian (Foreign Jurisdiction) Order in Council, 1902 or by the authority of any Prince or State in India;(f)any person convicted of an offence by a Court or Tribunal acting outside India, under the general or special authority of His Majesty, which would have rendered him liable to be classified as a habitual criminal, if he had been convicted in a Court established in India.Explanation. - For the purposes of this definition the word "conviction" shall include an order made under Section 118 read with Section 110 of the Code.

397. The classification of a convicted person as a habitual criminal should ordinarily be made by the convicting Court, but, if the convicting Court omits to do so, such classification may be made by the District Magistrate, or in absence of an order by the convicting Court or District Magistrate, and pending the result of a reference to the District Magistrate, by the officer in charge of the jail, where such convicted person is confined:

Provided that any person classed as a habitual criminal may apply for a revision of the order.

398. The convicting Court or the District Magistrate may, for reasons to be recorded in writing, direct that any convicted person, or any person committed to or detained in prison under Section 123, read with Section 109 or Section 110 of the Code, shall not be classed as a habitual criminal, and may revise such direction.

399. The convicting Courts or the District Magistrates, as the case may be, may revise their own classification, and the District Magistrate may after any classification of a prisoner made by a convicting Court or any other authority, provided that the alteration is made on the basis of facts which were not before such Court or authority at the time the previous classification was made.

Note. - The expression "District Magistrate" wherever it occurs in Rules 397,398 and 399 above, means the District Magistrate of the district in which the criminal was convicted, committed or detained.Section II. - Division into A, B and C Classes.

400. Convicted prisoners shall be divided into three classes : (1) class "A" (2) class "B" and (3) class "C".

401. A convicted prisoner will be eligible for class "A" if-

(a)he is a non-habitual offender of good character; and(b)he, by social status, education and habit of life, had been accustomed to a superior mode of living; and(c)he has not been convicted of-(i)an offence involving elements of cruelty, moral degradation or personal greed;(ii)serious or pre-meditated violence;(iii)a serious offence against property;(iv)an offence relating to the possession of explosives, fire-arms or other dangerous weapons, with the object of committing an offence, or of enabling an offence to be committed;(v)abetment or incitement of offences falling within the above sub-clauses.

402. A convicted prisoner may be recommended for class "B", if by social status, education or habit of life, he has been accustomed to a superior mode of living, irrespective of the offence committed. The classifying authority may recommend for class "B" a habitual offender also, if in its opinion, the character and antecedents of the prisoner justify it.

403. Class "C" will consist of prisoners who are not classified in classes "A" and "B".

404.

(1)The High Court, Session Judges, Additional Sessions Judges and District Magistrates may, in accordance with Rules 401 and 402 make a recommendation for the admission either to class "A" or class "B" of a convicted prisoner (or a prisoner who has been required to execute a bond to keep the peace or to be of good behavior), if they have dealt with his offence as original, Appellate or Revisional Courts, Recommendations by the High Court, Sessions Judges and Additional Sessions Judges should be forwarded separately direct to the Secretary to Government in the Jail Department. Recommendations by District Magistrates should be forwarded separately by them through the Commissioner of the Division to the Secretary to the Government in the Jail Department.(2)Other Magistrates may make such recommendations through the District Magistrates, who shall forward them with their opinion to the Provincial Government.(3)District Magistrates may make recommendations in any cases when Magistrates subordinate to them have not done so.

405. The recommendation should not form part of the case in which the prisoner is convicted but should constitute a separate report.

406. As it is essential in the interest of jail discipline that persons on admission should, as far as possible, be placed in the class in which they are likely to remain, the recommendation of the trying Magistrate, or Judge, should be entered on the jail warrant also. District Magistrates are authorized to alter the classification made by Magistrates subordinate to them, pending the orders of the Provincial Government.

407. The rules contained in Rules 400, 401, 402 and 403 above do not affect the classification of life-convicts by the convicting Court, as prescribed in Rule 414, for the purposes of the jail remission system, irrespective of the fact that the Court has recommended their admission to class "A" or class "B".

408. Among non-habituals, a clear distinction can usually be made between the prisoner whose crime is due to impulse or to wrong social custom, and the prisoner whose conduct indicates a cruel or depraved mental and moral state. The former should be protected, as far as possible, from such contamination as might result from his conviction and confinement in jail. It is to this end that non-habituals will, in future, be divided into two classes, the "Star" class and "ordinary" class.

409. It is difficult to lay down any hard and fast rules for the selection of prisoners eligible to come under the "Star" class. The following classes of prisoners, however, are definitely excluded from it, viz.-

(a)prisoners who have been classed as habituals by the Court.(b)prisoners who have been placed in "A" or "B" class,(c)prisoners who have been sentenced to simple imprisonment,(d)juveniles and adolescents (special treatment having already been laid down for these),(e)prisoners convicted under Chapters VI and VII of the Indian Penal Code.

410. Prisoners for the "Star" class shall be selected on the ground that their previous conduct and character have been good, that their antecedents are not criminal, and that their crime does not indicate grave cruelty or gross moral turpitude or depravity of mind. One or more previous convictions need not automatically exclude a prisoner from the "Star" class, provided they were for petty offences only. Even a conviction for a serious crime might possibly be not regarded as a bar, if the crime was committed several years before, and if during the intervening period the prisoner had led generally an

honest life. The age of the offender at the date of any previous conviction and at the date of his present offence should, of course, be taken into account, in fact, the entire body of the circumstances of the case should be considered with a view to determining whether the prisoner is already of so corrupt a mind or disposition that he may contaminate others and cannot be much contaminated himself, and the question should be dealt with in a common sense manner.

411. In amplification of general principles laid down in the preceding rule the following more detailed instructions are given for the guidance of Courts in the matter of making recommendations (references are to the Indian Penal Code):-

Chapter V

Abetment. - Deliberate or habitual abetment of a serious crime or crimes should exclude from the "Star class.

Chapter VIII

Offences against the public tranquility. - Offenders normally should be of the "Star" class but professional lathials and the like should be excluded.

Chapter IX

Offences relating to Public Servants. - Normally offenders should be included in the "Star" class.

Chapter X

Contempts of the Lawful Authority of Public Servants. - Offenders normally should be in the "Star" class.

Chapter XI

False evidence and offences against Public Justice. - In cases triable by Magistrates, offenders, normally should be in the "Star" class; in other cases, offenders should usually be

excluded.

Chapter XII
Offences relating to Coin and Government Stamps. - Persons succumbing to a sudden temptation to pass a false coin should be included; persons in any way connected with coining or a gang of coiners, excluded.

Chapter XIII
Offences relating to Weights and Measures. - Offenders should normally be excluded.

Chapter XIV
Offences affecting the Public Health, Safety, Convenience, Decency and Morals. - Offenders should normally be included but offenders against decency excluded.

Chapter XV
Offences relating to religion. - Offenders should normally be excluded.

Chapter XVI
Offences affecting the Human Body. - Homicides whose crime was due to an impulse of passion should be included. Homicides who kill for gain, whether for robbery or for getting rid of rival claimants to property, should be excluded. Similarly in cases of hurt, wrongful restraint and the like, offenders convicted of habitually causing abortion or of an offence relating to sex in any way should be excluded.

Chapter XVII
Offences against property. - Person who, from poverty or

sudden temptation, commit theft and kindred offences should be included. Persons who make their living from theft should be excluded.

Chapter XVIII
Offences relating to Documents and to Trade or Property Marks. - Offender should usually be excluded.

Chapter XIX
Criminal Breach of Contracts of Service. - Offenders should normally be excluded.

Chapter XX
Offences relating to Marriage. - Offenders should normally be excluded.

Chapter XXI
Defamation. - Offenders should normally be included.

Chapter XXII
Criminal Intimidation, Insult and Annoyance. - Offenders should normally be included.

Other Laws. - Offenders should normally be included, but habitual offenders against the Opium and Excise Acts, etc., should be excluded.

412. While the ultimate responsibility for the selection of prisoners for the "Star" class rests with the superintendents of jails (subject to the control of the Inspector-General of Prisons), it is open to Magistrates to make recommendations in the matter; and it is very desirable that they should do so in order to give superintendents of jails the benefit of the knowledge, seeing that they are in a better position to know the circumstances in which the crime was committed.

413. On the conviction of any non-habitual criminal, a copy of the judgement should be sent to the jail superintendent to enable him to determine whether the prisoner should be classed as "Star" or ordinary.

Life Prisoners

414. The following are the instructions on the classification of life prisoners for the purpose of the remission system:-

1. The classification of life convicts for the purposes of the jail remission system should be decided by the Convicting Court and not by the jail authorities. In the event of a prisoner arriving in jail unclassified, the matter should be referred back by the jail superintendent to the Court concerned. In no case shall the jail superintendent decide it for himself.

2. For the purposes of the remission of sentences, prisoners shall be classified as under:-

"(a) 'Class I Prisoner' means a thug, a robber, a dacoit, or a professional or specially dangerous criminal convicted of heinous crime or heinous organized crime, such as dacoity.(b)'Class II Prisoner' means a prisoner other than a Class I Prisoner.""(c) 'Sentence for transportation for life' shall be deemed to mean-(i)in the case of a Class I Prisoner, a sentence of twenty-five years' imprisonment.(ii)in the case of a Class II Prisoner, a sentence of twenty years' imprisonment.A person sentenced to transportation for life shall be called a 'life convict'."

3. The following classes of crime shall be regarded as heinous for the purposes of the above definitions:-

(1)Murder.(2)Attempt to murder.(3)Culpable homicide not amounting to murder.(4)Robbery.(5)Dacoity.Notification of Residence by released convicts

415. When an order is passed under sub-section (1) or sub-section (4) of Section 565 of the Code, the Court or Magistrate passing the order shall cause a copy of it to be attached to the warrant of commitment to the address of the superintendent of the jail to which the prisoner is committed.

416. Two months before the release of a convict regarding whom such an order has been received, the superintendent of the jail shall enquire from the convict in what district he intends to reside, and shall transfer the convict to that district for release, as in the case of habitual convict.

417. On the day of release of the convict shall be produced before the District Superintendent of Police, or in his absence before the headquarters inspector, and shall notify to such officer the town or village in which he intends to reside. In the case of a town, the convict shall specify the mohalla or street, and shall give such further information regarding the house in which he intends to reside as may be necessary for its identification.

418. The statement of the convict shall be recorded by the officer aforesaid and a copy of it shall be entered in the report-book to be kept by the convict, which book shall be in the form attached to these rules. Such book shall contain a copy of these rules and a translation of them in the language of the province best understood by the convict, together with a notice of the penalty for information of them.

419. The officer recording a notification under Rule 417 shall appoint such period as may be reasonably necessary to enable the convict to take up his residence in the place notified. If the convict does not take up his residence in such place within the period so appointed he shall, not later than the day following the expiry of such period, notify his actual place of residence to the officer-in-charge of the police station within the limits of which he is residing.

420. Every intended change of residence shall be notified by the convict in person to the officer-in-charge of the police station within the limits of which he is residing before whom he shall produce his report-book. But if a convict is so ill or infirm as to be unfit to travel, or if he has been exempted from personal report by the District Magistrate, the book may be produced and the notification be made by some person on his behalf.

421. An officer in charge of a police station to whom a notification is made under Rule 419 or 420 shall attest it in the convict's report book and, if so required, shall himself record the notification.

Notification of.....convict under Section 565, Criminal Procedure Code.

Date	Name of convict or of person reporting on hisbehalf	Substance of report or notification	Signature and rank of Police Officer receivingthe report

Note. - In applying the above rules to the case of any wandering man who has no residence in the

sense of a fixed place of abode, they may reasonably be interpreted as meaning that he resides at the place where he sleeps, even if he remains there only for one night. On his release from jail he may therefore be asked under Rule 417 as to where he is going to stay, and he may be told under Rule 420, that if he moves about the country, he must always notify his place of temporary abode to the police.

Chapter 17

Unclaimed and Intestate Movable PropertyI. Unclaimed Property

422. Unclaimed property (la-dawa), as distinguished from the property of persons dying intestate (la-waris), is dealt with under Sections 25 to 27 of the Police Act, 1861, read with Section 525 of the Code.

423. Property dealt with under Sections 523 to 525 of the Code shall, for the purposes of these rules, be classed as unclaimed property.

424. The inventory prescribed by Section 25 of the Police Act, 1861, and the proclamation prescribed by Section 26 ibid and Section 523 of the Code shall be respectively in Forms A and B annexed.

425. This inventory shall be signed by not less than two respectable residents of the village or town wherein the property is found, and in the event of such property being taken from the possession of any person his signature, or mark if he is illiterate, shall also be taken on the inventory in token of its correctness.

426. Property other than cash and cattle entered in the inventory shall, if possible, be labelled, numbered and marked with the date of seizure and the name of the person, if any, in whose possession it was found. If it was not taken from the possession of any person it shall be marked with the name of the place where it was found.

427. When the property consists of gold, silver, precious stones or other valuables, it shall be sent in a sealed packet, after being weighed in the presence of not less than two respectable witnesses. The weight shall be noted in the inventory which shall be signed by the witnesses as required by Rule 425 in token of its correctness.

428. Live-stock or bulky property which cannot conveniently be removed from the place where it was found may be left in the charge of some landholder or other respectable person willing to undertake the responsibility of its custody and production when required by the Court. Other property shall be forwarded to a district officer or to the headquarters of a Tehsil as the District Magistrate may direct.

429. The reasonable expenses incurred by such landlord or person as aforesaid for the proper custody of all property made over to his charge, may be paid with the sanction of the District Magistrate, and the sum so paid shall be debited to Contract Contingencies, Office Expenses and Miscellaneous, under "22-General Administration-District Administration".

430. All property forwarded under Rule 427 shall be accompanied by an extract from the roznamcha relating to it, with an inventory in Form A and the memorandum reproducing the description and value of the articles as given in columns 6 and 7 of the inventory. The nazir on receiving the property shall satisfy himself that it corresponds with the description given in the inventory and shall then endorse a receipt on the memorandum and give the memorandum to the police officer who brought it.

Note. - The term "nazir" includes in the Central Provinces the naib-nazir of a tahsil, and in Berar the criminal clerk of a tahsil in charge of unclaimed and intestate property.

431. When the property received by the nazir under rule 427 consist of valuables in a sealed packet, he shall enclose the packet in another sealed packet and deposit it in his safe and obtain the orders of the Deputy Commissioner under Rule 8 (ii) of the Financial Rules, Volume I (1929 edition) whether he should deposit it in the treasury.

432. Sales of property referred to above shall, as a rule, be held in the district office; but the District Magistrate may order any property to be sold in the bazaar, at headquarters, or in a tahsil, or in the bazzar at the headquarters of a tahsil, or elsewhere whenever such a course seems to him desirable for the realization of the best price obtainable or for any other reason.

433. Sales shall be held on bazzar days and during the hours of public business, unless the District Magistrate otherwise orders. Fifteen days' clear notice shall be given before each sale, and a copy of the notification specifying the time and place of sale and the property to be sold shall be posted up in the district office or at the place where the sale will be held, as the case may be.

II. Intestate Movable Property

434. If any property dealt with under the above rules is at any time before sale found to have been last in the possession of a person who died intestate, its final disposal shall be governed, as far as may be, by the following rules.

435. The death of a person dying intestate leaving movable property shall be reported in Form C annexed, to the District Magistrate by the officer in charge of the police station in which the death takes place: provided that, if a claimant appears to claim the property by reason of such relationship as prima facie constitutes him heir to the deceased, and if the fact of such relationship is indisputable, no report need be submitted.

436.

(1)The District Magistrate shall without delay forward the report in Form C to the District Judge having jurisdiction. Jurisdiction is conferred on the District Judge by Sections 192, 193, 218, 219, 253, 254 and 269 of the Indian Succession Act (XXXIX of 1925); by Section 54 of the Administrator General's Act (III of 1913); and by Sections 4, 5 and 7 of Bengal Regulation V of 1799.(2)If the District Judge having jurisdiction in the matter finds that he has powers to pass orders for the disposal of the property, he shall pass such orders forthwith.(3)If he finds, that he has no power to pass such orders he shall inform the District Magistrate accordingly, as soon as possible, and the District Magistrate shall then dispose of the property under the rules in the first part above as unclaimed property.

437.

(1)When the property is subject to speedy and natural decay, or when the expense of keeping it in the custody or of conveying it to the District Court will exceed its value, or when the estimated value of the property other than actual cash does not exceed five rupees, the District Judge shall direct that it be sold under the orders of the District Magistrate in the nearest bazaar town to the place where such property then is. The amount of the sale-proceeds shall be intimated direct to the District Judge immediately the sale has taken place.(2)No commission on the sale-proceeds shall be

allowed in respect of any such sale.Note 2. - If the property is subject to such rapid and natural decay as not to admit of waiting until receipt of the orders of the District Judge, the tahsildar may sell the said property at once and report his action to the District Judge through the District Magistrate.

438. When the sum realized at a sale held under Rule 437, or other cash or property to which the District Judge's order under Rule 436 relates, is forwarded to the District Judge, it shall be accompanied by a chalan in Form D or E annexed, or by chalans in both of those forms, as the case may be. Each chalan shall be prepared in triplicate by the police; one copy shall be retained by them and two copies be sent to the District Judge, who shall return one signed by way of receipt.

439. Whenever property belonging to the estate of a person subject to military law, i.e., one on the effective list at the time of death, comes into the hands of a District Magistrate, he shall, instead of forwarding to the District Judge, communicate with the Officer Commanding the regiment or in charge of the department to which the deceased belonged, and comply with the instructions which such authority may give regarding the disposal of it.

440. Whenever a subject of a State specified in the following notification or a person of the European or Anglo-Indian community reputed to possess any property dies, the District Superintendent of Police of the District in which the person has died shall send a report of the death to the District Judge, to enable the latter to take necessary action under the notification or Section 54 of the Administrator-General's Act (III of 1913) as the case may be:-

[Government of India, Home Department, Notification No. F. - 620-32-Judicial, dated the 25th July, 1932, as amended by Notification No. 594-36-Judicial, dated the 3rd September, 1936, by Notification No. 164-39-Judicial, dated the 26th October, 1936, by Notification Nos. 187-39-Judicial, dated the 14th December, 1939 and the 27th February, 1940, by Legislative Department Notification No. E-231-11-41-C and G, dated the 27th October, 1941, and by the Home Department Notification No. 141-43-Public (c), dated the 18th August, 1943.]In exercise of the power conferred by Section 57 of the Administrator-General's Act (III of 1913) and in supersessions of the notification of the Government of India in the Home Department No. 270, dated the 11th February, 1903, the Governor-General-in-Council is pleased to direct that where a subject of a State specified in the Schedule hereto annexed dies in India, and it appears that there is no one in India, other than the Administrator-General entitled to apply to a Court of competent jurisdiction for letters of administration of the estate of the deceased, letters of administration shall, on the application to such Court of any Consular Officer of such State, be granted to such Consular Officer

on such terms and conditions, as the Court may, subject to the following rules, thinks fit to impose, namely:-I. Where the deceased has not left in India any known heirs or testamentary executors, by him appointed, the local authorities, if any, in possession of the property of the deceased, shall at once communicate the circumstances to the nearest Consular Officer of the State of which the deceased was subject in order that the necessary information may be immediately forwarded to persons interested.II. Such Consular Officer shall have the right to appear, personally or by delegate, in all proceedings on behalf of the absent heirs or creditors of the deceased until they are otherwise represented.

Schedule

(1) United States of America.

(2)Argentine Republic.(3)Belgium.(4)Costa Rica.(5)Denmark.(6)Netherlands.(7)Iran.(8)Peru.(9)Poland.(10)Thailand (Siam).(11)Sweden.(12)Afghanistan.(13)Iraq.FormsUnclaimed PropertyAInventory of unclaimed property

	Property taken possession of by Police							
S.No. of articles	On what date	By which station house with date of roznamcha	In what town or village	In what manner, whether from possession or aperson unoccupied house, etc.	Description with the mark A, B, C, etc. as perroznamcha	Value	Whether produced before magistrate, made over tosupratdar or retained in police custody	Remark
(1)	(2)	(3)	(4)	(5)	(6)	(7) Rs.	(8)	(9)

BProclamation in respect of unclaimed property[The Police Act (V of 1861), Section 26; and Section 523, Code of Criminal Procedure, 1898].Court of the Magistrate of the DistrictProclamation is hereby made that unclaimed property, consisting of the articles specified in the subjoined list*, has been detained by the Magistrate to the district ofAny person, who has any claim thereto, is hereby required to appear and establish his right to the same within six months from this date.Dated the.....day.....20.....Magistrate of the District*List of articles

Articles	Note of the circumstances under which thearticles came into the possession of the police and are detainedby the Magistrate

Intestate propertyCReport of intestate movable property from ..... station....., district..... dated the.....

Annual number	Date and place of death	Name and residence of deceased, if known	Name of claimant or claimants	Particulars of each claim	List of property	Remarks

(1)	(2)	(3)	(4)	(5)	(6)	(7)

Memo No..... dated the.....Forwarded to the District Judge of..... for information and orders.Signature of Magistrate.Signature of Police Officer.DAccount of sales of intestate movable property sold at....., station..... District..... dated.....

Number and year of original report with name ofdeceased, if known	Number and description of articles as peroriginal report	Weight or measure (where possible)	Price at which sold	Remarks
(1)	(2)	(3)	(4)	(5)
.....Less cost of feeding live-stock as permemorandum at foot.Horse days-at-per day.Cow or buffalodays-at-per day.Goat days-at-per day.	Rs.Paise	.....Total net proceeds forwarded.	Rs.Paise	.....
Total.....				
Dated.....20.....				
Signature of Police Officer.	Signature of Receiving Officer.			

EChalan of intestate movable property from ..... station..... district.....

Number and year of original report with name ofdeceased, if known	Number and description of articles as peroriginal report	Weight or measure	Date of despatch	Cost of despatch	Remarks
(1)	(2)	(3)	(4)	(5)	(6)
		Rs. ps.			
Dated.....20.....					
Signature of Police Officer.	Signature of Receiving Officer.				

Part II

Records

Chapter 18

The arrangement and preparation of Records during Trial(The rules in this Chapter have been made under Section 224 of the Government of India Act.)A.-Records of Trial in the Court of Session

441. Every record of a trial in a Court of Session shall consist of two files, to be marked File A and File B.

442. File A shall contain the following papers arranged in the following order:-

(1)Title page.(2)Table of contents.(3)Order sheets.(4)The charge under which the trial has been held, with a record that it has been read and explained to the accused, and the plea of the accused.(5)Papers showing how the proceedings were initiated, such as the complaint in writing or the examination of the complaint, the police charge sheet, the order under Section 190 (1) (c), any complaint made or order passed under Section 195 or 196 or 196-A, or a sanction granted under Section 197 of the Code of Criminal Procedure hereafter called "the Code".(6)Applications for detention in police custody under Section 167 of the Code and the orders thereon.(6-a) Any document in respect of which the charge is made e.g. in respect of offences punishable under Chapter XI or XVIII of the Indian Penal Code.(7)List of articles produced in evidence which cannot be attached to the record, such as weapons, coins, clothing, or ornaments.(8)List of documents admitted in evidence for the prosecution.(9)Documents admitted in evidence for the prosecution.(10)Deposition of medical witnesses admitted under Section 509 of the Code.(11)Report of the Chemical Examiner or Assistant Chemical Examiner to Government admitted under Section 510 of the Code.(12)Documents to which a witness refers under Section 159 or 160 of the Indian Evidence Act, such as a post-mortem report.(13)Examination of the accused in the Court of the committing magistrate and any confession of statement of the accused recorded under Section 164.(14)(a)Depositions of witnesses for the prosecution examined at the trial.(b)Evidence taken on commission and depositions or statements admitted in evidence for the prosecution under Section 32 (1) or 33 of the Indian Evidence Act or Section 288 or 512 of the Code or some similar provision.(15)Examination of the accused before the Court of Session with any written statement put in by him.(16)List of documents admitted in evidence for the defence.(17)Documents admitted in evidence for the defence.(18)(a)Depositions of witnesses for the defence examined at the trial.(b)Evidence taken on commission and depositions or statements admitted in evidence for the defence under Section 32(1) or 33 of the Indian Evidence Act or Section 288 or 512 of the Code or some similar provision.(19)In a case in which no previous convictions are charged-(a)if tried by jury-(i)the judge's charge to the jury,(ii)the verdict of the jury and any questions put by the judge to the jury with their answers,(iii)the judgement and final order of acquittal or conviction and sentence or the statement of reasons for referring the case under Section 307 of the Code to the High Court.(b)If tried with assessors-(i)the opinion of the assessors and any question put by the Judge for the purpose of eliciting such opinion with their answers.(ii)the judgement and final order.(20)In a case in which previous convictions are charged the papers mentioned in head (19) and, before the last paper mentioned in either part of that head-(a)depositions relating to the previous conviction,(b)the verdict of the jury or the opinion of the assessors on the proof of the previous conviction.(21)Bonds for keeping the peace under Section 106 or bonds under Section 562 of the Code or any similar bonds.The following papers shall be subsequently added to complete the record:-(22)Copy of the judgement or order of the appellate or revisional court.(23)Warrant returned after execution of sentence and all proceedings relating to the recovery of fines.(24)Copy of the order on a petition for mercy and the papers connected therewith.

443. File B shall contain a title page and all papers not included in File A.

B.-Magistrate's Records(a)Warrant case

444. The record of every warrant case tried by a Magistrate shall consist of two files, to be marked File A and File B.

445. File A shall contain the following papers arranged in the following order:-

(1)Title page.(2)Table of contents.(3)Order sheets.(4)Papers showing how the proceedings were initiated, such as the complaint in writing, the examination of the complainant, the police charge sheet, the order under Section 190 (1) (c), any complaint made or order passed under Section 195 or 196 or 196-A or a sanction granted under Section 197 of the Code.(5)Applications for detention in police custody under Section 167 of the Code and the orders thereon.(6)List of articles produced in evidence which cannot be attached to the record, such as weapons, coins, clothing, or ornaments.(7)List of documents admitted in evidence for the prosecution.(8)Documents admitted in evidence for the prosecution.(9)Report of the Chemical Examiner or Assistant Chemical Examiner to Government admitted under Section 510 of the Code.(10)Documents to which a witness refers under Section 159 or 160 of the Indian Evidence Act, such as a post-mortem report.(11)Any confession or statement made by the accused before trial and recorded under Section 164 of the Code.(12)(a)Depositions of witnesses for the prosecution examined at the trial.(b)Evidence taken on commission and depositions or statements admitted in evidence for the prosecution under Section "32 (1) or 33 of the Indian Evidence Act or Section 512 of the Code" or some similar provision.(13)Examination of the accused with any written statement put in by him.(14)The charge sheet.(15)List of documents admitted in evidence for the defence.(16)Documents admitted in evidence for the defence.(17)(a)Deposition of witnesses for the defence examined at the trial,(b)Evidence taken on commission and depositions or statements admitted in evidence for the defence under Section 32 (1) or 33 of the Indian Evidence Act or Section 512 of the Code or some similar provision.(18)Petition of compromise, if given effect to by acquittal.(19)judgement, finding and sentence.(20)Bonds for keeping the peace under Section 106 or bonds under Section 562 of the Code or any similar bonds.The following papers shall be subsequently added to complete the record:-(21)Copy of the judgement or order of the Appellate or Revisional Court.(22)Proceedings under Section 250 of the Code.(23)Warrant returned after execution of sentence and all proceedings relating to the recovery of fines.(24)Copy of the order on a petitioner for mercy and the papers connected therewith.

446. File B shall contain a title page an all papers not included in File A.

(b)Summons Case

447. The Record of every summons case tried by a Magistrate shall consist of two files, to be marked File A and File B.

448. File A shall contain the following papers arranged in the following order:-

(1)to (4) as above in a warrant case.(5)An admission by the accused under Section 243 of the Code.(6)to (8) As above in a warrant case.(9)(a)Depositions of witnesses for the prosecution examined at the trial,(b)Evidence taken on commission and depositions or statements produced in evidence for the prosecution under Section 32 (1) or 33 of the Indian Evidence Act or Section 512 of the Code or some similar provision.(10)Examination of the accused with any written statement put in by him.(11)List of documents admitted in evidence for the defence.(12)Documents admitted in evidence for the defence.(13)(a)Depositions of witnesses for the defence examined at the trial.(b)Evidence taken on commission and depositions or statements produced in evidence for the defence under Section 32 (1) or 33 of the Indian Evidence Act or Section 512 of the Code or some similar provision.(14)Petition of compromise, if given effect to by acquittal.(15)judgement, finding and sentence,(16)Bonds for keeping the peace or bonds under Section 562 of the Code or similar bonds.The following papers shall subsequently be added to complete the record:-(17)Copy of judgement or order of the appellate or revisional court.(18)Proceedings under Section 250 of the Code.(19)Warrant returned after execution of sentence and all proceedings relating to the recovery of fines.(20)Copy of the order on a petition for mercy and the papers connected therewith.

449. File B shall contain a title page and all papers not included in File A.

(c)Summary Trials

450. The record of every case tried by a Magistrate by summary procedure shall consist of two files, to be marked File A and File B.

451. File A shall contain title page, order sheet, the record in the prescribed form of the matters mentioned in Section 263 or 264 of the Code, the judgement, bonds for keeping the peace or bonds executed under Section 562 of the Code, and a petition of compromise, if given effect to by acquittal. The following papers shall subsequently be added to complete the record:-

(1)Copy of the judgement or order of the Appellate or Revisional Court.(2)Proceedings under Section 250 of the Code.(3)Warrant returned after execution of sentence and all proceedings relating to the recovery of fines.(4)Copy of the order on a petition for mercy and the papers connected therewith.File B shall contain a title page and all papers not included in File A.(d)Complaints dismissed under Section 203 of the Code.

452. In the case of complaints dismissed under Section 203 of the Code no title page or table of contents is required. The papers of such cases shall be formed into monthly bundles, and each such bundle shall constitute one record, to which shall be attached a list in Form No. 105 on Schedule V.

(e)Enquiry Preliminary to Commitment

453. The record or every enquiry preliminary to commitment made by a Magistrate shall consist of two files, to be marked File A and File B.

454. File A shall contain the following papers arranged in the following order:-

(1)to (14) As in a warrant case.(15)The order of commitment or the order of discharge.(16)List of witnesses put in by the accused under Section 211 of the Code.(17)Any further proceedings the Magistrate may take in the case.The following papers shall subsequently be added to complete the record:-(18)Copy of the judgement of the Court of Session.(19)Copy of the judgement or order of the Appellate or Revisional Court.(20)Copy of the order on a petition for mercy and the papers connected therewith.Note. - It is not necessary to replace by certified true copies such papers as are transferred from the magistrate's commitment record to the record of the Court of Session, but a note must be made in the commitment record showing what papers have been transferred to the sessions record and giving the number and year of the sessions trial. This must be done in the Court of Session.

455. File B shall contain a title page and all papers not included in File A.

(f)Miscellaneous Enquiries

456. The rules relating to the records of summons cases shall apply to the records of enquiries under Section 107 of the Code, and to such other judicial proceedings as under the Code, are governed by the procedure applicable to summons cases; and the rules relating to the records of warrant cases shall apply to the records of judicial proceedings in other cases, with such modification in detail as the circumstances may require.

C.-Records of Appellate and Revisional Courts

457. The records of an Appellate or Revisional Court shall as far as possible be arranged in the same way as those of a Trial Court except that there shall be one File only which shall contain all the papers of the case.

D.-Exhibits in all Cases(a)Documents

458. A document put on the record shall be marked with the following endorsement :-

Case No.....Exhibit No.....Proved by.....Date on which proved.....and the endorsement shall be signed by the presiding officer.The documents admitted on behalf of the prosecution shall be numbered in the order in which they are put on the record, thus-Exhibit P-l, Exhibit P-2. The documents admitted for the defence shall be numbered in a similar manner, thus-Exhibit D-1, Exhibit D-2, etc."In a sessions case, however, the Sessions Judge shall, as far as possible use the same exhibit number for each document as the committing magistrate".[No. 8, dated 5-12-51].

459. List of documents put on the record for the prosecution and defence shall be prepared by the reader in the form below (Form No. 195 on Schedule V) and shall be signed by the presiding officer. Documents shall be entered on the list in the order in which they are marked.

List of documents admitted in evidence for the prosecution/defence

Distinguishing mark and number	Description of document	By whom filed	Date of admission	Remarks
(1)	(2)	(3)	(4)	(5)

460. Whenever a document is withdrawn from the record, whether before or after judgement, a note shall be made in the column of remarks, stating also whether a copy has or has not been substituted.

461. Individual documents are not to be shown in the table of contents. The lists which are attached to them will alone be shown in this table, and will bear serial and sheet numbers.

462. When File A contains parties' documents the reader shall write "Returnable Documents" in red ink on the title page before sending the records to the record room.

463. Documents tendered in evidence but not put on the record do not form part of the record. They shall whenever possible be returned forthwith to the person by whom they were tendered or to his pleader. Rejected documents which cannot be retuned earlier shall be returned by post or otherwise as the

Court may order, after the conclusion of the trial but before the record is deposited in the record room.

464. Strong covers shall be used for protecting the documents put on the record on behalf of each party. The best form of cover is a sheet of cartridge paper 19" by 13 ½" bent double and guarding the documents on both sides.

465. When any map or plan is filed in a record it should be placed in a separate envelope so as to be easily removable for inspection. The envelope, and not the map or plan, should be attached to the record.

466. The Court shall make special provision for the safe custody during trial of any documents alleged to be urged and may make special provisions of the safe custody during trial of any document which by reason of antiquarian or other value it considers unsuitable for retention on the record. Documents known or suspected to be forged shall be kept in a sealed envelope bearing an endorsement describing its contents. The envelope shall be kept in the custody of the nazir (or naib-nazir) and on no account kept with the record. The Court shall make an entry in the order sheet whenever it sends the envelope to the nazir, and shall be responsible for its safe transit to and from his custody.

(b)Articles in Evidence

467. When any article other than a document that can be filed with the record is produced it shall be marked by having attached to it a slip bearing a capital letter.

468. A list of the articles produced in evidence shall be prepared by the reader in Form No. 194 on Schedule V and shall be signed by the presiding officer. Articles shall be entered in the list in the order in which they are marked.

469. In a sessions case the Sessions Judge may either transfer the committing Magistrate's list to his own file and use it as his own list with amendments or additions or have a fresh list made out. In the latter case he shall, as far as possible, use the same letter for each article as the committing Magistrate.

470. Whenever an article entered in the list is disposed of, a note of the manner of disposal shall be made in the list.

E.-General Rules

471. Papers shall, as for as possible, be attached to the file to which they belong as the trial proceeds. The filing of papers in their proper files must in all cases be completed before the record is deposited in the record room.

472. Where an accused absconds and no separate miscellaneous proceeding under Section 512 of the Code is registered, the reader shall note "Absconding accused" on the title page in red ink.

473. The sheets in all files shall be numbered consecutively.

Note. - In this connection, Please see Rule 461.

474. The table of contents to be used for the records of Criminal Courts is printed on the reverse side of the title page. Column 1 of the table shall contain the serial number of the various papers in the file, and column 2 shall contain against each such serial number the number of the sheets comprising it. The entries in columns 1 to 4 shall be made by the reader as the case proceeds, and the entry in column 5 by the record-keeper after the record has been deposited in the record room. In the table of contents for B files only the total number of sheets in the file need be shown.

475. If any paper is transferred from one file to another the transfer shall be noted in the remarks column of the table of contents of the old and the new files. A new sheet number and if necessary a new serial number shall be given in the table of contents of the new file.

Chapter 19

The Transmission of Records and Other Papers to the Record Room for Custody(The rules in this chapter have been made under Section 124 of the Government of India Act)

476. With the exception of proceedings before the Court of Session, the records of which will be kept in the criminal section of the District and Sessions Judge's record room, records of all criminal proceedings shall be

kept in the record room of the District Magistrate.

Note. - Proceedings referred to the Court of Session under the Central Provinces Borstal Act (C.P. IX of 1928) or under Section 123 (2) of the Code or any similar provision of law shall for the purpose of this rule be regarded as proceedings in the referring Court.I.-The District Magistrate's Record RoomA.-Records

477. Proceedings are divided into three classes, original cases, miscellaneous judicial proceedings, and miscellaneous non-judicial proceedings. A list of miscellaneous judicial proceedings is given in Chapter 24, Rule 575, of Part IV. Proceedings of prosecution for offences against accused persons which are not classified in that list are original cases. Miscellaneous non-judicial cases are dealt with in Rule 402 (1) below.

478.

(1)The records of all cases registered in the register of original cases shall be sent by the reader of the Court through the statistical writer to the record-keeper as soon as possible after disposal.(2)Records of cases ending in a conviction under Section 34 (b) of the Police Act or under Section 118 (1) (a) (i) of the Governments Act (II of 1924) or under Section 510 of the Indian Penal Code shall be sent by the statistical writer to the District Excise Officer before passing them on to the record-keeper.

479. The records of enquiries preliminary to commitment and proceedings specified in the note to Rule 476 shall be sent by the reader of the Sessions Court through the District Magistrate to the record-keeper after the conclusion of the sessions trial.

480. The records of all proceeding registered as miscellaneous judicial proceedings and the records of appeals and revision shall be sent to the record-keeper as soon as possible after disposal.

481. The monthly bundles of cases dismissed under Section 203 of the Code shall be sent with a list (in Form No. 21 on Schedule V) through the statistical writer to the record-keeper at the close of each month.

482.

(1)All proceedings relating to the exercise of the functions of magistrates which are not original cases or miscellaneous judicial proceedings or proceedings in appeal or revision or proceedings

relating to such proceedings are classified as miscellaneous non-judicial proceedings. The papers of such proceedings shall be made into two monthly bundles as directed below and sent by the reader with lists (in Form No. 22 on Schedule V) to the record keeper at the close of each month.(2)In one bundle shall be placed all police papers of a preliminary or informatory nature on which the Magistrate has passed orders (e.g., under Sections 62, 157, 173 and 174 of the Code and orders on applications under Section 344) 'also all applications for licenses under the Arms Act, Petroleum Act and Poisons Act and the list accompanying this bundle shall be marked A'.(No. 8 dated 5-12-51)(3)In the other bundle shall be placed the records of other miscellaneous non-judicial proceedings [e.g., under Section 13 of the Indian Lunacy Act, or Section 18 of the Vaccination Act, or Section 77 (1) of the Central Provinces Municipalities Act, or Section 514 of the Code or proceedings under Sections 107 and 145 of the Code, dismissed in a preliminary enquiry or on a police report, or proceedings for the recovery of fines or for disposal of property]. The list of this bundle shall be marked B.Note. - District Magistrate should refer, for the orders of the High Court cases where there is doubt as to the inclusion of papers as miscellaneous non-judicial cases.

483. Documents known or suspected to be forged, and documents which are to be kept in special custody shall be sent by the reader to the record-keeper in a separate sealed envelope, for which the record-keeper shall give a receipt. The documents shall be kept in a special box under lock and key and a reference made in the record of the case to which they relate showing where they are kept.

484. All papers which are to be included in the record of an original case or a miscellaneous judicial proceeding or a miscellaneous non-judicial proceeding which has already been deposited in the record room shall be sent to the record-keeper as occasion arises with a list (in Form No. 22 on Schedule V) giving particulars of the case to which they relate.

485. The District Magistrate shall give directions to ensure the safety of records in transit from one officer to another, and in particular he shall give directions for the issue of receipt for records so that responsibility for the loss of a record can be determined.

486. The principle underlying the arrangement of records in the record room is that, as far as possible, records shall be stored in the order of disposal without distinction of courts or classes of cases. The position of each record in the record room is traced by the number allotted to it in the record room register of criminal cases maintained by the record-keeper (in Form No. 83 on Schedule V) and for this purpose it is necessary to arrange, as far as possible, that registration of records in the register shall be made in the

order of disposal.

487. Records as received from day to day shall be arranged in separate files according to the day of disposal.

488. On the 3rd of the month or other convenient date appointed by the District Magistrate each Court shall certify to the statistical writer whether all records disposed of in the previous month have been dispatched for deposit in the record room. The serial number and date of the disposal of any record which has not been so sent shall be intimated to the statistical writer.

489. On the 7th of the month or other convenient date appointed by the District Magistrate the statistical writer shall send the record-keeper a statement based on the certificate referred to in Rule 488 indicating which records disposed of in the previous month have been forwarded to the record room and which have been kept back. On receipt of this certificate the record-keeper shall commence the registration of the records in the register of criminal cases.

490. Records shall be entered as far as possible in the order of their disposal. Each record or monthly bundle entered in the register shall be given a number, which number shall be prominently inscribed by the record-keeper on the record. Appellate and revisional records and records of proceedings under Sections 250, 386 and 388 of the Code shall not be separately registered or given a separate number. Such record shall be filed with the record of the original case, and a not of the date and details of the final order in such proceedings shall be made in the appropriate column of the register against the entry for the original case.

491. Records received in the record room too late for registration in the order of their disposal shall be entered at the end of the entries made in that month. Space should be reserved for belated entries in accordance with the information received under the provisions of Rule 488.

492. The entry in the register shall be made in accordance with the facts of the case. Thus, where proceedings under Section 145 of the Code are instituted by the police, the State shall be shown as the complainant and the contesting parties as the opposite party. Where the proceedings are

instituted on the complaint of one of the contesting parties he shall be shown as the complainant and the other contestant as the opposite party.

493. If a record is sent out of the record room before it has been registered in the register of criminal cases a memorandum (in Form No. 149 on Schedule II) shall be kept in its place. Entries in the record room register should be made from the material in the memorandum and the serial number in the register allotted to the memorandum shall be reproduced on the record when it is returned.

494. After registration groups of records, in chronological order of their registration, shall be done up in bundles with cloth wrappers. Each bundle shall be allotted a number and the wrapper shall bear a label showing the serial number of the bundle, the number allotted in the register to the records contained in the bundle and the month and year in which the cases were disposed of, thus:-

Bundle No. 25February and March 1939

76.

-125

495. To secure uniformity in the making up of bundles of records and to economise space on the racks in record rooms the following instructions shall be followed:-

(i)The vertical space between one shelf and the next above is generally 18 inches of which 15 ½ inches are available for storing records, 2 ½ inches being taken up by the edge plate. Fourteen inches of this space should be filled, 1 ½ inches being left for the removal and replacing of bundles.(ii)Bundles shall be not less than six nor more than seven inches deep and shall be arranged in pairs one above the other, the depth of each pair not exceeding 14 inches. The above figures may be modified at the direction of the District Magistrate to suit racks in which the space between shelves is greater or less than 15 ½ inches.(iii)The cloth used for a bundle should be large enough to cover the records within it completely convenient dimensions for a 7" bundle are 3 ½' X 3 ½'. To one corner of the cloth should be attached a piece of stout cotton twine of suitable length which, if passed tightly round the bundle breadthwise, will both keep it compact and exclude dust. Such twine can be had in most headquarter stations and its purchase in the local market is permissible under Stationery Rule 4. The practice of closing a bundle by tying the four corners is prohibited.

496. When from time to time records or portions of records are eliminated from the bundles in pursuance of the rules for the destruction of records contained in the next Chapter, records shall be re-grouped and made into fresh bundles in order to maintain the depth laid down in the preceding rule. Each fresh bundle shall be given a fresh label.

497. When a record is removed from the record room for any purpose, the record-keeper shall keep a memorandum (in Form No. 149 on Schedule II) in its place and shall enter in a register called, the record room register of dispatch of records (in Form No. 78 on Schedule II) a note of the number of the case, the names of the parties, the name of the Court or officer requiring its removal, and the date of the removal. On the return of the record he shall note in the same register the date of the return and remove the memorandum, restoring the record to its proper place.

Note. - The signature of the receiving Court or officer, or, if that is not possible, of the clerk responsible for dispatching the record, shall be taken in the appropriate column of the register at the time of removal.

498. In the first week of each month the record-keeper shall prepare and submit to the District Magistrate a list of records which, on the last day of the preceding month, had already been out of the record room, whether for the purpose of appeal or otherwise, for more than two months. If the list is blank a report to that effect shall be submitted for the District Magistrate's information. The list shall be destroyed after the expiry of three years from the date of the last entry, provided all the records entered therein have been received back in the record room.

499. Whenever any record or part of a record is found missing a report shall be made at once by the record-keeper to the District Magistrate who shall cause an enquiry to be held without delay. Losses of an entire file and cases in which theft is suspected shall be reported through the Sessions Judge to the Registrar of the High Court as soon as the enquiry has been completed. The report shall contain a full statement of the measures taken to prevent losses of a like kind from recurring and also state whether the papers have been recovered or not and how the person, if any, held responsible has been dealt with.

A missing record is one which is not where it should have been had the proper procedure been followed and is not known to be in some proper custody elsewhere.Note. - Clerks are strictly forbidden to take records home.

500. The record-keeper shall maintain a plan and an index showing the number and position of the racks, and the arrangement and number of the bundles in the record room and revise the index every year in the first week of July.

501. The duties of the record-keeper with regard to the cancellation of Court-fee stamps are laid down in Rule 556 of Chapter 22, Part III.

B.-Registers

502. All registers deposited in the record room shall be entered by the record-keeper in a register (in Form No. 79 on Schedule II) entitled register of registers deposited in the record room.

503. The registers shall consist of three parts, viz. -

I. List of registered to be preserved for fifty years.II. List of registers to be preserved for period other than fifty years.III. List of registers deposited under Rule 510 (iii) (I).

504. Part II shall be divided into sections as follows:-

Section A-Registers to be preserved for 14 years.Section B-Registers to be preserved for 6 years.Section C-Registers to be preserved for 3 years.Section D-Registers to be preserved for 1 year.

505. Part I and each Section of Part II shall be divided into groups by kinds of register only, the number of groups in each part or section being identical with that of the kinds of register included therein. A separate series of numbers shall be given to the registers in each group. Enough space shall be allotted to each group to last for a number of years. Part II may be split up into several volumes if convenient, provided that the sections in any given volume shall be complete in themselves.

506. Part I and each volume of Part II shall be paged throughout with an index at the beginning. The entries in the index to Part I shall be made in the order of the groups into which the part is divided, and those in the index to each volume of Part II shall be made in the order of sections as well as groups in

the volume.

507. When registers are received in the record room the entries relating to them shall be made below the existing entries in the respective groups in Part I or Part II to which they belong.

508. When a new volume is opened care should be taken to ensure that the space allotted to each group in Part I or Part II is such that the pages belonging to all groups will be completely filled in approximately the same length of time.

[509. * * *].

510. List of registers, etc., to be deposited in the criminal record room of District Magistrates. The Schedule and form number are given in brackets:-

(i)Registers of Courts of original jurisdiction-(1)Registers of original cases (V-71).(2)Register of original miscellaneous proceedings (V-72).(3)Fine register A (V-73).(4)Fine register B (V-74).(5)Register of process-fees and diet-money (V-75).(6)Register of released lunatics (V-76).(ii)Registers of Courts of appeals and revision-(1)Register of appeals (V-77).(2)Register of revisions (V-78).(3)Register of process-fees and diet-money (V-75).(iii)Record room and nazarat registers-(1)Register of registers deposited in the record-room (11-79).(2)Record room register of criminal cases (V-83).(3)Record room registers of dispatch of records (11-78).(4)Monthly list of records out of the record room for more than 2 months (V-24).(5)Inspection Book [II (a)-131].(6)Register of property made over to the Nazir in criminal cases (V-80).(7)Register of property made over to the Nazir other-wise than in criminal cases (XX-A-56/RECP).(8)Nazir's register of diet-money (V-82).(iv)Statistical ledgers-(1)Offence ledger (V-31).(2)Trial and duration ledger (V-32).(3)Witness ledger (V-34).(4)Punishment ledger (V-33).(v)General-(1)Papers relating to unclaimed property.(2)Cause lists.(3)List of jurors and assessors.(4)Intimations of fines realized (V-98).(5)Indents, offence ledger, etc.II.-The District and Session Judge's Record Room(Criminal Section)A. Records

511. Records of proceedings before the Court of Sessions whether decided by the Sessions Judge or an Additional Sessions Judge shall be forwarded by the reader of the Sessions Judge to the record-keeper as soon as possible after disposal.

512. All papers which are to be included in the record of proceedings already deposited in the record room shall be sent by the reader of the Judge concerned to the record-keeper as occasion arises.

513. Papers of miscellaneous proceedings of the nature of miscellaneous non-judicial proceedings shall be made into monthly bundles and sent with a list (in Form No. 22 on Schedule V) by the reader of the Judge concerned to the record-keeper at the close of each month.

514. On the 3rd of each month or other convenient date appointed by the Sessions Judge the reader of the Sessions Judge shall certify to the record-keeper whether all cases disposed of in the previous month have been dispatched for deposit in the record room.

515. The record-keeper shall deal with the records on the principles laid down in the rules in Part I of this Chapter.

B. Registers

516. The record-keeper shall deal with registers deposited in the record room on the principles laid down in the rules in Part I of this Chapter.

517. List of registers, etc., to be deposited in the record room (criminal section) of District and Sessions Judges. The Schedule and form numbers are given in brackets :-

(i)Court registers-(1)Sessions trials register (V-79)(2)Register of original miscellaneous proceedings (V-72).(3)Register of appeals (V-77)(4)Register of revisions (V-78).(5)Fine register A (V-73).(6)Fine register B (V-74).(7)Register of process-fees and diet-money (V-75).(ii)Record room registers-(1)Registers of records deposited in the record room (11-79).(2)Record room register of criminal cases (V-83).(iii)General-(1)Intimations of fines realized (V-98).(2)List of jurors and assessors.(3)Cause lists, etc.

Chapter 20

Destruction of Records[The rules in this Chapter have been made under Section 3 of the Destruction of Records Act (V of 1917)]

518. Except as provided in the rules next following the papers in A files shall be destroyed on the expiry of the period given below and the papers in file B at the end of six months. The period shall be calculated from the date of the final order in the case, whether the order be that of the Original Court or of a Court acting in appeal or revision or upon reference. In enquiries preliminary to commitment ending in commitment the final order in the trial as defined

above shall be regarded as the final order in the enquiry.

(a)Sessions trials in which the final order is one of conviction-14 years.(b)Cases tried by a Magistrate in which the final order imposes or maintains a substantive sentence of imprisonment for more than 2 years-7 years.(c)Sessions cases in which the final order is one of acquittal, cases under Chapter VIII of the Code in which the final order is an order to give security, and all cases under Chapter XII of the Code-3 years.(d)Cases tried by a magistrate in which the final order is of discharge or acquittal or in which a complaint is dismissed under Section 204 (3) of the Code-1 year.(e)Record of appeals or revisions deposited in the record room (criminal section) of the District and Sessions Judge-2 years.(f)Enquiries preliminary to commitment and all other cases or proceedings not otherwise provided for in this list for which a separate record prepared-2 years.Note. - Records of appeals and revisions other than those referred to in clause (e) shall be destroyed along with the record of the original case.

519. The A files shall not be destroyed before the expiry of the sentence passed in the case or the death of the person sentenced to imprisonment, whichever is earlier.

520. The A file of a case in which an order is made for the detention of a person under the Indian Lunacy Act or the Indian Labels Act or for the making over of a lunatic to the custody of a friend or relation under the Indian Lunacy Act shall not be destroyed before the termination of that detention or custody by the death, release or recovery of the lunatic or leper.

521. The A file of a case in which an injunction has been issued under the Child Marriage Restraints Act shall not be destroyed till the child in respect of whom the injunction has been used has become a major. If there is no finding on the age of the child the record shall be destroyed after 14 years in the case of an injunction relating to a female and after 18 years in the case of an injunction relating to a male child.

522.

(1)In a case ending in conviction for an offence punishable under Chapter XII or XVII of the Indian Penal Code with imprisonment for a term of three years or more, the title page, charge-sheet, judgement, finding and sentence of the Trial Court and the judgement or order of the Appellate or Revisional Court shall be preserved till the convict is known to be dead.(2)The A file of a case in which any of the accused has not been apprehended shall be preserved till that person is known to be dead or till there is no longer any intention of proceeding against him.(3)The A file of a case in which an order for maintenance has been made under Section 488 of the Code shall be preserved till the person maintained is known to be dead or till it is known that the liability has ceased and no

arrears are recoverable.

523. The records of cases referred to in Rules 520 and 522 shall, at the end of 20 years from the date of the final order, be examined by the District Magistrate who may order their destruction or fix a further period after which they are to be re-examined.

524. Monthly bundles of complaints dismissed and of miscellaneous non-judicial cases (list A) shall be destroyed at the end of one year from the date of the last order in the bundle. Miscellaneous non-judicial cases (list B) shall be destroyed at the end of three years from the date of the last order in the bundle.

525. Sessions Judges and District Magistrate may order the preservation of any particular record beyond the prescribed period.

Note. - It is open to a Magistrate to refer to the District Magistrate any case in which he considers preservation beyond the prescribed time desirable; as where a Magistrate finds it necessary to discharge an accused in a case of forgery but considers the record or the document alleged to be forged requires extended preservation.

526. On the judgement or order in any case becoming final, notice (in Form No. 99 on Schedule V) shall be given to any person who produced a document filed with the record, or to his counsel, requiring him to claim the document forthwith and warning him that in default the document will be destroyed with the record. A copy of the notice shall be exhibited in the court-room of the Court which dealt with the case.

Note. - Care must be taken that no document which has been impounded shall be delivered out of the custody of the Court.

527. The ordinary monthly inspection of the record room registers and bundles for the purpose of eliminating A and B files shall be supplemented by a monthly reference to the registers for 12 months further back, and such records as were held over during the first examination and are then due for destruction shall be eliminated.

528. Registers, returns and other papers shall be destroyed at the expiry of the period shown against them in column (2) of the subjoined table, such period being calculated from the date shown in that column :

Provided that the record room register of criminal cases shall be destroyed only after all the records entered in it have been eliminated and that the register of original cases and of appeals containing entries of cases disposed of before the record room register of criminal cases in the revised form was introduced shall be preserved for 50 years.

Name of register, return of paper	***Period preservation***
Register of registers deposited in the record room.	Till the registers entered in it have been destroyed.
Record room register of criminal cases.	50 years from the date of the last entry.
Register of property made over to the nazir in criminal cases. Register of property made over to the nazir otherwise then incriminal cases.	14 years from the date of the last entry.
Fine Registers A and B Register of process-fees and diet-money Nazir's register ofdiet-money	6 years from the date of the last entry.
Papers showing receipt of money by the Courts, the nazir, orparties, e.g., vouchers, acknowledgments, etc.	6 years from the end of the year to which they relate.
Session trial registerRegister of original casesRegisterof appealsRegister of revisions Register of original miscellaneous Proceedings Register of released lunatics Inspection book Record room register of dispatch of records	3 years from the date of the last entry.
Monthly list of records out of the record room of more thantwo months.	
Papers relating to unclaimed property	3 years from the final order in the case.
Judicial Diary	2 years from the date of the last entry.
All other papers, e.g., cause lists, lists of jurors andassessors, offence ledger, etc., indents, etc.	1 years from the end of the year to which they relate.

529. A note of every paper, register or record taken out for destruction shall, at the time of removal, be made in the appropriate record room register and shall be initialled by the record keeper. If in any case destruction is not effected the note shall be cancelled under the record-keeper's initials. At the end of each calendar month the officer in charge of the record room shall see

what papers have been taken out and pass order for their disposal.

530. Destruction, which shall ordinarily be by burning, shall be effected monthly under the supervision of the officer in charge of the record room. At stations where there is a district or central jail., the superintendent of which has certified that he will arrange for the prompt removal of waste paper, the District Magistrate may direct that all destruction shall be effected by tearing into small pieces. Before giving such a direction the District Magistrate shall satisfy himself that a proper receptacle for temporary storage of waste paper is available and shall take all other precautions necessary to minimise the risk of damage by fire to records which are to be retained.

531. The instructions in Rules 526 to 530 above shall be followed with the necessary changes in dealing with records in the record room (criminal section) of the District and Sessions Judge.

Chapter 21

Inspection of Criminal Records by the Public(The rules in this Chapter have been made under Section 554 of the Code)

532. Subject to the rules hereinafter contained a legal practitioner entitled to practise in a Court may inspect the records of that Court and any party to a case or his recognized agent may inspect the record of that case whether pending or disposed of. Any other person desiring to inspect the record of a case, whether pending or decided, shall be required to state the purpose for which inspection is sought.

533. A book called the inspection book (in Form No. 131 on Schedule II-a) shall be kept by each Court and also by the record-keeper, and every person seeking inspection shall describe therein the record of which inspection is desired and note such other particulars as are necessary to show his title to inspect.

534. The records of all cases not deposited in the record room shall be open to inspection by order of the Presiding Judge or Magistrate, or during his absence, by order of the senior Judge or the senior magistrate at the station. The records deposited in the record room shall be open to inspection by

order of the ministerial officer in charge of the office.

535. The inspection of records shall be made between such hours, in such place, and in the presence of such official as the Presiding Judge or Magistrate may order, provided that where the Magistrate is subordinate to the District Magistrate his order shall be subject to the District Magistrate's control.

536. Except as provided in Rule 540, an inspection fee of 12 annas an hour or fraction of an hour shall be charged for every record inspected.

537. Records shall not be removed from the custody of the Courts to which they pertain or from the record-room in which they are kept except-

(1)by order of superior judicial authority;(2)on the requisition of the Government, the Commissioner of the divisions, the Inspector-General of Police, the Magistrate of the District, or a Court, civil or criminal having occasion to refer to a record in the course of a trial;(3)on the requisition of the head copyist for the preparation of the copies of pending records.Facilities should accordingly be given by every Court for inspection in its own office of any record to which a public officer not entitled to call for records may wish to refer. When a public officer not entitled to call for records requires for official purposes a copy of any portion of a record kept in an office in the same station, the copy may be made in that office by any trustworthy person whom he may depute for the purpose. When the record is not in an office in the same station, the copy shall be made by the office in which it is kept and shall be sent to the office requiring it.Note. - The copy so made cannot, as it stands be used for judicial purposes until it is certified; but a copy so made can be sent to be certified by the officer in charge of the records from which it was made if it is one that would have been supplied free of charge had it been applied for under the provisions of Part V, Chapter 26, Rule 641.

538. Books and registers kept under the order of the High Court are open to inspection by the public. The fees shall be 6 annas an hour or fraction of an hour occupied in the inspection, irrespective of the nature or number of the books or registers inspected. Any person seeking inspection shall enter in the inspection book his name and occupation and particulars of the book or register of which inspection is sought.

539. Inspection fees shall be paid in court-stamps. The record- keeper or in a Court the official placed in charge of the book by the Presiding Judge or Magistrate, shall affix the stamps, in the column provided in the inspection book, and cancel them in the manner required by Section 30 of the Court-fees Act (VII of 1870).

The Judge or Magistrate or the ministerial officer by whose orders the inspection is allowed shall see that the stamps are duly affixed and cancelled. The fees shall be prepaid and shall in no case be refunded.

540. No inspection fee shall be charged for the inspection of records, books and registers by Government law officers, or other persons duly authorized in this behalf, for Government purposes, for the inspection of the record of a pending case a party thereto or by his pleader or recognized agent or his pleader's recognized clerk, or for the inspection of a record by any one when the inspection is made at the request of the Court. The record of a pending case includes the record of a decided case called for in connection with a pending case. The inspection fee may be remitted by the Sessions Judge or the District Magistrate in the case of press correspondents who seek inspection of judgements or final orders with a view to publication in a newspaper. When inspection fees are remitted an entry to that effect shall be made in the column provided for affixing the Court-fee labels in the inspection book and the reason for remission shall be noted in the remarks column.

Note. - The Public Prosecutor's clerk is deemed to be duly authorised to inspect the record of a case in which the Public Prosecutor appear for Government. With this exception the clerks of legal practitioners are not exempted by the above rule.

541. The use of pen and ink during inspection is prohibited. Pencil and paper may be used for making note or copies from the record, but no marks shall be made on any record or paper inspected. Any person infringing this rule may be deprived, by order of the Presiding Judge or Magistrate, of the right of inspection for such period as the Judge or Magistrate may direct. Such an order when passed by a Magistrate subordinate to the District Magistrate shall be subject to the latter's approval.

542. It shall be the duty of the official supervising the inspection of a record to see that no alterations are made in it or papers abstracted, and that it is returned in its original condition when the inspection is over. He shall permit none but the applicant himself to inspect the record or to take notes or copies therefrom. The inspection shall ordinarily be completed and the record returned with the office hours of the day on which the record was taken out for examination.

543. If the applicant fails to make inspection within one week from the date on which inspection was sanctioned the order shall lapse and no further inspection shall be allowed without a fresh application.

544. When the record of a criminal case is given for inspection, the police case-diary and the translation thereof, if any, shall invariably be removed from the file. Parties and pleaders shall not be allowed access to these documents.

Part III

Chapter 22

Rules and Instructions Under the Court-Fees ActA. Court-fees Payable on Complaints

545.

(1)Under Article 1 (b) of Schedule II of the Court-Fees Act 1870 (IX of 1870), a fee of [two rupees] is leviable on petition or application containing a complaint or charge of any offences other than an offence for which police officers may under the Code of Criminal Procedure, 1898, arrest without warrant when presented to a Criminal Court.(2)Under Section 18 of the Court-fees Act a fee of eight annas is to be levied, unless the Court thinks fit to remit the payment, when a person is examined on a complaint and-(a)a previous petition with Court-fee has not already been presented, and(b)the offence complained of is a non-cognizablc one, or(c)the offence is wrongful restraint or wrongful confinement.(3)No fee is leviable under Article 1 (b) of Schedule II of the Court-fees Act on a complaint of any cognizable offence. No fee is leviable under Section 18 of the Court-fees Act in respect of a complaint of any cognizable offence other than wrongful restriaint or wrongful confinement.B. Process-feesRules under Section 20 (ii) of the Court-fees Act

546. The following rules have been made under Section 20 (ii) of the Court-fees Act-

(1)The fees hereinafter mentioned shall be chargeable for serving and executing process issued by Criminal Courts in the case of offences other than offences for which police officers may arrest without a warrant-(1)For the issue of a summons to an accused person or witness, or for the issue of a notice to the opposite party in an appeal or revision, in respect of each person - Re. 0-12-0.(2)For the issue of a warrant of arrest in respect of each person - Rs. 2-0-0.(3)In respect of proclamation for an absconding person under Section 87 of the Code of Criminal Procedure, 1898 - Rs. 2-0-0.(4)For warrant of attachment, in respect of each person - Rs. 1-8-0.(5)In cases where an application is made by a complainant for the recovery of fees ordered to be repaid under Section 31 of the Court-fees Act, 1870, or of fees ordered to be paid under Section 546-A of the Code of

Criminal Procedure, or of compensation granted under Section 545 of the Code of Criminal Procedure, 1898 or by an accused person for the recovery of compensation awarded to him under Section 250 of the Code of Criminal Procedure, 1898;For the issue of a warrant for the levy of fees, fines or compensation - Re. 1-0-0.(6)Notice injunction or any other process not otherwise provided for - Rs. 1-8-0.(2)No fees shall be chargeable for any process issued upon the complaint or application of any public officer as defined in Section 2 of the Code of Civil Procedure, 1908, when acting as such public officer, or of any railway servant as defined in Section 3 of the Railways Act, 1890 when acting as such railway servant.This exemption shall not, however, apply to cases instituted on complaint by a police officer authorized under the Central Provinces and Berar Municipalities Act, 1922 (II of 1922), or rules or bye-laws made thereunder.(3)No fee shall be chargeable for any process to compel the appearance of a witness recalled for cross-examination under the provisions of Section 256 of the Code of Criminal Procedure.(4)The presiding officer of the Court may remit in whole or in part any fee chargeable under sub-rule (1) of these rules whenever he is satisfied that the person applying for the issue of the process is unable to pay such fee.

547. Process-fee must be paid in court-fee stamps and not in cash. The stamps shall be affixed to an application or memorandum, as is appropriate filed in Court. The application or memorandum should include the description of the Court, the number of the case, the section and the Act under which the offence is punishable, the value of the Court-fee stamps affixed, details of the processes to be issued and full particulars and addresses of the persons on whom the processes are to be served. If an application is filed it must in addition to the requisite stamps for the process-fees bear such stamps as are necessary for its own validity. No process for the issue of which payment of a fee is required shall be drawn up until the fee has been paid.

Note. - Courts appear to find difficulty in dealing with the filing of applications and the Court-fees payable on them. The general rule is that an application or petition to a Criminal Court, unless otherwise provided, requires a Court fee stamp under Article 1 Schedule II of the Court fees Act. For certain purposes the Code of Criminal Procedure requires an application to the Court precedent to action being taken. For other purposes the presiding officer may require an application to be filed. On other cases an application is neither necessary nor compellable and the Court is required to proceed of its own month. It is the duty of the presiding officer to see that applications are filed where necessary, i.e. when the Code requires an application and that all applications which require Court-fee stamps are properly stamped. The principle may be explained by reference to the two following examples-(1)Section 244 (2) of the Code provides that a Magistrate trying a summons case may on the application of the complainant or accused issue summons to a witness. For this purpose therefore it is necessary to require an application. Such an application would require to be stamped under Article 1 of Schedule II of the Court-fee Act unless it were an application of the type referred to in clause (xiv) of Section 19 of the Court-fees Act.(2)Section 252 (2) of the Code provides that in

trying a warrant case the Magistrate shall ascertain the names of persons likely to be acquainted with the facts of the case and shall summons such as he deems necessary. In such a case therefore the Magistrate cannot compel the filing of an application praying for the summoning of witnesses. If, however, the complainant elects to file an application for this purposes the Magistrate must see that it is properly stamped.

548. No fee can be charged for the issue of process in a congnizabie case whether instituted on complaint or not. The question whether fees are chargeable in any particular case should be determined by the Magistrate with reference to the section of the Indian Penal Code or other law relating to the offence in respect of which he directs process to issue, whatever the section or law may be that is quoted in the complaint.

549. A table in English and in the language of the Court showing the fees chargeable for the issue of processes and stating that process-fees are to be paid in Court-fee stamps and not in cash shall be exhibited in a conspicuous part of each Court-room.

Remissions of Court-fees made by the provincial Government under Section 35 of the Court-fees Act

550. So far as Criminal Courts are concerned, the following remissions are made by the Provincial Government in Court-fees chargeable under the First and Second Schedules of Court-fees Act, 1870:-

(1)If the amount of the fee chargeable in any case involves a fraction of an anna the fraction shall be remitted, except where otherwise expressly provided for.* * *(5)The fees chargeable on security bonds for the keeping of the peace by or good behaviour of, persons other than the executants.* * *(7)The fees chargeable under Articles 6,7 and 9 of the First Schedule on copies furnished by..... Criminal Courts..... for the private use of persons applying for them:Provided that nothing in this clause shall apply to copies when filed exhibited or recorded in any Court of Justice or received by any public officer.(8)The lees chargeable, under..... paragraph 6 clause (b) of Article 1 of the Second Schedule on application for orders for the payment of deposits in cases in which the deposits does not exceed Rs. 25 in amount:Provided that the application is made within three months of the date on which the deposit first became payable to the party making the application.* * *(13)The fees chargeable on the following documents, namely:-(a)copy of a charge framed under Section 210 of the Code of Criminal Procedure, 1898 (V of 1898), or of a translation thereof, when the copy is given to an accused person,(b)copy of the evidence of supplementary witness after commitment when the copy is given under Section 219 of the said Code to an accused person,(c)copy or translation of a judgement in a case other than a summons case, copy of the heads of the Judge's charge to the jury and copy of the transcript of the charge, when the copy or translation is given under Section 371 of the Code to an accused person,(d)copy or translation of the judgement in a summons case when the accused person to whom the copy or translation is given under Section 371 of the said Code is in

jail,(e)copy of an order of maintenance, when the copy is given under Section 490 of the said Code to the person in whose favour the order is made, or to his guardian, if any, or to the person to whom the allowance is to be paid,(f)copy furnished to any person affected by a judgement or order passed by a Criminal Court of the Judge's charge to the jury of any order, deposition or other part of the record, when the copy is not a copy which may be granted under any of the preceding sub-clauses without the payment of a fee, but is a copy which, on its being applied for under Section 548 of the said Code, the Judge or Magistrate, for some special reason to be recorded by him on the copy, thinks fit to furnish without such payment,(g)copies of all documents furnished under the orders of any Court or Magistrate to the Advocate-General, Public Prosecutor, Assistant Public Prosecutor, a private legal practitioner or any other officer or specially empowered in that behalf for the purpose of conducting any trial or investigation on behalf of the Crown before any Criminal Court.(h)copies of all documents which the Advocate-General, Public Prosecutor, Assistant Public Prosecutor, a private legal practitioner or any other officer or person is required to take in connection with any such trial or investigation for the use of any Court or Magistrate, or may consider necessary for the purpose of advising the Crown in connection with any criminal proceedings,(i)copies of judgements or depositions required by officers of the police department in the course of their duties.(14)The fee chargeable on an application presented by any person for the return of a document filed by him in any Court or public office.* * *(16)The fee chargeable on an application for the repayment of a fine or of any portion of a fine the refund of which has been ordered by competent authority.(17)The fees chargeable on applications for copies of documents detailed in item 13 supra.* * *(27)The fees chargeable on copies of documents furnished by a District Magistrate, a Sessions Judge or the Registrar of the High Court of Judicature at Nagpur to a counsel engaged by the Provincial Government to appear in defence of a pauper accused and on copies of statements referred to in Section 162 of the Criminal Procedure Code, given to a pauper accused charged with an offence punishable with death.* * *(30)The fees chargeable on petitions for appeal or revisions presented in person or sent by post by any servant of the Crown.....in accordance with(1)the Civil Services (Classification, Control and Appeal) Rules,(2)the rules issued under the General Administration Department Notification No. 44-2751-VI of 1933, dated the 10th January, 1934,(3)the rules contained in paragraph 4 of General Book Circular 1-13.* * *(36)The fees chargeable under Article 9 of the first Schedule to the Court-fees Act, 1870, on copies of documents referred to therein filed with any petition or appeal or revision made by any servant of the Crown in the manner mentioned in item 30 above.* * *(38)The fees chargeable on bail-bonds given in pursuance of an order made by a Court or Magistrate under any section of the Code of Criminal Procedure, 1898 (V of 1898).(39)The fees chargeable under Article (6) of Schedule II of the Court fees Act, 1870 (VII of 1870), on supratnamas in criminal proceedings.(40)The fees chargeable under (b) of Article I to Schedule II of the Court-fees Act, 1870 (VII of 1870), on all applications or petitions to Criminal Courts on behalf of the state.

551. The attention of the Courts is invited to the provisions of sub-sections (1) and (2) of Section 371 of the Code of Criminal Procedure. The words "free of cost," in that section grant an exemption only from copying charges, not from stamp duty. Costs payable on copies of judgements are of three kinds:-

(a)Court-fees payable on the application for copies,(b)Court-fees payable when the copies are filed, exhibited or recorded in any Court of Justice (Section 6 of the Court-fees Act),(c)the charges for making the copies. These charges are not Court-fees although for the sake of convenience they are levied by affixing equivalent Court-fee stamps to the copies (Part V, Chapter 26, Rule 641).In order to give effect to the provisions of Section 371, items (a) and (b) have been remitted [vide items 13 (c) and (d) and 17 in Rule 550] on copies of judgements delivered to an accused in cases other than summons cases, on copies of judgements delivered to an accused who is in jail in summons cases, and on copies of the heads of charge to the jury delivered to an accused, and item (c) has been remitted in similar cases [vide Part V, Chapter 26, Rule 641). It should be carefully noted that the remission of item (c) in Part V, Chapter 26, Rule 641 applies to copies of documents other than those laid down above, e.g., to final orders in cases under Sections 108 to 110 of the Code of Criminal Procedure, but no corresponding remission of items (a) and (b) has been made in connection with those documents and care should be taken that the correct fees are recovered.

552. Under Section 424 of the Code of Criminal Procedure the provisions of Sections 368 to 373 of the Code apply to the judgements of Appellate Courts other than the High Court. The observations in Rule 551 consequently apply to judgements of Appellate Courts and an accused in a summons case who is in jail is entitled to a copy of an appellate judgement free of cost whether he has received a copy of the judgement of the Trial Court or not.

553. Section 371 of the Code of Criminal Procedure envisages the grant of one copy to each accused and cannot be used for a demand for successive copies by the same person. In order to prevent such successive demands being met the head copyist should note on the order sheet of a case whenever a free copy is supplied under Section 371 of the Code and check whether such a note already exists when dealing with the grant of copies under that section.

Use of Adhesive and Impressed Stamps

554. The following instructions on the use adhesive and impressed stamps contained in the Central Provinces Stamp Manual, Part II, page 186, are reproduced for the information and guidance of presiding officers :

(1)A fees shall be denoted by a single stamp if a stamp of that value is printed; or if such a single stamp is not printed, by a stamp of the next lower value printed and one or more additional stamps, the selection of the latter conforming to the principle that a stamp of the next lower value printed shall be used in preference to stamps of smaller value.(2)If a stamp of a particular value which should be used under sub-rule (1) is not available at the nearest treasury or sub-treasury or from the nearest stamp-vendor authorized to sell stamps of that value, the required value may be made up by

the use of two or more stamps available at such treasury or sub-treasury or from such stamp vendor, a stamp of the next lower value available being used in preference to stamps of smaller value, In every such case, a certificate stating the value and number of the stamps required but not available shall be given by the treasury or sub-treasury officer or stamp-vendor, as the case may be.(3)Whenever a treasury officer or sub-treasury officer finds that the stock of stamps of a particular value is surplus he may issue such stamps in preference to stamps of a higher value in order to adjust the surplus stock. Stamps issued under this rule shall be used as laid down in sub-rule (2). In every such case the treasury officer, sub-treasury officer or stamp-vendor, as the case may be, shall give a certificate stating the value and number of the stamps required but not issued in order to adjust the surplus stock.(4)Any adhesive stamps used with impressed stamps shall be affixed to the impressed stamp of the highest value employed in denoting the fee.

555. The following further instructions on the use of stamps are reproduced from Part II, page 187, Central Provinces Stamp Manual, for information and guidance:-

(1)With a view to facilitate the examination, under Section 6 of the Court-fees Act, of stamp fees paid on any document, any adhesive label or labels used in addition to an impressed stamp in order to make up the required value, should be affixed to the right hand upper corner of the first page of the document, immediately below the engraved portion of the stamp paper.(2)When two or more impressed stamps are used to make up the amount of the fee chargeable under the Court-fees Act, a portion of the subject matter shall ordinarily be written on each stamped sheet. Where this is impracticable or seriously inconvenient, the document shall be written on one or more sheets bearing impressed stamps of the highest value, and the remaining stamps shall be punched and cancelled by the Court and filed with the record, a certificate being recorded by the Court on the face of the first sheet of the document to the effect that the full Court-fees has been paid in stamps. The writing on each stamped sheet shall be attested by the signature of the persons executing the document.(3)Documents should be written on that side of the paper only which bears the stamp. When one or more impressed stamps used to denote a fee are found insufficient to admit of the entire document being written on the side of the paper which bears the stamp, so much plain paper may be joined thereto as may be necessary for the complete writing of the document and the writing on the impressed stamps and on the plain paper should be attested by the signature of the person or persons executing or signing the document.Note. - Officer should not refuse to receive documents which have not been prepared or stamped in the manner directed by the above rules. But they should impress upon parties and pleaders the necessity of observing the said rule if they wish to protect their own interests and avoid delay.Cancellation of Court-fee Stamps

556. The following instructions on the cancellation of court-fee stamps are adapted from the Central Provinces and Berar Stamp Manual:-

A.-Documents furnished by a public officer

1. Cancellation of Court-fee labels on copies, and other documents issued from public offices or Courts. - Every court-fee label attached to any copy or other document, denoting copying-fee as well as court-fees, if any, under Article 6, 7 or 9 of Schedule II to the Court-fees Act, 1870 issued from any Court or office, shall, before issue of such copies or other documents, etc., be cancelled by such officer as the Court or the head of the office may appoint for this purpose by-

(a)punching out a "C" hole in the centre of the left half of the label, and(b)putting the date of issue and signature across the label, so as to extend to the paper on either side of it.

2. Cancellation of Court-fee labels used for payment of stamp duty under the Indian Stamp Act, 1899. - Every court-fee label affixed under Rule 17 (e) of the Indian Stamp Rules, 1925, or Rule 18 (e) of the Berar Stamp Rules, 1922, on copies of maps or plans, printed copies and copies of, or extracts from, registers given on printed forms, certified to be true copies (e.g., true copies or extracts of baptismal, marriage and burial certificates, etc.) shall be cancelled by the officer issuing them by writing his name and date across the label.

B.-Documents received by a public officer

3. Cancellation of impressed court-fee-stamps. - On the presentation in any Court or office of a document written on an impressed court-fee stamps, it shall be the duty of the officer, referred to in Rule 12 below, after satisfying himself that the stamp is genuine and that the document is fully stamped, to punch out every figure head on the impressed portion. The cancellation of the stamp is then complete.

Note. - (1) The words "presentation of the document" do not include the presentation of a stamp on which refund or renewal is claimed.(2)It should be carefully noted that ascertainment of the sufficiency of the stamp should precede cancellation. Cancellation indicates that the cancelling officer is satisfied that the document is stamped sufficiently and is also "properly" stamped in other respects.

4. Cancellation of Court-fee labels. - On the presentation in any court or officer of a complaint, petition, or other document bearing a Court-fee label or labels it shall be the duty of the office, referred to in Rule 12 below, after satisfying himself that the label or labels are genuine and have not been

previously used, and that the document is fully stamped, to-

(a)punch out the figure-head of each label, leaving the amount designated untouched;(b)cancel each label by a rectangular metal date-stamp bearing the following inscription:-(1)name of the Court or office;(2)name of the place;(3)date, month and year; and(4)the word "Cancelled";Violet ink shall be used with this stamp(c)note on the right-hand top corner of the document, in ink, the value of the labels, which it bears, and initial such note.C.-Checks on the observance of the rules in regard to cancellation

5. Cancellation by record-keeper. - It shall be the duty of the record-keeper of the Court or office to-

(a)examine every document which comes into his custody in order to ascertain first whether all stamps and labels have been cancelled as required by the above rules, and secondly, whether the value of the label or labels, if any, which it bears corresponds with their values as noted in the receiving Court or office, and(b)cancel each label by a circular date-stamp bearing date, month and year and the name of the Court or office concerned.Black ink shall be used with this stamp

6. It shall be the duty of the record-keeper of the Court or office to report to the officer to whom he may be immediately subordinate, every case in which he finds-

(1)that the stamp has not been cancelled in the manner prescribed above, or(2)that the value of the labels on any document does not correspond with their value as noted in the receiving Court or office.

7. It shall be the duty of the officer receiving a report under Rule 6 to submit the case for the orders of the District Judge or the Deputy Commissioner through the officer in charge of the record room or other head of the office.

8. In every District Court it shall be the duty of the clerk of Court once a month to satisfy himself, by inspection of the records lodged in the record room during the previous month, that the orders in Rules 1 to 5 above are being carried out.

9. In every district office it shall be the duty of the Deputy Commissioner, or an Assistant Commissioner appointed by him for the purpose, to make a general inspection of the record room, not less than once in every six months, and satisfy himself that the orders contained in the above rules are being carried out.

10. An inspection book shall be kept in the record room of every district office and in the office of the District and Sessions Judge in the prescribed form (No. XXI-13-Stamp-English) and a note shall be made therein of all inspections made under Rules 8 and 9.

When the inspection is made by the clerk of Court or an Assistant Commissioner, the book shall be sent to the District Judge or the Deputy Commissioner, as the case may be, for information and orders.

11. The Presiding Judge of a Court, other than the District Court, where a record room is maintained, and the head of every office, other than a district office, shall arrange for a periodical inspection of the records of his Court or office as nearly as may be in the manner prescribed by Rules 8 and 9.

D.-Miscellaneous

12. Cancelling officer. - The duty of cancelling impressed Court-fee stamps and Court-fee labels in the manner prescribed in Rules 3 and 4 shall be entrusted to the reader of the Court or to any officer appointed thereto by the head of the office, excepting that the duty shall not be assigned to any person who is charged with the sale of court-fee stamps.

13. Destruction of punched out pieces. - The figure-heads of pieces of stamps or labels removed by punching shall be destroyed by burning or some other effective means.

(In force with effect from the 1st April, 1941).General

557. The High Court desires to remind all presiding officers of their duty to protect the public revenue by seeing that the provisions of the Court-fees Act and the Stamp Act are properly enforced. The duty falls under two main heads, (a) of seeing that documents filed before them are properly stamped, (b) of seeing that the machinery set up to check the proper use of stamps is worked thoroughly and conscientiously by the subordinate staff. For this purpose all presiding officers must make themselves fully conversant with the law and the instructions on the point. They should see that every document presented is properly stamped and should whenever opportunity offers check the proper stamping of documents in records put up to them.

Chapter 23

Expenses of Witnesses(Rules 558 to 567 inclusive in this Chapter have been made under Section 544 of the Code of Criminal Procedure)

558. Subject to the instructions hereinafter contained the Criminal Courts are authorized to pay the expenses-

(a)of complainants and witnesses, whether for the prosecution or the defence-(i)in cases prosecuted, instituted or carried on by, or under the orders of, or with the sanction of Government or any Judge, Magistrate or other public officer acting as such.(ii)in cases in which the presiding officer considers such payments to be directly in furtherance of the public interest, and(iii)in all non-bailable cases;(b)of witness summoned or recalled by the presiding officer of his own motion under Section 540 of the Code of Criminal Procedure (hereinafter called "the Code") :Provided that no payment shall be made to any witness on the part of Government where the expenses for the attendance of such witness have been deposited in Court under Section 216,244 or 257 of the Code.Explanation. - Cases instituted by police officers or other persons authorized by a municipal committee under the Central Provinces and Berar Municipalities Act, 1922 (II of 1922), or rules or bylaws made thereunder are not cases falling under clause (a) (i) of this rule.

559.

(1)No payment shall be made by a Criminal Court on the part of Government to any servant of the Government of the Central Provinces and Berar, or to any official of Hyderabad State, or of the Governments of Madras, Bengal, the Punjab, the United Provinces, and Orissa, who is summoned to give evidence, in cases referred to in Rule 558, of facts which have come to his knowledge in his official capacity:Provided that the Court may pay such a witness his actual travelling expenses if the Court is situate within five miles of his headquarters and he is not in receipt of permanent travelling allowance.(2)The Court shall grant a certificate of attendance in Form No. 17 on Schedule No. 1-Accounts to such witness specifying the dates on which he attended and the amount, if any, paid to him by the Court.

560.

(1)Expenses paid under Rule 558 may include (a) a subsistence allowance and (b) a travelling allowance.(2)The subsistence allowance will vary according to the status of the witness and for this purpose witnesses are divided into three classes as follows:-Class A. - Persons of the labouring, Class.Class B. - Artisans, cultivators, shopkeepers and others of similar status.Class C. - Persons of superior rank.The District Magistrate of each district shall fix for his district maximum rates of subsistence allowance payable for each class which rates shall not exceed the following:-Class A- In Nagpur, Wardha, Amraoti, Akola, Buldana, Yeotmal and Khamgaon towns-Twelve annas a day;Class B- Re. 1 and annas eight a day;Class C- Rs. 5 a day;and the Courts may allow subsistence allowance at such rate not exceeding the district maximum as is appropriate to the circumstances of

each witness.Note. - A servant of the Government of the Central Provinces and states summoned to give evidence, in cases referred to in Rule 558, of facts other than facts which have come to his knowledge in his official capacity shall not receive any allowance under this rule but is entitled to be paid travelling allowance as provided in the next succeeding sub-rule.(3)Travelling allowance may be granted, having regard to the distances to be traversed and the position and circumstances of the witness, at the rates specified below:-(a)For journeys by road, the actual expenses incurred up to a maximum of four annas a mile provided that travelling allowance shall not be paid to A class witnesses unless through age or physical infirmity they are unable to reach the Court on foot or unless they perform the journey by public motor vehicles.(b)For journeys by rail to A class witness 3rd class railway fare, to B class witness 2nd or intermediate class railway fare in the discretion of the Court, to C class witnesses 1st or 2nd class fare, or, where there are no 1st and 2nd classes, upper class fare, plus 3rd class fare for one servant in the discretion of the Court.

561. Patwaris in the Central Provinces summoned to give evidence of facts which have come to their knowledge in their official capacity in cases referred to in Rule 558 in Courts situate outside their circles shall, if not on duty, be paid expenses in accordance with Rule 560, and if on duty shall be entitled only to travelling allowance at the rates following, notwithstanding the operation of Rule 560 and shall not be entitled to any subsistence allowance:-

(a)For journey by rail-single fare of the lowest class.(b)For Journey by road of not less than 10 miles-Two annas per mile from the headquarters of their circle to the destination, provided that, when they travel by motor vehicle plying for hire and the fare is less than the mileage admissible, they shall be paid an amount equal to the fare actually paid.

562. Patwaris in Berar summoned to attend as witnesses in cases referred to in Rule 558 in Courts situate outside their circles shall, whether on duty or not, be paid expenses in accordance with Rule 560.

563. A special allowance may in the discretion of the Court be given to witnesses other than Government servants following a profession.

564. When the Examiner of Questioned Documents or his Assistant appointed by the Central Government is summoned in criminal cases mentioned in Rule 558 no subsistence or travelling allowance shall be paid to him but a sum of Rs. 185 shall be deposited in the treasury under the head "XLVI-Miscellaneous-Central-Other fees, fines and forfeitures-Fees for the services of the Government Examiner of Questioned Documents" and in addition the following shall be paid by book adjustment and credited to the

head "XLVI- Miscellaneous- Central- Other fees, fines and forfeitures-Recoveries on account of travelling allowance of the Government Examiner of Questioned Documents and his establishment":-

(a)Rs. 5 for the officer and 3 annas for his peon for each day of the period the officer is likely to be away from his headquarters.(b)1 highest class railway fare for the officer and one lowest class railway fare for his peon for so much of the journey as is by railway, and eight annas a mile and one anna a mile respectively, for so much as is by road.The above charges shall be debited to the head "27-D-General Establishment-Countersigned Contingencies-Diet-money and travelling allowance of witnesses".

565.

(1)When the Government Examiner of Questioned Documents appointed by the Provincial Government is summoned in a criminal case referred to in Rule 558, he should be paid fees as follows:-(i)Rs. 15 for the first group of five specimens of hand-writing examined in respect of each person.(ii)Rs. 2 for every specimen of handwriting of the same person examined in excess of the first group of five.(iii)Rs. 8 for a photograph.(iv)Rs. 16 for the first day of giving evidence and Rs. 10 for each subsequent day.(v)Rs. 10 for appearance on a day fixed for his evidence where his evidence is not taken.(vi)Rs. 10 a day for subsequent appearance in the same case in another Court.(vii)Rs. 16 for appearance in an appeal.(2)The fees specified in sub-rule (1) are exclusive of travelling allowance. When the Examiner is required to leave his headquarters in order to give evidence or for any other purpose, he shall be entitled to travelling allowance as for a Government servant drawing pay of Rs. 350 per mensem and above but less than Rs. 500.00 per mensem for journeys on tour and to daily allowance at Rs. 3 per day.

566. The Court ordering payment under these rules shall decide-

(a)the class to which the complainant or witness belongs and the rate at which he is to be paid, subject to the highest district rates referred to in sub-rule (2) of Rule 560;(b)the number of days to be allowed for the journey to and from the Court.

567. In cases in which parties are required to deposit the reasonable expenses of Government servant before summoning them the following instruction shall be followed:-

In cases in which the Government servant gives evidence of facts which have come to his knowledge in his official capacity the whole deposit and in cases in which the Government servant gives evidence of facts which have come to his knowledge otherwise than in his official capacity, the balance after paying to the Government servant travelling allowance at the rates specified in rule 560 shall be credited to Government under the head "XXI-Administration of Justice-Miscellaneous Fees and Fines.

568. When a private person desires to summon an officer of the Security Printing Press, Nasik Road, the Court concerned should ascertain from the officer or from the Security Printing Press Officer his pay and travelling allowance and should direct the person to deposit the fees necessary to cover the pay and allowance.

569. The following reciprocal arrangement has been concluded between the Government of the Central Provinces and Berar and the Governments of Madras, Bengal, the Punjab, the United Provinces and Orissa in regard to the payment of amount on account of pay and travelling allowances of an officer of commercial department whose services have been requisitioned as a witness or of any other officer whose services are requisitioned as a technical or expert witness, before criminal courts, namely:-

The pay of the officer concerned for the period of his absence from headquarters and the travelling allowance and other expenses due to him will be borne by the Government which requisitions his services, the travelling allowance being regulated by the travelling allowance rules of the Government to which he belongs. The charge in the first instance will be borne by the Government to which he belongs and then passed on after audit to the requisitioning Government.

Part IV

Chapter 24

Court Registers(The rules in this Chapter have been made under Section 224 of the Government of India Act)

570. The following registers shall be maintained in the form and by the Courts shown against each in columns (3) and (4) of the subjoined table.

The registers should be kept from year to year until and unless required by any rule or standing order to be closed at the end of each calender year:-Table

S. No.	Name of Register	No. of form on Schedule	By what Courts to be maintained
(1)	(2)	(3)	(4)
1.	Register of Original Cases	V-71	All Courts exercising original jurisdiction except Courts ofSession.
2.	Register of Sessions Trials	V-79	Courts of Session.
3.		V-72	All Courts.

	Register of Miscellaneous Proceedings.		
4.	Fine registers A and B	V-73 & 74	All Courts.
5.	Register of Released Lunatics	V-76	All Courts.
6.	Register of Appeal	V-77	All Courts exercising appellate powers.
7.	Register of Revisions	V-78	All Courts exercising revisional powers.
8.	Book of Receipts for Money	XV-99	All Courts.
9.	Cause List	V-201	All Courts.
10.	Inspection Book	II(a)-131	All Courts.
11.	Register of Process-fees and Diet-money.	V-75	All Courts.
12.	Judicial Diary	II-33	Courts of Judge or Magistrate.

Note 1. - It should be noted that Additional Session Judges do not constitute separate Courts but are Additional Judges to the Court of Session of the sessions division. Consequently Additional Sessions Judges need not maintain separate sets of registers, one set only being maintained for all the Judges of the Court.Note 2. - Additional District Magistrates shall maintain separate sets of registers.Note 3. - Courts of Session and Courts of appeal or revision should open registers as occasions arise. It is not necessary to maintain blank registers.Note 4. - Judges of Courts of Session should use the Book of Receipts for Money, Cause List and Inspection Book maintained by them in their capacity as Civil Judges and need not maintain such registers separately on the criminal side.Note 5. - Each register should bear a label showing (a) the name of the Court to which it belongs, (b) the name of the register, (c) the dates of the first and last entries, as for instance "From 3rd November, 1940 to 17th August, 1941."I.-Register of Original Cases

571. In this register shall be entered all cases of prosecution for offences instituted against accused persons which are not hereinafter specified as coming under the head "Miscellaneous". Cases shall be numbered and entered in this register as soon as instituted. In State cases the entry in column 3 will be "State". In order to facilitate the preparation of the annual returns a note in red ink shall be made in the column of remarks against all offences relating to coin.

If separate proceedings under Section 512 of the Criminal Procedure Code, hereinafter called "the Code", are taken against a sole accused or against one or more of several accused, a note of the fact and of the number of the case in the Register of Miscellaneous Proceedings shall be made in the column of remarks.

572. The following instructions indicate what is meant by the term "instituted":-

(a)Cognizable cases investigated by the police of their own motion will not be regarded as "instituted" until the accused person is produced in custody or surrenders to his bail on the day fixed for his attendance and for the attendance of the witnesses in the case (Sections 170 and 173 of the Code.)(b)Similarly the case of a person forwarded to a Magistrate for enquiry or trail in respect of offences committed before other Courts (Sections 476 and 482 of the Code) and the case of a person arrested and sent before a Magistrate by an authorized Revenue Officer will not be regarded as "instituted" until the accused is produced before the Magistrate or until the Magistrate issues process to compel his appearance, whichever may be the earlier.(c)Cases of which a Magistrate takes cognizance upon a complaint under Section 190(1) (a) or without a complaint under Section 190(1) (c) of the Code will not be regarded as "instituted" until the Magistrate orders the issue of a process against the accused person.(d)When a case is received from another Court, e.g., under Section 192, 346, 347, 348, 349, 526, 528 or 562 of the Code, or under Section 9 or 31 of the Reformatory Schools Act, 1897 or under Section 5(2) of the Central Provinces Borstal Act, 1928 or under Section 5 of the Central Provinces Probation of Offenders Act, 1936, the original date of institution shall be entered in column 2 of the register and a note shall be made in the column of remarks showing the date of receipt and the Court from which it is received.

573. When after a case has been decided an order is passed in appeal or revision directing further enquiry or retrial or commitment to sessions, such further enquiry, trial or commitment shall, for all purposes, including duration, be regarded as a separate case, whether it takes place in the Court which originally tried the case or in some other Court. A note shall, however, be made in the remarks column against the new entries giving the number under which the case was originally registered and the number and date of the order of the Appellate or Revisional Court.

II.-Register of Cases tried by the Court of Session

574. Cases shall be considered as instituted in the Court of session on the date on which they are committed for trial. The register shall be preserved for three years from the date of the last entry therein.

III.-Register of Miscellaneous Proceedings

575. The following cases shall be entered in this register, and without the order of the High Court no addition shall be made thereto:-

Cases under the Code(1)Proceedings against witnesses under Part C of Chapter VI (proclamation and attachment).(1-A) Proceedings under Section 100 (search for persons wrongfully confined).(2)Proceedings under Parts B and C or Chapter VIII (security for keeping the peace and for good behavior).(3)Proceedings under Chapter X (public nuisance).(4)Urgent cases of nuisance or apprehended danger (Chapter XI).(5)Proceedings under Chapter XII (disputes as to immovable

property).(6)Frivolous or vexatious accusations summarily dealt with under Section 250.(7)Proceedings under Section 332 (non-attendance of jurors or assessors).(8)Proceedings under Chapter XXVIII (fine recovery proceedings).(9)Proceedings under Chapter XXXV (prosecution for offences mentioned in Section 195).(10)Proceedings under Section 480 (Contempt of Court).Note. - The specific offence charged against the accused shall also be entered in the register of original cases.(11)Proceedings under Section 485 (proceedings against persons refusing to answer or produce a document).(12)Proceedings under Chapter XXXVI (maintenance of wives and children).(13)Proceedings under Section 512 (proceedings for recording evidence when an accused person has absconded or the offender is unknown).(14)Proceedings under Chapter XLII (forfeiture of bail or recognizance).(15)Proceedings for disposal of property under Sections 518, 520 and 523.Note. - An application under Section 552 shall be registered as a Miscellaneous criminal case only when no appeal or revision against the main order of conviction is preferred.(16)Proceedings under Section 552 (restoration of abducted female).(17)Proceedings under Section 563 (against convicted offenders released under Section 562).(18)Applications under Section 528.Cases under other Acts(19)Proceedings under Sections 18 and 22 of the Vaccination Act, 1880.(20)Proceedings under Sections 113 and 138 of the Railways Act, 1890.(21)Proceedings under Sections 7, 10, 14 and 15 of the Lunacy Act, 1912.(22)Proceedings under Section 143 of the Central Provinces Municipalities Act, 1922.(23)Proceedings under Section 8 of the Lepers Act, 1898.(24)Proceedings under sub-section (1) of Section 6 and sub-sections (1) and (2) of Section 7 of the Central Provinces Borstal Act, 1928.(25)Proceedings under Sections 6, 7,19 and 20 of the Central Provinces Children Act, 1928.(26)Proceedings under Section 12 of the Child Marriage Restraints Act, 1929.A miscellaneous proceeding under Section 512 of the Criminal Procedure Code, shall be registered when-(a)no accused has been brought to trail, or(b)one or more of several accused have absconded and the evidence that there is no prospect of immediately arresting the absconders cannot be obtained without inconveniently delaying the trial of the accused present in Court.In other cases the proceedings under Section 512 of the Criminal Procedure Code shall form part of the original case.

576. The date of institution in miscellaneous proceedings is the date on which any proclamation is published, process issued or order made, or the non-applicant appears in Court or is called upon to show cause why an order should not be made against him.

The instructions in Rule 573 shall be applied as far as possible to the registers of miscellaneous proceedings.IV (I).-Fine Register A

577. Every fine and sum of money recoverable as a fine, e.g., fees ordered to be repaid under Section 546-A, compensation awarded under Section 250 of the Code, sums recoverable under sub-section (4) of Section 113 the Railways Act, 1890, shall be entered in this register under a separate serial number of each person from whom, it is recoverable. If it is not paid into Court at once, sufficient space shall be left after each entry to allow further entries to be made in columns 11 to 14 as successive attempts are made to

realize it. All fines imposed by Courts of appeal as such shall be entered in red ink. If a fine imposed by a Court of appeal is paid immediately, an intimation of payment should be sent by that Court to the Court of first instance to enable the latter Court to make the necessary entries in its registers.

578. A new Fine Register-A shall be opened at the beginning of each year. The first entries in each new register shall reproduce the entries of the old register in respect of sums which still remain to be realized or disbursed.

579. Items of undisbursed compensation shall be kept on the register so long as they remain in deposit. When they lapse to Government under the rules contained in the Financial Rules, Volume I, they shall be removed from the register, a note to that effect being made in the column of remarks.

580. It should be noted that in columns 3, 12, 20 and 23 of the register, compensation means compensation payable otherwise than out of fines. Rewards are made payable out of fines by (i) Section 16 of the Public Gambling Act, 1867 (III of 1867), and (ii) Section 13 (b) of the Opium Act, 1878 (I of 1878). In (i) the full amount of the fine when realized shall be shown in column 11, the amount of reward ordered to be paid out of it being shown in column 16. In (ii) the fine shall be credited in full on realization as the reward is charged against the Excise Department, as directed in Rule 223 of the Financial Rules, Volume I.

581. The particulars of recovery and credit shall be posted up daily from Fine Register B. Before signing any voucher for the refund of a fine or forfeited security or for payment of compensation the Magistrate shall verify from Pine Register-A that the amount is due to the person named in the voucher and that his acknowledgment has been taken in column 24 of the register, and initial it in token of his verification.

IV (2).-Fine Register B

582. All items received and credited into the treasury or paid to a railway administration are to be entered in this register each day. If a fine imposed by one Court is tendered to another Court, and accepted, it shall not be shown in the registers of the latter Court but the recovery of it shall be certified by

treasury receipt or otherwise to the Court which imposed the fine.

"Cash securities deposited under Section 513 of the Code should also be entered in this Register and credited into treasury under the head "Revenue Deposits".[High Court Notification No. 4152, dated the 8th June, 1955].

583. The fine register shall be scrutinized daily by the Presiding Officer who shall initial the entries of the day.

V.-Register of Released Lunatics

584. All persons released on security under sub-section (1) of Section 466 of the Code shall be entered in this register.

VI.-Register of Appeals

585. A separate serial number shall be given to each petition of appeal whether such appeal be made by one of several appellants or by all of them collectively.

586. The date on which a petition of appeal accompanied by a copy of the judgement or order appealed against is first received in any Appellate Court having jurisdiction shall be entered in column 2 of the register as the date of institution, and shall be entered unchanged as the date of institution in any Court to which the appeal may be transferred under Section 407 or Section 526 of the Code.

VII.-Register of Revisions

587. All cases called for under Section 435 of the Code by a Sessions Judge, District Magistrate, or Sub-Divisional Magistrate for the purpose of satisfying himself as to the correctness, legality or propriety of any finding, sentence or order, or as to the regularity of the proceedings so far as they affect the correctness, legality or propriety of such finding, sentence or order, shall be entered in this register, whether or not any action in the way of revision is taken.

588. No case which is examined merely in order to see how a subordinate magistrate is progressing in knowledge, or with a view to ascertaining the facts, or because the duration has been long, or for any purpose other than that of considering the correctness, legality or propriety of a finding, sentence or order, or of the procedure as affecting such correctness, legality or propriety, shall be entered in this register. If any record is deemed necessary the cases so examined may be entered in a separate note book.

589. When an application is made on behalf of the complainant, or a revision is undertaken in the interests of the complainant or of the prosecution, the name of the complainant or the words "State" (as in the case may be) shall be entered in column 3 and no entry shall be made in column 4. When an application is made or the revision is undertaken in the interest of the accused, column 3 will be blank, and in column 4 shall be entered the name of each accused person in whose interest the action is taken, a separate line being given to each person. In column 6 shall be entered, each in a separate line, the names of only so many of the accused in the original case as are liable to be affected by the order passed in revision. When, therefore, the revision is undertaken in the interests of the accused the entries in columns 4 and 6 will correspond.

VIII.-Book of Receipts for Money

590. A receipt shall be given for all sums of money received by the reader. The receipts are printed in duplicate and the office copy shall be made out simultaneously with the original by a carbon sheet. The original which shall bear the same serial number as the carbon copy shall be torn off at the perforated line and given to the payer as his receipt.

IX.-Inspection Book

591. The entries in the inspection book shall be made in accordance with the rules in Chapter 21, Part II. When complete the inspection book shall be deposited in the record room and preserved for a period of three years from the last entry.

X.-Register of Process Fee and Diet-Money

592. The reader shall enter in this register the amount of diet-money deposited on behalf of each witness to who process is to issue. The total amount shall be sent daily to the nazir along with the register, and the nazir shall sign the register in token of having received the money.

Chapter 25

Returns and Statements(The rules in this Chapter have been made under Section 224 of the Government of India Act).A.-Magisterial Returns

593. The following returns and statements shall be prepared by the reader of a Magistrate's court in the form shown against them:-

S. No.	Returns or statement	No. of form with the number of the Schedule onwhich it is borne
1.	Daily calendar	V-42
2.	Weekly Calendar	V-43
3.	Statistical sheet	V-41
4.	Witness memorandum	V-200
5.	List of complaints rejected	V-21
6.	Memorandum of pending cases	V-25
7.	Abstract of the register of miscellaneous proceedings	V-49
8.	Appeal and revision abstracts	V-52 and 53
9.	Abstract of fine accounts	V-54
10.	Statement of fines paid into and refunded from the treasury	V-61.

594. Calendars. - Calendars are to be submitted to the District Magistrate by each subordinate court. The daily calendar will be submitted for all cases tried regularly and in proceedings under Chapter VIII of the Code of Criminal Procedure. The weekly calendar will be submitted for cases tried summarily in which either-

(a)the accused had to appear on more than two hearings, no matter whether the cases ended in conviction or acquittal or discharge, or(b)there was a conviction resulting otherwise than in a fine not exceeding Rs. 5.If the Court is immediately subordinate to a Sub-Divisional Magistrate stationed at a place other than the headquarters of the district is shall be submitted through the Sub-Divisional Magistrate. District Magistrates shall forward their own calendars to the Sessions Judge. They shall also forward to the Sessions Judge calendars of Magistrates noting what action

has been taken on them. In cases submitted under Section 349 of the Code of Criminal Procedure, hereinafter called "the Code", to a Sub-Divisional Magistrate the latter shall enter his own proceedings on the calendar submitted by the first Court so that the whole course of the trial may be seen in one statement.

595. After scrutiny calendars shall be returned through the channels by which they were submitted to the Court which prepared them. The calendar for the year shall be preserved for one year and then destroyed.

596. Calendars help District Magistrates and Sessions Judges to maintain constant supervision over Subordinate Courts and to discover irregularities which require to be checked or reported under Section 438 of the Code. In addition to matters indicated in Part I of this volume as requiring scrutiny the following are matters to which scrutiny should especially be directed:-

(a)Duration - When the duration of a State case tried regularly exceeds 30 days or of a complaint case 45 days an explanation of the delay shall be entered in the daily calendar by the Magistrate. When in a case tried summarily an accused has had to appear more than twice an explanation shall be entered in the weekly calendar.(b)Treatment of habitual prisoners - When an accused is liable to enhanced punishment an explanation shall be recorded if such punishment is not awarded.(c)The proper use of Sections 545 and 546-A of the Code.(d)Sentence - The sentence imposed in summary cases as entered in the weekly calendar should be scrutinized with the same care as the sentence imposed in regular cases entered in the daily-calendar.

597. Statistical sheet. - (1) The particulars of all original cases, security proceedings under Chapter VIII and commitment enquiries under Chapter XVIII of the Code shall be entered in this sheet by the Court Moharrir as each case is disposed of. The term "disposed of' includes transfer to another province, commitment to a Court of Session or reference to a superior court for final orders on proceedings already held, e.g., under Section 123, 349 or 562 of the Code or under Section 9 or 31 of the Reformatory Schools Act, 1897, or under Section 5 or 6 of the Central Provinces Borstal Act, 1928, or under Section 5 of the Central Provinces Probation of Offenders Act, 1936 but does not include transfer to another court within the province or submission to a superior Court e.g., under Section 346 of the Code with a view to the trial being held de novo.

(2)A single sheet may include the statistics of several cases. When a case which has been referred to a superior Court for final orders on proceedings already held is disposed of, the entries in the sheet prepared by the reader of the Court receiving the reference shall be made in red ink.(3)When an

accused person is tried at one trial under Section 234 of the Code on charges of distinct offences, each supported by separate and independent evidence, the number of such offences shall be entered in column 4. But when an accused person is tried at one trial under Section 335 of the Code for several offences arising out of the same transaction or on alternative charges under Section 336, the figure I shall be entered in column 4 and only the principal offence of which the accused is convicted (or, in case of acquittal, the principal offences of with which he is charged) shall be entered in column 2. In doubtful cases the orders of the Magistrate should be taken as to which of the several offences should be deemed to be the principal offence. The columns showing persons brought for trial and persons disposed of are to be filled in on similar principles. An accused person is said to be brought to trial when he is produced or when he appears personally or by agent before the Court. The following examples are appended for guidance.(a)A is charged with and tried at one trial for three thefts committed within the space of twelve months. He is convicted on two charges and acquitted on the third charge. The sheet should show three cases brought to trial (column 4), three persons brought to trial (column 9), one person acquitted (column 11), and two persons convicted (column 12).(b)A is charged with and tried at one trial under Section 235 of the Code for the offences of rioting, voluntarily causing grievous hurt and assaulting a public servant endevouring in the discharge of his duty to suppress the riot, all the acts being so connected together as to form the same transaction. A is acquitted of the offence under Section 147 of the Indian Penal Code, but is convicted of offences under Sections 152 and 325 and is sentenced to a term of imprisonment for each offences. The sheet should show one case and one person brought to trial under Section 325 (columns 2, 4 and 9) and one person convicted (column 12), the acquittal under Section 147 and the conviction under Section 152 being left out of account.(c)A is charged with and convicted in the alternative of theft in a building or receiving stolen property. For statistical purposes only the former offence should be taken into account.(4)Where several persons are tried jointly at one trial under Section 325 of the Code, the principles given in sub-rule (3) above should be followed, and only the major offences shall be reported for the purposes of the statistical sheet. An example is given below:-Nine accused are tried jointly; two are discharged, seven are charged under Section 147/325 of the Penal Code: of these seven, six are convicted under Section 147 and Section 325 and given separate sentences under each section, and one is convicted under Section 323.The statistical sheet will show Section 325 and Section 323 as the law applicable (column 2) and against each section there will appear a line of entries. Against Section 325 the entries will be one case brought to trial (column 4) and one case disposed of (column 6); the number of persons brought to trial will be eight (column 9), two discharged (column 11) and six convicted (column 12). The number of cases will be one (column 20). The remarks column will refer to column 9 and say "Excludes one person convicted under Section 323, Indian Penal Code".Against Section 325 (column 2) there will be no entry in columns 4 and 6, and the only entries will be one person brought to trial (column 9), one person convicted (column 12), and in the remarks column a reference to column 9 saying "include the person mentioned above", i.e., in the remarks column of the line of entries against Section 325.(5)In column 3 shall be entered all those cases is which during the year a magistrate declared that the charge was false or that the facts alleged did not amount to an offence or that the offence never occurred. Cases in which action was taken under Section 250 of the Code and the complainant was ordered to pay compensation shall be included. When a complaint against a number of persons is found to be false against some and true against others it shall be regarded as a true case.(6)When an accused person, subject to military laws, is transferred from a Magistrate's Court before which he

was brought to trial to the military authorities for trial by court-martial, the transfer is to be considered as a transfer to another province and shown accordingly in column 15 of the sheet.(7)An accused person, in respect of whom an order is made dismissing the case or releasing the offender, either unconditionally or conditionally on his executing a bond, under Section 4 or Section 5 of the Central Provinces Probation of Offenders Act, 1936, shall, notwithstanding that the Court has not proceeded to conviction, be shown in column 12 of the sheet and a corresponding entry made in column 16. A note should be made in the remarks column in respect of the persons entered for statistical purposes as convicted but in fact dealt with under Section 4 (1) (i) of the Act and not convicted.(8)In column 16 shall be entered cases dealt with under Section 562 of the Code, Section 31 of the Reformatory Schools Act, 1897, Section 28 of the Central Provinces Children Act, 1928, Section 3 or 4 or 5 of the Central Provinces Probation of Offenders Act, 1936, Section 130 of the Railways Act, 1930, and any similar enactment which permits the release of an offender without the imposition of a substantive sentence of imprisonment, fine, whipping or detention.(9)In column 19 shall be noted the number of persons convicted of offence under Chapter XII or Chapter XVIII of the Indian Penal Code and liable to enhanced punishment under Section 75 of that Code on account of their previous convictions, whether or not such enhanced punishment was actually awarded.(10)Cases in which an accused person has been forwarded in custody or on bail to the magistrate, after authorized investigation by police officers, revenue officers or other Courts are designated State cases. Cases of which cognizance is taken under Section 190 (1) (a) or (c) of the Code or designated complaint cases.(11)Both in State cases and in complaint cases duration shall be calculated from the date of the apprehension of the accused or from the date of his appearance in Court, whichever is earlier. When a case which has not been disposed of within the meaning of sub-rule (1) is received by another Court, duration shall be calculated from the date of apprehension or appearance in the first Court. In cases having more accused persons than one, duration shall be calculated from the earliest date on which any accused appeared in court or was apprehended.(12)A note shall be made in the remarks column of that sheet-(a)of an accused being required to keep the peace under Section 106 of the Code;(b)of an accused being a male juvenile;(c)of an accused who is a male juvenile being sentenced to whipping;(d)of any complainant being ordered to pay compensation under Section 250 of the Code, the number of accused persons affected being stated;(e)of detail regarding the persons returned in column 15;(f)of previous convicts shown in column 19, who were ordered to notify their residence to the police after their release or who were sentenced to suffer solitary confinement;(g)of the fact that the entries relate to the retrial of, or further enquiry into a case once decided which has been ordered by an Appellate or Revisional Court, by writing the word retrial in red ink;(h)of an accused shown as convicted in column 12 in respect of whom the Court has not proceeded to conviction under Section 4 or Section 5 of the Central Provinces Probation of Offenders Act, 1936;(i)of the various enactments under which persons returned in column 16 have been dealt with.

598. The statistical sheet shall ordinarily accompany the daily dispatch of records to the statistical writer on their way to the record room. When for any reason a record cannot be sent at once to the record-keeper a note to that effect shall be made in the statistical sheet and the latter shall be sent to the statistical writer unaccompanied by the record.

599. Witness memorandum. - (1) When the first witness in a case appears the headings in the form shall be filled in and his attendance noted, particulars as to other witnesses shall be filled in regularly as they attend, receive diet-money, and are discharged from attendance.

(2)For the purposes of column 5 a witness shall be regarded as in attendance on every day on which he is actually present in Court even though the case is not called up for hearing on any such day.(3)A witness shall not be regarded as finally discharged from attendance if he is allowed to leave the Court, under orders to attend again in the same court in the same case. When any witness who has been discharged is resummoned for coss-examination under the provisions of Section 257 of the Code, the necessary additions shall be made in columns 3,4 and 8 of the memorandum.(4)Witnesses examined in preliminary enquiries under Sections 202 and 476 of the Code need not be entered in the memorandum.(5)When the hearing in the Court is concluded, columns 5 to 8 shall be totalled and the memorandum placed before the Presiding Officer, who after satisfying himself that all the entries have been correctly made shall sign it and have it filed with the record. When the case is committed for trial, or referred under Section 123 of the Code, to the Code of Session, the memorandum shall be sent direct to the statistical clerk, who shall file it with the record on its receipt from the Court of Session.

600. List of complaints rejected. - Entries in this list shall be made as soon as possible after each complaint is dismissed.

601. Memorandum of pending cases. - All cases pending at the end of the year shall be entered in this memorandum. If the case has not then been brought for trial, the entry in column 6 shall be nil. A note similar to that prescribed in Rule 597 (12) (g) shall be made against each line of entries relation to a case of retrial or further enquiry.

602. Abstract of the register of miscellaneous proceedings. - At the close of the year the contents of the register of miscellaneous proceedings so far as they relate to cases under the Code, shall be abstracted in the form used for Statement III referred to in Rule 607 by the reader of each court and sent to the statistical clerk. No statistics are required of cases under other laws. Cases referred under Section 123 of the Code should not be shown in column 4 as "pending" but in the remarks column a note shall be added, namely, "referred under Section 123 of the Code".

603. Appeal and revision abstracts. - (1) At the close of the year reader of each Court invested with appellate powers shall prepare an abstract of the contents of the appeal and revision registers in forms similar to Statements VI-A and VI-B. The figures for the several classes of Court from which appeals are heard shall be separately grouped and totaled as follows :-

(a)Special Magistrates appointed under Section 14 of the Code.(b)Stipendiary Magistrates sitting singly.(c)Honorary Magistrates sitting singly.(d)Benches of honorary Magistrates.(2)Only those persons who are entered in column 4 of the revision register shall be shown in columns 2 and 3 of the revision abstract. The number of complainants entered in column 3 of the register, along with the number of accused persons affected by their application, shall be noted in the remarks column of the abstract; those accused persons though not appearing in column 2 or 3, shall be shown in their proper places in columns 5 to 12 according to the result of the applications affecting them.(3)The number of convicted persons required to keep the peace under Section 106 (3) of the Code and the number of youthful offenders sent to a reformatory school or to a Borstal institution by Courts of appeal shall ne entered in the remarks column. No entry shall be made in column 14 of the abstracts when a sole appellant or sole applicant dies or escapes or his case is transferred to another province.

604. Abstract of fine accounts. - The reader of each Magistrate's Court shall at the end of each month prepare an abstract of the fine accounts of his court is the form of Statement VII. Fines imposed by a Court in the exercise of appellate jurisdiction shall not be shown in the abstract. Fines imposed in cases received on reference from an inferior court shall be shown separately in red ink. The amounts shall be given to the nearest rupee. The statistical clerk shall compile these abstracts and submit them to the District Magistrate who after scrutinizing them shall issue such instructions in the matter of recovery and credit of fines as may appear necessary.

605. Statement of fines credited into the treasury. - The moharrir shall at the end of each month prepare in the form bearing serial No. 61, on Schedule V-Criminal Judicial English, a statement of all fines credited into the treasury under the Major Head XXI. - Administration of Justice. The amounts of fines held in revenue deposits for subsequent payment to parties shall not be included in this statement. To facilitate the payment of grant-in aid to local bodies under the Central Provinces and Berar Local Bodies Act, 1939, the statement shall show in a group separate from the group in which the rest of the fines credited into the treasury are shown, all fines referred to in column (2) of the list printed at the end of Rule 365. The moharrir shall also prepare at the end of each month a statement of refunds of fines referred to in

column (2) of the aforementioned list.

606. The two statements shall be checked by the Magistrate with the figure in the Fine Register. The Magistrate shall then endorse on each statement a certificate signed by him the effect that the figures in the statement have been checked with the entries in the Fine Register and found to be correct. The statements shall then be forwarded to the District Magistrate.

607. The following statements shall be submitted annually by the District Magistrate through the Sessions Judge to the High Court in the forms and on the dates shown against them :-

Name of return	No. of form on Schedule	Date of dispatch by District Magistrate to Sessions Judge	by Sessions Judge to the High Court
I.-Tribunal statement	... V-47	15th February	16th March
II.-Offences statement	... V-48	...	...
III.-Statement of miscellaneous proceedings	... V-49	...	...
IV.-Trial and duration statement	... V-50	...	...
V.-Punishment statement	... V-51	...	...
VI.-A. Appeal statement	... V-52	...	...
VI.-B. Revision statement	... V-53	...	...
VII.-Fine account	... V-54	...	...
VIII.-Witness statement	... V-55	...	...

608. For the purpose of compiling the above statements the statistical clerk shall maintain the following ledgers:-

A. - Offence ledger (V-31).B. - Trial and duration ledger (V-32).C. - Punishment ledger (V-33).D. - Witness ledger (V-34).Instructions regarding the maintenance of these ledgers and the preparation of the statements are given below.

609. Only those cases for which statistical sheets are prepared under Rule 597 shall be included in the ledgers and the corresponding statements. The information given in the notes made in the statistical sheets shall be incorporated in the legders. In Ledger A separate pages shall be set apart for each side-head of crime as detailed in Statement II and in Ledgers B, C and D for each Court. The number of pages allotted should be sufficient to last for

the calendar year. When a Magistrate is appointed to a district to replace a Magistrate who is transferred, his work shall be shown in that portion of the ledgers allotted to his predecessors. the names of only those Magistrates who are holding office at the end of the year shall be entered in the statements. The work of a Magistrate who is transferred during the year shall be shown against the name of his successor.

610. Figures relating to proceedings in a superior Court in cases referred to it for higher punishment or for final orders shall be shown in Statements IV, V, VII and VIII against the Court receiving the reference in red ink in a separate line below the black ink figures relating to that Court.

611. Where further enquiry into a case, or retrial of or commitment for trial of a case which has once been decided, is ordered by an Appellate or Revisional Court, no entry regarding such further enquiry, retrial or commitment for trial shall be made in columns 5 to 8 of Ledger A or in columns 4 to 8 of Statement II. For all other purposes such further enquiry, retrial or commitment for trial shall be regarded as a fresh case.

612. Offence Ledger. - (1) The figures for column 6 of this ledger are obtained from the list of complaints rejected and for the other columns from the statistical sheets and the memoranda of pending cases. On receipt of a record the statistical clerk shall see that no fresh entry is made in column 5 of the ledger of any case which was pending at the end of the previous year and which was therefore entered in the returns for that year. Similarly, no entry shall be made in column 9, if the accused has already been shown as brought to trial.

(2)Column 9 shall include all cases brought to trial during the year, i.e., all cases in which the accused made his first appearance (personally or by agent) in the course of the year whether such cases are true or false and whether they were instituted during the year or were pending at the close of the previous year.(3)Where an order is made under Section 4 or 5 of the Central Provinces Probation of Offenders Act dismissing the case or releasing the offender, either conditionally on his executing a bond or unconditionally, the case, notwithstanding that the Court has not proceeded to conviction, shall be entered in column 12. A note shall be made in the remarks column in respect of persons entered for statistical convenience as convicted, but in fact dealt with under Section 4 (1) (i) of the Act.(4)Details of compensation ordered to be paid under Section 250 of the Code and details regarding the persons shown in column 14 of the ledger shall be noted in the remarks column.(5)A note shall be made in the remarks column of the number of cases and the number of persons

involved therein referred under Section 6 (1) of the Central Provinces Borstal Act.(6)Entries in the Offence Ledger for the case mentioned in Rule 597 (4) above should be made as follows: the side-head for Section 325 is No. 33: Section 325 of the Indian Penal Code will be entered in column 1, and against it will be shown one case reported during the year (column 5), one case found true (column 8) and one case brought to trial (column 9); two persons shall be shown as otherwise discharged (column 11) and six convicted (column 12), making a total of eight persons tried (column 15). In the remarks column there will be a reference to column 12 and the remarks "Excludes one person transferred to side-head 34."Below this line of entries will be written "Side-head 34" and below it the following line of entries : Section 323 of the Indian Penal Code (column 1), one person convicted (column 12) and one persons tried (column 15). The remarks column will contain the remarks, referring to column 12, "One person received from side-head 33".

613. Trial and duration ledger. - (1) The figures for this ledger are obtained from the statistical sheets and from the memoranda of pending cases.

(2)Cases in which a sole accused died, escaped or was transferred to another province, or was dealt with under Section 466 of the Code, shall be omitted from column 4 to 6,16 and 18.(3)Column 7 shall include all persons shown as pending at the end of the previous year after having been brought to trial during that year.(4)Where an order is made under Section 4 or 5 of the Central Provinces Probation of Offenders Act dismissing the case or releasing the offender, either conditionally on his executing a bond or unconditionally, the case notwithstanding that the Court has not proceeded to conviction, shall be returned in column 12. A note shall be made in the remarks column in respect of persons entered for statistical purposes as convicted, but in fact dealt with under Section 4 (1) (i) of the Act and not convicted.(5)Persons whose cases are referred to a superior Court for final orders shall be entered in column 13 and not in columns 10 and 12 under the court making the reference. Under the Court receiving the reference, they shall be shown in red ink as convicted or acquitted according to the orders passed by it, or as pending if orders have not been passed.(6)The cases, of persons transferred from one Court to another Court within the provinces shall be entered only under the Court by which they are decided or in which they are pending at the end of the year if not decided.(7)A note shall be made in the remarks column of an accused person being a male juvenile and of details regarding the person shown in column 14 of the ledger.(8)In the case given in rule 597(4) above the ledger will be filled up as follows: Nine persons will be shown as brought to trial (column 8) and two as otherwise discharged (column 11) making nine persons disposed of (column 15), and one State case (column 16).

614. Punishment ledger. - (1) The figures for columns 22 to 25 for this ledger are obtained from the statistical sheets and the figures for the other columns from the records. In column 22 shall be entered all persons entered in column 16 of the statistical sheet.

(2)Where an order is made under Section 4 or 5 of the Central Provinces Probation of Offenders Act dismissing the case or releasing the offender, either conditionally on his executing a bond or unconditionally, the case, notwithstanding that the Court has not proceeded to conviction shall be

returned in column 22. A note shall be made in the remarks column both of the ledger and also of the Punishment Statement in respect of the persons entered for statistical convenience as convicted but in fact dealt under Section 4 (1) (i) of the Act and not convicted.(3)Where two penalties are inflicted on the same accused, each penalty shall be entered, in the appropriate column. Thus, a sentence of four months' simple imprisonment and fine of Rs. 15 requires until entries in columns 6,7,13 and 18. A sentence of one year's rigorous imprisonment with solitary confinement and whipping shall be noted in columns 4, 9 and 19. If an accused person is rigorously imprisoned for one year in default of giving security for goo behavior under Section 110 of the Code unit entries shall be made in columns 10, 11 and 19. The only exception to the rule is that when sentence of imprisonment or transportation are ordered to run concurrently one sentence shall be shown. The total of columns 4, 5, 6 and 11 should correspond with the total of columns 17 to 21, and the total of columns 7 and 8 with the total of columns 12 to 16.(4)As regards persons whose cases have been referred for higher punishment for orders under Section 562 of the Code, or for confirmation of sentence, the punishment, if any, awarded by the superior Court shall be entered in red ink against such Court and not against the Court making the reference.(5)Only a forfeiture of property ordered as a substantive punishment under Section 126 or 127 of the Indian Penal Code shall be shown in columns 7 and 8, a note being made in the remarks column: confiscation of property, e.g., under the Excise Act, shall not be shown in the ledger.(6)When an offender has been sentenced to imprisonment and the sentence has been committed to one of detention in a reformatory school the sentence of imprisonment as well as the order for detention shall be shown in the appropriate column. But when an offender has been convicted and has in lieu of a sentence of transportation or imprisonment been ordered to be detained in a Borstal institution only the order of detention shall be shown.(7)The number of accused persons convicted of offences under Chapter XII or Chapter XVII of the Indian Penal Code, and liable to enhanced punishment under Section 75 ibid, shall be shown in column 25. A note shall be made in the remarks column of any person ordered to suffer solitary confinement or to notify his residence to the police after release from jail in addition to the primary sentence.(8)When a convicted person is required to keep the peace under Section 106 of the Code, the fact shall be noted in the remarks column.(9)In the case given in rule 597 (4) above the ledger will show the details of the punishment awarded to seven persons in accordance with the instructions in this rule.

615. Witness ledger. - the figures for this ledger are obtained from the witness memoranda. The number of witnesses, if any, examined by a Court to which a case is referred shall be shown under the Court in red ink.

616. Tribunal statement. - The preparation of this statement presents no difficulty. Column 9 showing the total number of cases disposed of during the year should correspond with column 6 of Statement IV including the number of referred cases entered in that column in red ink. The figure for column 10 is the same as the figure shown in column 3 of Statement III against side-head 2.

617. Offence statement. - (1) The figures for this statement are obtained from Ledger A.

(2)In compiling the statement the printed schedule of offences shall be adhered to. The list offences under special and local laws is not exhaustive : additional entries shall be made in alphabetical order of each law against which offences were alleged to have been committed. Abetments and attempts, where not separately specified in the schedule, shall be included with the substantive offences abetted or attempted.(3)The entries in columns 4,7 and 9 of the statement shall not include any cases already shown in the corresponding columns for the previous year. No case which are pending shall be shown in column 7.(4)Details of persons in column 15 of the statement shall be given in the remarks column against the persons shown in that column as in the offence ledger.(5)The number of complainants ordered to pay compensation and the number of accused to whom it was paid shall be noted in the remarks column against each side-head in a case under which such action was taken.(6)A note shall be made in the statement corresponding to the note required in rule 614(4) against the Offence Ledger.(7)In the case given in Rule 597 (4) above the statement will be drawn up as follows : Against side-head 21 there will be one offence reported (column 4), one brought to trial (column 9); eight persons under trial (column 10), two persons acquitted or discharged (column 12) and six persons convicted (column 13). Against side-head 22 there will be one person under trial (column 10) and one convicted (column 13), and no entries in columns 3 to 9 inclusive.

618. Statement of miscellaneous proceedings. - This statement is prepared from the abstracts of the register of miscellaneous proceedings furnished by readers under Rule 602.

619. Trial and duration statement. - This statement is compiled from Ledger B. The figures for the several classes of Courts in column 1 shall be separately grouped and totalled as follows:-

(a)Special Magistrates appointed under Section 14 of the Code.(b)Chief Magistrate of the district.(c)Stipendiary Magistrates sitting singly.(d)Honorary Magistrates sitting singly.(e)Benches of honorary Magistrates.The total number of male juveniles tried during the year and details of the persons shown in column 16 shall be given in the remarks column.

620. Punishment statement. - This statement is complied from Ledger C. The figures shall be grouped and totalled as in Statement IV. The total number of convicted persons required to keep the peace under Section 106 of the Code and of those dealt with under Section 130 of the Indian Railways Act, 1890, by ordering the parent or guardian to execute a bond shall be shown in the remarks column.

621. Appeal and revision statement. - These statements are prepared from the appeal and revision abstract furnished by readers under rule 608. The figures relating to each Appellate Court shall be grouped together and totalled separately. The grand total for the district shall be given at the foot of the statement.

622. Fine account. - This statement is prepared from the abstracts of fine accounts received from readers under Rule 604. The Courts shall be grouped as in Statement IV.

623. Witness statement. - This statement is compiled from Ledger D. The Courts shall be grouped as in Statement IV.

624. Report of offences against the coinage. - If an unusual number of counterfeit coins is received in any Court a special report shall be submitted to the High Court in order that the fact may be brought to the notice of the executive authorities.

625. In order to expedite the compilation of provincial returns advance copies of all the annual statement shall be sent direct to the High Court simultaneously with the dispatch of the annual report and statements to the Sessions Judge. When a Sessions Judge finds it necessary to address a District Magistrate with regard to the correctness of the figures in these statements a copy of the letter shall be sent to the High Court, and the District Magistrate shall send to the High Court a copy of his reply.

B.-Sessions Court Returns

626. The following returns shall be submitted by Sessions Judges to the High Court in the forms and on the dates shown against them.

Name of return	No. of form on Schedule	Date of submission
(1)	(2)	(3)
I.-Tribunal statement	V-47	
II.-Offence statement	V-48	
III.-Statement of miscellaneous Proceedings	V-49	

IV.-Trial and duration statement	V-50	
V.-Punishment statement	V-51	Annually (15th February).
VI-A.-Appeal statement	V-52	
VI-B.-Revisional statement	V-53	
VII.-Fine account	V-54	
IX.-Statement of jurors and assessors	V-59	
Proposed dates of Sessions	V-45	Annually (15th November).
Return of original and appellate work.	V-44	Quarterly (3rd February, May, August and November).

627. The instructions relating to magisterial statements shall apply with appropriate changes to sessions statements which are compiled from the records and from the prescribed registers. In the statements which give separate entries for each district in the sessions divisions the figures shall be totalled. A note shall be appended to the quarterly return showing in respect of each district in the sessions division the date on which the last revision of the list of jurors and assessors was made.

628. Offence statement. - The entries in column 2 should correspond with the entries in column 2 of District Statement II. The main object of the statement is to enable the High Court to distribute the figures in column 14 of District Statement. If under their proper headings in columns 5 to 9 of Statement 35 prescribed by the Government of India. As the district returns are received they should be carefully checked, and it should, be seen that the entries in column 14 of the district statements are equal to the entries in columns 4 and 5 of the sessions statement. When an accused has been committed for trial on a charge on one offence but convicted on a charge of a different offence, a full explanation shall be given in the column of remarks. Thus if five persons are committed for the offence of murder, and three of these five are convicted of the offence of culpable homicide not amounting to murder, the entry in the remarks column against heading No. 18 will be "three persons transferred to No. 19" and against the latter heading will be entered "three persons transferred from No. 18". The number of persons sentenced to death shall be included in column 8 (convicted) and shall also be given separately in the remarks column. When a commitment is quashed under Section 215 or Section 532 of the Code the persons affected by the order shall be shown as discharged.

629. Trial and duration statement. - (1) Clause 5 shall include persons whose cases are pending from the previous year. Cases referred under Section 307 or 374 of the Code shall be entered in column 8.

(2)The remarks column shall show the date of commitment of each case shown in column 4, and the section of the Indian Penal Code governing the charge in each case shown in column 8.(3)The duration of sessions cases is calculated from the date of commitment.

630. The following returns shall be submitted annually to the District Magistrate by all Courts subordinate to him:-

C.-Return in Connection with Police Statements

The Return of Cognizable Crime, Parts I and II (PoliceStatement A).	Schedule XVI-37-38-Police - English.
The Return of Non-congnizable Crime, Parts I and II (PoliceStatement B).	Schedule V - 62 - 63 - Criminal Judicial - English.
The Statement of Stolen and Recovered Property (PoliceStatement C).	Schedule XVI-39-Police-English.

The District Magistrate shall prepare consolidated statement for the whole district, incorporating the figures of his own court, and forward them to the District Superintendent of Police by the 20th January of each year. In the Return of Cognizable Crime and the Statement of Stolen and Recovered Property, Courts shall give figures only for cases of which they have taken cognizance otherwise than upon report by the police. In the former they shall fill in only columns 15 and 16 of Part I and columns 13,14 and 15 of Part II, leaving the return to be completed in the office of the District Superintendent of Police. Instructions regarding the compiling of these statements are given at the bottom of the printed forms.D.-Notes to Accompany Annual Statements

631. Along with the annual reports of offences against the coinage the District Magistrate should admit a note giving a short account of the facts of each case, the section under which conviction was made, the sentence imposed, the order for disposal, and whether the order has been carried out.

632. Along with the annual statement intended for the provincial report the District Magistrate shall forward a note dealing with all points relating to the statistical or to the administration of the district which require comment or elucidation. The Sessions Judge shall record a similar note for his division and forward it with the district statements and notes.

633. The notes which should not exceed 1,500 words shall be divided into numbered paragraphs and indexed. Each paragraph or group of paragraphs dealing with a single topic should be headed by the topic. The index must show not only the subject dealt with in each paragraph but also the page or pages on which each paragraph is to be found. Both sides of the paper should be used a third of the page being the margin.

634. No particular form of note is prescribed. It should direct attention to any considerable variation in the statistics between one year and another, and to circumstances which influence the figures, giving explanations wherever possible. Delays in trial, suggestions for reform and whatever calls for public attention should also be mentioned. District Magistrates and Sessions Judges are reminded of their duty to see that comments in the report are not of a routine nature but are based upon their experience and considered judgement. Mere recapitulation of figures and self-evident statements are of no assistance unless some argument is to be based upon them.

635. Among other matter the following must be noticed in the notes:-

The condition of the record room, which must be ascertained by careful personal enquiry, and not from the mere report of the record-keeper; the extent to which the rules regarding the arrangement, preservation and destruction of records have been kept; the working of the copying department; the effect of recent legislation on the working of the criminal courts; delays in trial for whatever reason; and the working of village panchayat benches.The index of the previous year's provincial report may serve as a general guide to the class of subjects on which information is desired, but the reporting authorities should consider themselves free to introduce other subjects.

Part V

Chapter 26

Copies and Copying Section

1.

-Presentation of applications and Payment of Chapters

636. Applications for copies may be presented in person or by an agent or legal practitioner or sent by post to the head copyist of the office where the record from which the copies applied for are to be made will eventually be deposited for safe custody. When copies are required from a record in the temporary custody of a Court at a station where there is no record room, application may be presented in person or by an agent or legal practitioner to the Magistrate in charge of the copying section at the station, but the Magistrate shall neither comply with applications otherwise received nor sent copies by post.

Note 1. - Copies of any number of documents on the same record may be applied for on one application.Note 2. - At headquarter stations applications shall be received and copies delivered daily up to 2 and 4 p.m. respectively. For each outlying station the District Magistrate shall fix suitable hours not earlier than those fixed for the head-quarter stations. Enquiries shall, however, be attended to throughout the usual office hours (11 a.m. to 5 p.m.).

637. Under Article 1(a), Schedule II, Court-fees Act, 1870 (VII of 1870) as amended, every application for a copy of judgement or order of a Criminal Court or of any document on the record or a Criminal Court, excepting those which are exempt from court-fee, requires a court-fee stamp of two annas. If an application which requires a court-fee stamp is received by post without it, the head copyist shall cause a stamp to be fixed and cancelled and debit the cost to the applicant's account.

638.

(1)Every application shall be accompanied by an advance sufficient to cover the estimated cost of the copy applied for and the cost of the court-fee stamps, if any, required under Article 9, Schedule I, of the Court-fees Act, 1870, as amended, and also, where the copy applied for required a non-judicial stamp, under the Stamp Act, 1899, by the requisite non-judicial stamp. If a copy of a map is to be prepared on tracing cloth the head copyist shall supply the cloth in accordance with Rule 642 below, except in the copying section of a Sessions Court where the applicant himself shall supply it. If an application is sent by post the advance shall be remitted by money order.Note. - Applications received by post without the requisite non-judicial stamp, or, in the office of a Sessions Judge, without the tracing cloth, shall be registered in the register of applications for copies, but in such cases copying shall be considered to have been stopped for want of funds so far as the copies of those particular documents are concerned, and the applicant shall be asked to supply the requisite stamp or the tracing cloth.(2)If a party requires delivery of a copy more expeditiously than would in the normal course of business occur, he may, in addition to the application for copies presented in the manner prescribed in Rule 1, file a separate application stamped under Article 1(b), Schedule II, Court-fees Act, 1870 (VII of 1870), paying for early delivery of the copies and stating the grounds on

which such prayer is made.If such an application is received by post without requisite stamps, the head copyist shall cause the deficient stamps to be affixed and cancelled and debit the costs to the applicant's account. But if the account does not permit the deficiency of stamps to be made good in this manner, the application shall stand rejected.The application for early delivery will be immediately forwarded to the officer-in-charge of the copying section who shall deal with it forthwith and may, after taking into consideration the facts alleged in the applications for early delivery and the state of business in the copying section, allow the application and return it to the head copyist. The charge for copies, in respect of which such an application has been allowed, will be double the ordinary rate and the advance deposited with the application for copies should be worked out at double the ordinary rate. If the application is rejected the copies will be prepared in the ordinary way, the usual copying fee being charged, and the excess will be refundable. If the application for early delivery is granted, the copies applied for will be prepared as expeditiously as possible getting preference over ordinary applications for copies and ordinarily should be made ready for delivery not later than two days after the order for early delivery is passed. The words 'express delivery' shall be noted in red ink at the top of the first page of the copies and in the remarks column of the register of applications. Unless expressly ordered the extra costs for obtaining such an express copy shall not be taken into account in taxing the costs of any proceedings.(3)An application received by post before the arrival of the connected advance shall not be registered or acted upon until receipt of the advance. Should an advance be received before the connected application, the money shall forthwith be sent by the head copyist to the nazir, who will hold it under the head "Miscellaneous". This transaction, shall appear as an item in pass book B. On receipt of the connected application, the head copyist shall send the pass book and obtain the money from the nazir, recording the withdrawal in pass book B. If no application is received within thirty days, the head copyist shall demand return of the money and proceed under Rule 659.

639. Every application for a copy shall state-

(a)whether the copy is to be sent by post or whether the applicant, or his agent, or a legal practitioner will take delivery in person; and(b)the applicant's full postal address.Copying shall not be refused for failure to keep to this rule, but the consequences of the failure will rest solely on the applicant.

640. On each application the head copyist or the office-in-charge shall endorse the date of its receipt sand shall initial the endorsement. If the applicant is present in person, the head copyist or copyist shall immediately give a receipt in the prescribed form (New No. 11-68) for the advance received with the application.

641. The fee for preparing copies shall be six annas for 240 words or fraction thereof, whether in English or in an Indian language, four Figures counting as one word. The fee received by the head copyist in cash shall be utilized for purchasing court-fee stamps, and court-fee stamps of a value equal to the

copying fee for that sheet shall be attached to every sheet of a copy. In the following cases, however, copies shall be made on plain paper and delivered free of cost:-

(a)copies required by officers of the Central or Provincial Government or by officers of the Government of Burma for Government purposes;(b)copies of judgements to all accused in warrant cases and to all prisoners in summons cases and in cases under Sections 108 to 110 of the Criminal Procedure Code;(c)in cases tried by a jury, copies of the heads of the charge to the jury, and of the judgement if any, and in case of conviction such copies shall be furnished to the accused whether he has asked for them or not; and(d)copies of statements ordered to be furnished to the accused under Section 162 of the Criminal Procedure Code.

642.

(1)Copies of documents such as maps, registers and statements may have to be prepared on paper other than the ordinary copying sheet. Where such documents are forms the copies shall, where possible, be made on the appropriate forms, as in Rule 646. The head copyist shall take such advance as he considers necessary for the preparation of the copies, but the superintendent or the officer-in-charge shall decide how much is to be charged after examining the completed copy. The head copyist shall affix Court-fee stamps to the copies so prepared, the value of the stamps being equal to the amount the copying fees so decided.(2)Except in the copying section of Sessions Court copies of maps shall be made on tracing cloth to be supplied by the head copyist, and the charge for copying shall be in accordance with the scale authorized by the Deputy Commissioner for each district in respect of maps prepared in the copying section on the revenue side. The charge shall be sufficient to cover the cost of the cloth and the preparation of the copy, and shall not be less than one rupee.(3)If in the copying section of a Sessions Court a map is to be copied on tracing cloth, the applicant shall provide the cloth.

2.

-Preparation and Delivery of Copies

643. Records required for copying which are in the record room shall be obtained by sending the applications for copies in original to the record-keeper, the number and date of each application being noted in the dak-book maintained in the copying section. All such applications received during each day shall be sent to the record room by 4-30 p.m. the same day. The record-keeper shall trace the records from the information in the application and return the latter with the connected records as early as possible. No application shall be retained by the record-keeper for more than three days including day on which he received it. If the record required in

connection with an application is not in the record room or cannot be traced because the information in the application is wrong or insufficient, the application shall be returned with an endorsement "Description wrong" or "Record cannot be traced", as the case may be.

Note. - The superintendent shall see that the records are not called for, or retained by the copying section for purposes foreign to copying and that the head copyist obtains in his dak-book an acknowledgment of the receipt of each record returned to the record-room or to a Court or official.

644. Applications for copies of pending records or parts thereof shall, on being received and registered, be sent by the head copyist to the presiding officer of the Court concerned. In case of refusal by the presiding officer to grant a copy the head copyist shall inform the applicant accordingly and refund the advance. In the case of applications received by post, the information shall be sent by post and the advance refunded by money order after deducting therefrom the necessary money order commission.

645. If the required record is in the High Court or in the Court of a District Magistrate the connected application shall be placed before the District Magistrate concerned for orders.

646. When the copy applied for is of a document of a printed form (e.g., a decree) it shall ordinarily be copied on the appropriate printed form printed matter on the form being treated as matter copied. All copies not so made shall be prepared on sheet of plain water-marked paper, viz., foolscap 13 - ½ x 8 - ¼ inches, which shall be obtained from the treasury or sub-treasury. Both sides of the paper shall be used whether the copying is in manuscript or in typescript. One sheet should ordinarily contain 720 English words in type (i.e., 30 lines at an average of 12 words a line on each page) or 240 words of English or an Indian language in manuscript. At the top of the sheet on both sides a margin of 1 ½ inches shall be left for the necessary court-fee stamps. There shall be a margin of an inch on the left of the front of the sheet and on the right of the back of the sheet. A margin of ¼ inch shall be left on the right of the front of the sheet and on the left of the back of the sheet. Similarly, there shall be a margin of ¼ inch on both sides at the foot of the paper. It should not be necessary to rule these margins, but, if they are to be ruled, the ruling should be in pencil. For typewritten copies the usual double line spacing should be used. For manuscript copies in English the most

convenient spacing is 20 lines on each page and six words to a line and for those in Indian Languages 15 lines on each page and eight words to a line. The exact number of words in a particular line is however immaterial so long as the total number on a sheet approximates sufficiently closely to the standard required for each sheet, four figures counting as one word. The value of the court-fee stamp to be attached to the sheet depends on the total number of words written or typed.

Note. - Documents written in Modi should be copied in the Balbodh script.

647. Immediately below the top margin shall be written or typed the words "copy of with a description of the document to be copied. On the back of each sheet in the top margin the stamp "Head Copyist, District Magistrate's Office" or the seal of the Magistrate shall be affixed.

648. Each copy shall begin with a statement of the kind of document copied, e.g., judgement, order, deposition of prosecution (or defence) witness with name and number, complaint, application, exhibit, etc. The heading shall contain full particulars of the accused concerned, his parentage, age, and address, the offence charged or proved, and the sentence, if any, including a sentence in default of payment of fine; number and year of the case, the name of the Court concerned, and the date of decision, if any. When the copy is of a document in an appellate or revisional record or a miscellaneous case connected with an original criminal case similar particulars shall be given with complete particulars of the original case as well.

649. On the back of the last sheet of each copy shall be typed or otherwise legibly endorsed the following table:-

Application received on	Applicant told to appear on	Applicant appeared on	Application (with or without further or correctparticulars) sent to record room on.
(1)	(2)	(3)	(4)

Application received from record room (withrecord or without record for further or correct particulars) on	Applicant given notice for further or correctparticulars on	Applicant given notice for further funds on
(5)	(6)	(7)

Notice in column (6) or (7) complied with on	Copy ready on	Copy delivered or sent on	Court-fees realized
(8)	(9)	(10)	(11)

Copyist Comparer Head Copyist

The dates to be entered in the table shall be expressed in figures and not in words and corrections shall be properly attested. When certifying a copy the head copyist or magistrate shall satisfy himself that the entries in the table have been correctly made.

650. If the copy is of a kind requiring a stamp under Article 24 of Schedule I of the Stamp Act, 1899, it shall be begun on an impressed non-judicial stamp paper of the value required and shall, if not finished on the front side thereof, be completed on an ordinary plain sheet or sheets. If the copy is finished on the non-judicial stamp itself the endorsement required by the preceding rule shall made at the back of the stamp. The requisite court-fee stamp to cover the cost of the copy shall be affixed to the non-judicial stamp and also to each plain sheet.

651.

(1)Under no circumstances shall a copy be carried beyond the number of sheets for which charges of copying have been deposited.(2)When an application is made by post, and it is discovered that copying cannot be taken in hand for want of funds or correct information, a notice shall be posted to the applicant on the day the defect is discovered, wit a direction to send the money or the information.(3)When the defect mentioned in sub-rule (2) is discovered in an application presented in person, the applicant shall be informed orally at once if it is discovered on presentation, and if after presentation, then on the next day fixed for him to appear or at any lime before such date, if he is available. If he does not appear on the day fixed or is not informed at any time before such date, notice shall posted to him that day to the address, if any, given under Rule 639 (b) above.(4)If for a period of thirty days an advance received by money order cannot be spent because there is no application, or an application sent by post cannot be acted upon because there is no advance, the head copyist shall so inform the superintendent and also the applicant either personally when he attends or by post if he applied for a postal copy.Note 1. - When questions of limitations arise the burden will be on the applicant to prove that the notice posted to him was delayed in the post.Note 2. - The District Magistrate should having regard to the necessity for safe custody of records and the accommodation available for such custody in the copying branch pass general orders as to the custody of records of which copies are stopped for want of funds or correct information. (See also rule 658 below).

652. When copies are ready they shall, before delivery or dispatch, be signed by way of attestation by the head copyist or officer-in-charge, who shall before signing, see that each sheet bears the Court-fee stamps to cover the

cost of copying and that all such stamps have been punished by a punch making the letter C. The attesting officer shall also see that court-fee stamps, if any, required by Article 9 of Schedule I of the Court-fees Act, 1870, as amended, have been affixed to the first page of the copy and punched with a C punch.

Note. - A postal copy (i.e., a copy which is to be sent by post) which is finished but cannot be dispatched for want of postal charges shall be treated as ready, and the date on which it is so treated shall be entered in column 8 of the table of dates prescribed in Rule 649 and also in column 12 of the register of applications for copies. the same date shall also be put in column 9 of the table and column 8 of the register of applications for copies with an addition of the word "Postage" below the date.

653. Copies shall be delivered to applicants personally or to their agents or pleaders or sent by post, if so desired, to their address by registered packet or by registered letter or parcel when postage stamps are enclosed. Copies for the use of a prisoner shall be sent to the superintendent of the jail in which such prisoner is confined.

654. If the amount of the advance received for a postal copy is more than sufficient to cover all charges (including court-fees, postage and registration fees), the surplus shall be remitted by money order, or if it does not exceed seven annas, in postage stamps enclosed with the copy or in a separate cover as may be economical. If a surplus sent by money order is not returned to the copying section or acknowledged by the addressee, the head copyist shall make enquiries from the post office, within two weeks if the addressee lives where there is a post office, and within four weeks if he lives where there is not.

3.

-Copying Registers and Accounts

655. The head copyist shall maintain the following registers. They shall be preserved for the periods specified below, the period being counted from the date of the last serial entry:-

Name of register	No. of form with the No. of Schedule on which itis borne	Period for which to be preserved

(1) Register of applications for copies	... 11-65	Years
(2) Account Book	... 11-66	
(3) Detailed Account Book	... 11-67	
(4) Duplicate Receipt Book	... 11-68	
(5) Pass Books A and B showing transactions with the nazir.	... 11-69	
(6) List of unexpended advances	... 11-70	
(7) Dak-book	... 11-34	

Note. - The book of counterfoils of postal money orders shall be preserved for three years from the date of the last serial recent.

656. All applications, whether received by post or presented in person or by an agent or legal practitioner, shall be entered in one and the same annual series of numbers in the register of applications for copies, the letter P being written in red ink to the left of the number as signed to each postal application.

Note. - Applications for copies in which copies have been delivered or in which advances have been refunded without preparing copies or which are received by post unaccompanied by advanced and for which no advance is subsequently received shall be preserved for six months from the date of delivery or refund or receipt. All other applications shall be preserved for three years from the date of their receipt.

657. The amount received from applicants personally or by money order accompanied by an application shall be entered by the head copyist in the register of applications for copies and in the detailed account book. Daily totals of columns 3 to 7 of the detailed account book shall be carried to the appropriate columns of the account book.

658. When a copy lies undelivered or when no work has been done on an application for thirty days for want of funds or correct information or when no application has been received for thirty days after receipt of an advance by money order the unexpended advance shall be entered in columns 1, 2 and 3 of the list of unexpended advances. The application itself and any sheets used for the copy shall be deposited in the record room. If the applicant subsequently pays a further advance or supplies correct information the copying shall be resumed and the application shown as restored, in the remarks column against its original serial number in the head copyist's register of applications for copies:

Provided that when the delay, counted from the day copying was stopped to the day on which the further advance or information is received, exceeds four months, copying shall he resumed only if the officer-in-charge of the section excuses the delay. The disposal of the unexpended advance either by repayment or by lapse to Government shall be shown in red ink in columns 4,5 and 6 against the original entry in addition to the usual black ink entry in chronological order in columns 1,2 and 5 which alone will affect the balance in column 7.Note. - Copies undelivered should be preserved for three years from the date on which they were ready.

659. If a money order for the balance due to an applicant is returned unpaid the amount returned shall be entered in column 14 of the register of applications, and in column 4 of the detailed account book, and it shall also be entered in the list of unexpended advances in the manner described in Rule 658. Copies sent by post and returned undelivered shall be deposited in the record room.

660.

(1)The head copyist shall ordinarily indent for plain sheets from the treasury or sub-treasury once a month. To minimize work in the treasury the indent shall be for a whole number of reams of 480 sheets. This number shall not be larger than is necessary to ensure that the stock in hand will never be less than will suffice for a month. The indent should be in duplicate on un-official memorandum forms. One copy will ultimately remain in the treasury office and one with the head copyist. The indent shall be countersigned by the superintendent or a gazetted officer.(2)The head copyist shall every day give to each copyist as many blank sheets as will approximately suffice for the day's work and see that each evening each copyist returns to him the number, given whether used, unused or spoilt and the notes of these transactions shall be kept in a rough note book.Note. - The head copyist is responsible for the correct balance of blank sheets. He should be provided with a box and good lock for the custody of blank sheets.(3)The head copyist shall indent for court-fee stamps, whenever required, from the treasury or sub-treasury. The indents shall invariably be for whole sheets, whatever be the denomination of the stamps. the stamps required may be one anna, four annas, eight annas, twelve annas or one rupee. The head copyist shall not obtain stamps from a stamp-vendor without the express permission of the Magistrate or gazetted officer in charge of the copying section.Note 1. - The head copyist shall make every effort to minimize the number of indents upon the treasury; the indents should, therefore, be as large as possible.Note 2. - A sheet contains thirty-six stamps of one rupee each or forty eight stamps of other denominations.(4)The head copyist may include court-fee stamps as part of his cash balance which is sent daily to the nazir in a scaled leather bag, and court-fee stamps shall be reckoned as cash for all account purposes. All transactions relating to the disposal of court-fee stamps shall appear in the detailed account book.

661. In the duplicate receipt book shall be entered all sums paid by applicants personally as an advance required for the copy and also all balances returned to applicants personally. As soon as the first advance is

received, a receipt with a carbon duplicate shall be prepared. The receipt shall be made over to the payer, and when the copy is delivered, the original receipt shall be taken back and affixed to its carbon duplicate. Receipts from applicants who have sent their applications by post, but obtained delivery of copies in person, should be taken in a separate receipt book to be maintained for the purpose, entries being confined to such columns as are appropriate. If more money has been advanced that was required the excess shall be refunded to the applicant at the time the copy is delivered.

662. On receiving an application presented in person the head copyist shall, unless the applicant asks for postal delivery [see rule 639(a)], forthwith give the applicant a date within seven working days of the presentation on which he should attend to ascertain whether the copy is ready or whether any further advance is required. Should the copy not be completed on the date so fixed the applicant shall be directed to attend on another date within seven working days of the first, and so on. The successive dates on which the applicant is told to attend shall be entered in the receipt as well as in the carbon duplicate of duplicate receipt book and in the register of applications.

663. When the copying work is in arrears or for any other sufficient reason, the head of the office may, by general or special order, direct that the period between presentation and first attendance or the period between the date fixed for two consecutive attendances shall consist of a fixed number of days in excess of seven, and shall at the same time determine the period for which the order is to remain in force.

664.

(1)The District Magistrate shall record an order fixing the maximum balance of cash to be kept by the head copyist in his own hands, and the amount so fixed shall not in any case exceed Rs. 200 at headquarters or Rs. 30 at each outlying station, without the special sanction of the High Court. The head copyist shall send his cash balance in a sealed leather bag duly entered in his dak-book to the treasury daily not later than 4.45 p.m.(2)the head copyist shall furnish security for a sum to be fixed by the District Magistrate. The sum to be fixed should not be less than 25 per cent in excess of the maximum cash balance fixed under sub-rule (1). Similarly the peon in the copying section at head-quarters shall furnish personal security for Rs. 50 with one surety for the same amount:Provided that when a permanent peon is not available the Commissioner of the division may exempt from the operation of this order a temporary peon who is unable to furnish the required security.

665. Whenever the amount of money and court-fee stamps in the hands of the head copyist at the close of day's business is greater than the amount fixed under the preceding rule, the excess shall be entered in Pass Book A and paid in cash by the head copyist into the treasury or sub-treasury, as the case may be, to be treated as a revenue deposit. Unexpended advances shall be paid into the treasury or sub-treasury immediately the applications are deposited in the record room and money orders are returned unpaid.

666. When the head copyist requires repayment of any advance paid into treasury under the preceding rule he shall enter it in the pass book which shall be presented to the treasury. The date and amount of each deposit out of which repayment is desired, shall be given in columns 4 and 5 of the pass book. In every case of withdrawal other than that of an unexpended advance the oldest deposit available shall be drawn upon; to that end against each withdrawal which finally exhausts a deposit and also against the entry relating to the original deposit a remark to that effect should be made in the last column of the pass book. The pass book shall be presented to the treasury accompanied by a simple receipt. The receipt shall be countersigned by,-

(a)The Deputy Commissioner or one of his gazetted assistants-At the head-quarters of a district.(b)The Sub-Divisional Officer-At the headquarters of a sub-division.(c)The tahsildar or Naib-Tahsildar-At the headquarters of a tahsil.If the deposit at the credit of the head copyist is sufficient, the treasury shall make the payment and shall enter the item in the Register of repayments of Revenue Deposits without a number as "Repayments of copying fees to Head Copyist". An unexpended advance once paid into the treasury shall not be refunded to the applicant until it has been withdrawn from the treasury.

667. the superintendent or the officer-in-charge shall daily examine all the applications disposed of and affix his initials against each entry relating to them in the remarks column of the register of applications for copies after satisfying himself that the account book, detailed account book, duplicate receipt book and other connected registers have been duly filled in. He shall also test the work of the copyists from time to time by selecting sheets at random and counting the words in each. He shall also in the first week of each month compare the head copyist's account for the preceding month with Pass book A in order to ascertain whether each sum in the pass book has been accounted for in the account book.

668. The head of the office or a subordinate gazetted officer deputed by him, shall examine the several registers of the head copyist in the first week of each month to see whether the work of copying is being regularly done, the excess payments properly refunded and the excess over the maximum balance deposited in the treasury in accordance with Rule 665. He shall also satisfy himself by an examination of the account book that the balance of sheets will suffice for a period not less than one month. He shall also verify the correctness of the account of plain sheets. The head of the office shall also examine a certain number of applications pending over one month in which copying has been stopped for want of funds of proper information regarding the document to be copied to see if they were rightly deposited in the record room.

669. The head of the office or a subordinate gazetted officer deputed by him shall examine the register of application for copies at least once a quarter, and satisfy himself that entries relating to the applications shown as disposed of have been properly made, and that the closing cash balance shown in column 13 of the account book and inclusive of unused Court-fee stamps in the hands of the head copyist is correct. The process for verifying the cash balance is as follows:-

A list of all advances received in respect of applications, other than (i) those deposited in the record room under Rule 659 (ii) those in which the copy has been delivered or the amount advanced has been refunded, shall be prepared from the register of applications. To the total of the list shall be added the progressive total or balance in the list of unexpended advances. From the sum thus arrived at shall be deducted (i) the value of court-fee stamps used in respect of applications in the foregoing list of advances received, (ii) the balance in the treasury as shown in Pass Book A, and (iii) the cost of court-fee stamps affixed by the head copyist to postal applications under Rule 637. The difference thus found should tally with the closing balance shown in the account book and with that in the head copyist's hands.

670. In compiling the Extract Registers of Receipts and Repayments of Deposits for submission to the Accountant-General, the items entered in the deposit registers of the treasury without a number shall not be reproduced in detail; the monthly totals only shall be entered at the foot as amounts of copying fees received from and repaid to the head copyist. But the total amount repaid from the deposits made in each financial year shall be given separately. Thus, supposing the total amount of copying fees repaid during a month was Rs. 175, the note would stand as follows:

On account of deposits made in 1936-37-	Rs. 23
On account of deposits made in 1937-38-	Rs. 34
On account of deposits made in 1938-39-	Rs. 118
Total-	Rs. 175

671. Early in March a list of items lapsing to Government shall be drawn up and, after being compared by the District Magistrate or one of his Magistrates with the list of unexpended advances and the register of applications, shall be submitted to the Accountant-General immediately after the 31st March in accordance with Financial Rule 653. The list shall show distinctly how much is to be credited to Government as lapsed out of the amount received during each separate financial year. Thus, supposing Rs. 45 is to be credited to Government as lapsed, the note would stand as follows:-

On account of 1936-37-	Rs. 6
On account of 1937-38-	Rs. 5
On account of 1938-39-	Rs. 34
Total-	Rs. 45

Refunds of amounts included in this list shall only be payable with the sanction of the Accountant-General under Financial Rule 654. Repayments of such deposits up to a limit of Rs. 5 in each case may, however, be made by the treasury officer without pre-audit by the Accountant-General (Financial Rule 654).Note. - The particulars of amounts submitted to the Accountant-General under Financial Rule 650 should show the particular year on account of which there are balances of copying fees out standing in the head copyist's register.

Chapter 27

Nazarats

1. General

672. Every nazir (a term which in these rules shall be deemed to include a naib-nazir except where otherwise stated) shall executed a bond in the prescribed form and give the requisite security.

Note. - The terms "nazir" applies to every official who in the course of his duties looks after the following matters in connection with criminal courts:-(a)The custody of property whether confiscated or unclaimed or attached in Criminal Courts;(b)Contingent expenditure.

673. Official drawing less than Rs. 80 per mensem, with permission of the Deputy Commissioner shall be allowed to enter into personal security bonds with two sureties in lieu of cash security.

674.

(1)Official drawing Rs. 80 per mensem and upwards shall give security in cash or in post office cash certificates :Provided that the Provincial Government or, in the case of an officiating appointment not exceeding four months, the Deputy Commissioner may permit personal security to be furnished.(2)The Deputy Commissioner of the district may, in individual cases, dispense with cash security and take instead a personal security bond with two sureties.(3)Officials required or wishing to give cash security may instead of depositing the lump sum deposit towards it in monthly instalments rounded to the nearest rupee of 10 per cent of their pay. They must execute a personal security bond with two sureties, to remain in force until the instalments are complete. The bond will then be replaced by a cash security bond.

675. Security given in cash shall be deposited in the post office savings bank or converted into post office cash certificates in accordance with the rules regarding security deposits issued by the Postal Department. The interest on such deposits shall be paid to the depositor.

676. The amount of security to be given by each official shall be fixed by the Deputy Commissioner of the district according to the circumstances of each district.

677. The nature of the personal security shall be determined by the Deputy Commissioner of the district and he shall satisfy himself before accepting a personal security bond that each of the sureties is solvent for the whole amount of the security demanded. He shall also satisfy himself early in each succeeding year that each of the sureties is and continues to he solvent for the whole amount mentioned in the bond.

678. Whenever the solvency of a surety is to be verified, a statement of assets and liabilities declared to be true and complete to the best of his knowledge and belief shall be obtained from the surety and verified, as far as possible, before he is accepted. It should be seen that only realizable assets are taken into consideration; land, e.g., occupancy land, which cannot be attached or sold, should not be taken into account.

2. Account and Other Registers.

679. The following registers shall be maintained by the nazir:-

Name of register		Number of form and Schedule on which it is borne
(1)	Register of property made over to the nazir in criminal cases.	V-80
(2)	General Cash Account	II-82
(3)	Contingent Cash Account	II-83
(4)	Classification Register	V-81
(5)	Register of diet-money of witnesses in criminal cases	V-82

680. Register of property made over to the Nazir in criminal cases. - (1) Pending the completion of an enquiry or trial, the articles in evidence or the personal property of an accused produced by the police shall, unless otherwise ordered by the Court, remain in the custody of the nazir, except where they consist of valuables, currency notes or coins exceeding Rs. 100 in aggregate value. Valuables, currency notes or coins shall invariably be made up into a scaled packet in the presence of the Magistrate and a memorandum in the prescribed form (Schedule V, No. 198) giving the list of the property and the estimated value thereof prepared. If the value of the packet exceeds Rs. 100 the sealed packet and memorandum shall be sent to the treasury or sub-treasury officer through the nazir to be kept in the treasury for safe custody and the treasury officer or sub-treasury officer shall proceed in accordance with Financial Rules 9 and 10. If the value of the packet does not exceed Rs. 100 the sealed packet and memorandum shall be sent to the nazir. The nazir shall endorse on the memorandum the receipt of the packet and also the serial number which the packet bears in his register of property made over to the nazir in criminal cases and keep the packet in his safe. The memorandum shall be returned to the Magistrate and filed in the record of the enquiry or trial. Each packet, whether sent to the treasury officer or sub-treasury officer or kept by the nazir in his safe, shall be entered in the above-mentioned register and the alleged contents and their value noted in the appropriate columns.

(2)When the property contained in a scaled packet is required at any intermediate hearing the Magistrate shall endorse requisition on the memorandum and send the memorandum to the

treasury officer or sub-treasury officer or the nazir and obtain the packet. As soon as the day's hearing concludes the property shall again be made up into a sealed packet in the presence of the Magistrate and sent with the memorandum for safe custody as directed in sub-rule (1).(3)Property other than valuables, currency notes or coins shall be sent to the nazir with a memorandum in the prescribed form (Schedule V, No. 199) for safe custody. The nazir shall enter the property in his register of property made over to the nazir in criminal cases, endorse on the memorandum the receipt of the property and also the serial number which the property bears in the above mentioned register and return the memorandum to the Magistrate for being filed in the record of the enquiry or trial. When the property is required at any intermediate hearing the magistrate shall endorse the requisition in memorandum and send the memorandum to the nazir and obtain the property. As soon as the day's hearing concludes the property shall be sent to the nazir with the memorandum for safe custody as before.(4)When a trial is concluded, the property shall be sent back with the memorandum containing the copy of the order for its disposal, and the nazir or the naib-nazir shall acknowledge on the order sheet of the case the receipt by him of the property and the memorandum. After the property is disposed of, the memorandum shall be sent to the record-keeper for being filed in the record of the case.(5)When property is disposed of by return, sale or otherwise, an entry to that effect shall be made in the register and it shall be attested by the Magistrate concerned.(6)(i)Articles in evidence should be disposed of as soon as possible after the case is concluded. If no orders for disposal are received within a reasonable time, a reference should be made by the nazir to the Court concerned.(ii)Where an appeal or revision is tiled the Court of appeal or revision, as the case may be, shall send intimation thereof to the Trial Court.(iii)On receipt of such intimation the court reader shall make a note of it in the remarks column of the register of Criminal Cases for ready reference when the nazir resubmits the memorandum of property for disposal as required by Section 517 (3) of the Code of Criminal Procedure.(iv)In murder cases in which a sentence of death has been passed the property shall not be disposed of until the sentence has been executed :Provided that where a proceeding arising from a murder case is pending, against an approver the property shall not be disposed of until the proceeding has been finally decided.(7)Property retained by the nazir in connection with a proceeding under Section 512 of the Criminal Procedure Code shall not be kept for more than five years, unless the District Magistrate expressly directs its further retention.(8)The register maintained at the head-quarters of a district shall be put up for scrutiny every month to the Additional District Magistrate or the officer-in-charge of the nazarat. The register at outlying stations shall be put up every month to the Sub-Divisional Magistrate or the Tahsildar, as the case may be.(9)A quarterly statement showing the items in the register pending since the end of the previous quarter shall be submitted by the nazir or naib-nazir to the officer-in-charge of the nazarat, and the officer-in-charge shall examine the register and see that it is being properly maintained.

681. General Cash Account. - (1) All sums received in cash and disbursed by the nazir shall be accounted for in detail in the register. Only the daily totals or sums for which separate registers are maintained shall be entered. Amounts received by money order shall be entered in the register before the money order receipts are signed by the District Magistrate or a subordinate Magistrate authorized in this behalf. On no account shall original papers

regarding receipts of any money be sent to the nazir nor shall they be filed till the money has been actually entered in his register or credited into the treasury, as the case may be.

(2)Except under extraordinary circumstances which should be stated in brief at the end of the day's account in the register the cash balance in the hands of the nazir shall not exceed the amount which shall be fixed by the Commissioner of the division.(3)Fines and compensation money realized by Magistrates in criminal cases are credited by them directly into the treasury and shall not ordinarily be shown in the nazir's account. At outlying stations, however, where he naib-nazir and the Court reader are one and the same person and the money on account of fine or compensation is realized too late for credit into the treasury it shall be sent to the naib-nazir and shown in his accounts. At other places when the money is realized too late for credit into treasury the magistrate shall keep it in a sealed leather bag and hand over the bag to the nazir in person not later than 4.45 p.m. for safe custody and obtain his acknowledgement. On the next working day the Magistrate shall send for the sealed bag and credit the money into the treasury.(4)At head-quarters of a district the general cash account shall be examined and initialled daily by the assistant superintendent and at all outlying places by the Additional District Magistrate or Sub-Divisional Magistrate or tahsildar or naib-tahsildar, as the case may be. The check shall be made by verifying the entries in the general cash account with those in the treasury or sub-treasury cash book and in the register of diet-money, contingent register, etc. The checking officer shall particularly examine whether the cash balance shown therein agrees with that in the hands of the nazir. At places where there in no sub-treasury, the treasury accountant shall send daily an extract of receipts and expenditure to the tahsildar and the latter shall check and compare it with the naib-nazir's register.(5)At the head-quarters of a district the register shall be put up for check every month to the District Magistrate or a subordinate Magistrate and at outlaying places to the Additional District Magistrate or Sub-Divisional Magistrate or tahsildar, as the case may be.

682. Contingent Cash Account. - (1) All sums drawn from the treasury on abstract contingent bills, whether in repugnant of the permanent advance or otherwise, and all payments made either out of the permanent advance or from sums drawn on abstract contingent bills to meet special charges are to be entered in the register. In no case shall the nazir or naib-nazir make a payment from the permanent advance or from the sums drawn on abstract contingent bills without the signature of the District Magistrate or the superintendent on the order for payment. At places where there in no superintendent every order for payment shall be signed by the officer-in-charge.

(2)The contingent cash account shall be checked daily by the officer-in-charge with the vouchers on which payments have been made.

683. Classification Register. - (1) The object of this register is that the nazir may be able to state readily the details of his cash balance under all heads of account. As receipts and expenditure under various heads differ in different districts, the prescribed headings need not be rigidly adhered to if experience shows that they can be conveniently modified or extended.

(2)The entries in the register shall be examined daily by the superintendent or assistant superintendent and at tahsils by the tahsildar or naib-tahsildar. The register shall be placed before the Additional District Magistrate or the officer-in-charge of the nazarat every month and his orders shall be taken in regard to the disposal of doubtful items. The registers maintained at tahsils shall similarly be laid before the tahsildar who shall, after actual verification, record a certificate therein that the balances are correct and report doubtful items to the District Magistrate for orders.

684. Register of Diet-money of witnesses in criminal cases. - (1) When the nazir receives diet-money and travelling expenses from the Court reader with the register of process fees he shall fill in columns 2 to 6 of the register of diet-money, making a single entry for each case and sign the register of process-fees in token of his having received the money.

(2)When the witnesses on whose account diet-money and travelling expenses have been paid appear in Court or when their attendance is dispensed with and the applicant applies for the refund of the money deposited, the Court clerk should write an order to the nazir for payment of the amount, indicating the case in which the deposit was made. The nazir should fill in columns 7 to 9 and send the register to the court for the signature of the magistrate. The Magistrate shall see that the money is paid in his presence and then put his signature in column 10 and return the register to the nazir. Payments made by a magistrate on tour shall be evidenced by a memorandum under his signature and shall be accounted for in this register on his return to the head-quarters.Note. - The headings to columns 7 to 10 of the register have been repeated in columns 11 to 18 so as to provide for cases in which the diet-money deposited is not all repaid at one time.(3)When a case is disposed of and diet-money lies undisbursed, it should, immediately after the disposal of the case, be sent by money order to the party concerned after deducting the money order commission. To this end the reader should, immediately after the disposal of the case, inform the nazir or naib-nazir of the date of disposal. the nazir or naib-nazir should then consult the register, fill in a money order form, obtain the magistrate's signature on it and have the money order sent. The postal receipt should then be pasted across columns 7 to 9 of the register. II the money order is returned undelivered or refused, the amount should at once be sent by the nazir to the treasury to be credited as a revenue deposit and the entry "Money order returned undelivered (or refused); see revenue deposit number ..... dated the..... made across the remaining columns of the register.(4)the daily totals of receipts and payments of diet-money and travelling expenses shall be entered in the classification register, and the totals in the two registers shall be compared daily by the assistant superintendent at headquarters and by the tahsildar at outlying stations and items which have remained unpaid for over a month shall be brought to the notice of the Magistrate concerned.

Part VI

Chapter 28

Libraries

685. District Magistrates should make provision in their budgets for law books other than the Acts mentioned in rule 691 below.

686. This Chapter does not apply to Session Judges whose libraries are governed by Chapter 30 of the Rules and Orders (Civil).

687. In each Magistrate's court (including Courts of honorary Magistrate) the reader shall keep a list of its law books. The list shall be in manuscript in the following form:

Serial No. Title of book and author's name Date of receipt

688. The library shall be in the charge of an official appointed by the office superintendent with the previous approval of the District Magistrate and under the general supervision of the superintendent.

689. Each law book added to a Court or to the library shall be entered in the appropriate list. A pencil note in the remarks column shall be made against any book lent out, and erased when it is returned. Any book transferred permanently elsewhere or discarded shall be scored out with the date.

690. Two copies of every Act and Ordinance as it comes into force shall be supplied to the District Magistrate. One copy shall be sent to the library and the other kept in his Court.

691. Every criminal Court, except courts of subordinate judges sitting as civil courts but exercising magisterial powers, shall have the following statutes, etc.:-

The Penal Code,The Code of Criminal Procedure,The Arms Act,The Cattle Trespass Act,The Central Provinces and Berar Municipalities Act,The Central Provinces and Berar Village Sanitation Act,The Court-fees Act,The Evidence Act,The Central Provinces and Berar Excise Act,The Explosives Act,The Factories Act,The Forest Act,The Public Gambling Act,The Hackney Carriage Act,The Oaths Act,The

Opium Act,The Petroleum Act,The Prisons Act,The Police Act,The Railways Act,The Reformatory Schools Act,The Stamp Act,The Whipping ActThe Rules and Orders (Criminal),Comparative Almanacs,and such other books as the High Court may, from lime to time, prescribe.

692. The officer-in-charge of the library, or the reader of the Court, as the case may be, shall-

(a)stamp of office or Court seal on the title page of each book;(b)fix a numbered label on the back of each book giving its serial number in the list;(c)check the list with the books every year in January and report to the superintendent or the court whether the books are complete and in good conditions;(d)post amendments.

693. When an existing list is renewed all the books in it must be entered in the new list, except those struck off, with a certificate by the official-in-charge of the library, or by the Magistrate, that they have been entered, reporting to the District Magistrate the titles of all books that are missing. the list replaced shall be kept in the superintendent's office or in the Court for three years.

694. An official taking charge of the library shall report to the superintendent that he has checked the books with the list, adding a note all books missing or damaged.

695. A Magistrate taking charge shall certify to the District Magistrate that he has checked the books in his court with the list, and add a note as in the preceding rule.

Chapter 29

Inspections of District Record Rooms by Sessions Judges

696. Sessions Judges should inspect the criminal section of each magisterial record room in their division once a year to see that the rules for the arrangement and destruction of records are properly kept.

697. A note of the inspection should be recorded and filed in the Sessions Judge's office, and a copy of it sent to the District Magistrate who should endorse on it what is being done about matters calling for action or explanations and send it back.

698. the Sessions Judge should satisfy himself that the points in his note are being properly attended to and send the copy back to be tiled in the District Magistrate's inspection book.

699. If the Sessions Judge thinks that anything in the note or the endorsement should be brought to the High Court's attention he should forward the copy to the High Court.

Chapter 30

Inspection of Criminal Courts

700. The inspection of Courts is a valuable way of discovering error and preventing abuse. As a rule the more regular and careful the inspection the higher will be the standard of work in the Courts.

701. A sub-Divisional Magistrate shall annually inspect the Courts of subordinate Magistrates in his sub-division, including honorary Magistrates.

702. A District Magistrate shall annually inspect all the Courts of the Sub-Divisional Magistrates and first class magistrates in his district and a reasonable number of other Courts.

703. Minor details in an inspection can be dealt with in conversation but the heads of discussion should find place in the written note of inspection which should deal with all major points. An inspection note is not only a commentary on the Court inspected but also on the officer inspecting. The important quality is insight and penetration, and attention should be given to the court's method and attitude in trying cases rather than to legal points unless there are mistakes of an obvious kind in law or procedure. It is important that when an error or a fault is revealed the way to avoid it should be explained at the same time, to show not only what was done wrong but also how it should have been done and why.

704. Unless unusual circumstances require it, neither the inspection nor the note need be long, but a comprehensive survey of the Court's work is an indispensable preliminary. Accordingly, before individual cases are examined the cause-list, the calendar statements, and the Court registers

should be looked at. the first two show how much work the Magistrate expects to get through in a day, the second shows in a general way what kind of cases he tries and how long he takes over them, and the third together with the other three shows how he manages his work and supervises that of his subordinates.

705. In examining individual cases particular attention should be paid to the following three matters:-

(a)how the Magistrate handles the preliminaries;(b)how he handles the trial; and(c)how he writes the judgement.

706. As to preliminaries : The points to look for are whether he examines complainants properly in private eases, and makes proper use of Section 203 of the Code of Criminal Procedure to dismiss false complaints; whether he brings the accused to trial promptly, seeing that summons is issued promptly and taking action where the police fail to serve it; and whether he uses summary powers (Section 260) when he should, and records only a memorandum of the evidence when that is sufficient (Section 355). The proper use of Sections 263, 264 and 355 (1) by those empowered to use them requires careful supervision, more particularly as under Sections 264 and 355 (1) there must be a record of the evidence. A Magistrate should ordinarily be able to determine at the outset whether he should pass an appealable sentence if he convicts.

707. As to trial : The points to look for are whether he avoids adjournments and grants them only when they are really necessary; whether he examines (as he ought) all witnesses present from day to day until they are finished, or whether (as he ought not) he postpones their examination on the pretext of wailing for an absentee so that he can examine him and them together; and whether he takes prompt action to have absentees brought up.

708. In the Courts of committing Magistrates it is important to find out whether they make references to the Chemical Examiner at the earliest possible time, and forward records to the Sessions Court Promptly, so that men may not be kept in suspense for their lives.

709. A State case should be finished within thirty days, and a complaint case within forty-five. It should be noted how long the magistrate takes to bring the accused to trial, and bring up the witnesses against him, how long he takes to hear the evidence, and how long he lakes to deliver judgement once the evidence is closed. It is a bad fault to bring an accused to Court over and over again, and keep witnesses in attendance either repeatedly or for several days at a time so that they cannot follow their living.

710. As to judgement : The question here is how far the Magistrate's judgement follows the principles laid down in Part I (Chapter 9, Rules 239 to 243) : in brief whether he states the case lucidly, marshals the evidence in an orderly way, and comes to clear findings, both on fact and on law, ensuring that the points for decision and his findings on them or set out free of ambiguity. Comment should be made if he wastes time on the obvious or quotes law to support pure questions of fact. His sentences should be scrutinized to see whether he is heavy-handed, or weak, or variable, or not. Ornate language, theoretical questions and intemperate criticism of parties, counsel the police or lower Courts should be discouraged.

711. the inspection note divided into numbered paragraphs should be typed in duplicate on foolscap paper leaving the inner half of each page for explanation by the Magistrate whose Court has been inspected. If he has much to write he should use a separate half sheet and head it with he number of the paragraph he is answering.

712. Inspection notes by Sub-Divisional Magistrates shall be submitted to the District Magistrate. The original shall be filed in the District Magistrate's Office and the duplicate sent to the Court which has been inspected. The Court, having recorded such notes and explanations as are necessary, shall return it to the Sub-Divisional Magistrate, who shall forward it to the District Magistrate with such comments as he thinks needed.

713. The District Magistrate, with his observations shall return it by the same channels to the original Court, where it shall be filed.

714. An inspection note by a District Magistrate shall be filed in original in his office. The duplicate, after being sent to the Court concerned as above for report, shall, subject to the next rule, be returned as above.

715. Where the note deals with the court of a Magistrate of the first class, it shall be forwarded through the Sessions Judge to the High Court. If the High Court makes any comments the note shall be returned by the same channels to the inspected Court, and otherwise directly to the District Magistrate and by him to the inspected court.

Chapter 31

The Inspection of Jails by Sessions Judges

716. Every District and Sessions Judge is an ex officio visitor of all jails within his jurisdiction. A Board of Visitors who make a quarterly inspection of the jail is selected every two years by the Commissioner of the division from among the official and non-official visitors of each jail. Every member of the Board is required to pay a visit to the jail at least once a month. A meeting of the Board is held once a quarter and a roster of visitors is prepared at the meeting.

717. The District and Sessions Judge may be selected as a member only of the Board for the jail at his headquarters and not of a Board for any other jail. He must arrange with the Board of which he is a member that the dates of the quarterly meetings and of his monthly visits shall be so fixed as not to interfere with his other duties.

718. The main points to be noticed at an inspection of a jail are stated in the questionnaire under paragraph 917 of the Jail Manual, 1926. In addition the following mattes should receive the special attention of District and Sessions Judges.

Note. - The relevant provision of law and of the Jail Manual are reproduced at the end of this chapter.Under-trial Prisoner. - It shall be seen that the history-tickets are properly filled in (paragraph 784 of the Jail Manual, 1926), and that orders of remand are in accordance with Sections 344 and 508 of the Criminal Procedure Code. If the trial of any prisoner appears to be unduly delayed a note of the case should be made and the record should be inspected. It should be ascertained that the orders contained in Part I, Chapter 16, Rule 391, are properly acted upon by the

Courts.Convicted Prisoner. - The history-tickets should be examined. If any sentence appears illegal, the entry should be checked with the warrant, and, if necessary, the record should be inspected. With juvenile prisoners it should be seen whether the sentences are appropriate and whether action has been, or should have been, taken by the superintendent under Section 10 of the Reformatory Schools Act. The Sessions Judge should satisfy himself that proper facilities for appeal are given and the results of appeals promptly communicated by Appellate Courts [Part I, Chapter 12]. He should also see that the cell communications required by Section 25 of the Prisons Act, 1894, are in order, and that judicial sentences of solitary confinement are legally carried out (paragraph 766 of the Jail Manual).Civil Prisoner. - He should see that the provisions of paragraph 1052 of the Jail Manual are observed, and that the sentences are legal (Section 58 of the Civil Procedure Code).Lunatics. - He should see that non-criminal lunatics are not unduly detained under observation (Act IV of 1912, Section 16) and that criminal lunatics confined in a jail under Section 466 or Section 471 of the Criminal Procedure Code have been inspected and reported on as required by Section 471 (2).Warrants. - He should carefully examine a few warrants taken at random and see that copies or orders passed under Section 565 of the Criminal Procedure Code are attached to the warrants of commitment [Part I, Chapter 16, rule 415], that the warrants themselves are prepared in accordance with the instructions contained in Part I, Chapter 16, Rules 384 to 389 and 391 and that prisoners are correctly classified (Part I, Ch. 16 Rules 393 et. seq.).Release Diary. - He should check a few entries with the warrants and see that the dates of release and dates on which any sentences of whipping are to be carried out are correctly noted (paragraph 990 of the Jail Manual).Punishment Registers. - He should see that the punishments awarded are legal (Sections 46 to 48 of the Prisons Act), and that the entries required by law (Section 51) are properly made. (For the definition of "serious prison offence" in Section 51 see paragraphs 120 and 121 of Jail Manual).Prisons Act, 1894 (IX of 1894). - Section 29. No cell shall be used for solitary confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison, and every prisoner so confined in a cell for more than twenty-four hours, whether as a punishment or otherwise, shall be visited at least once a day by the medical officer or medical subordinate.Section 45. - The following acts are declared to be prison-offences when committed by a prisoner:-(1)such wilful disobedience to any regulation of the prison as shall have been declared by the rules made under Section 59 to be a prison-offence;(2)any assault or use of criminal force;(3)the use of insulting or threatening language;(4)immoral or indecent or disorderly behaviour;(5)wilfully disabling himself from labour;(6)continuously refusing to work;(7)filing, cutting, altering or removing handcuffs, fetters or bars without due authority;(8)wilful idleness or negligence at work by any prisoner sentenced to rigorous imprisonment;(9)wilful mismanagement of work by any prisoner sentenced to rigorous imprisonment;(10)wilful damage to prison property;(11)tampering with or defacing history-tickets, records or documents;(12)receiving, possessing or transferring any prohibited article;(13)feigning illness;(14)wilfully bring a false accusation against any officer or prisoner;(15)omitting or refusing to report, as soon as it comes in his knowledge, the occurrence of any fire, any plot or conspiracy, any escape, attempt or preparation to escape, and any attack or preparation for attack upon any prisoner or prison-official; and(16)conspiring to escape, or to assist in escaping or to commit any other of the offences aforesaid.Section 46. - The superintendent may examine any person touching any such offence, and determine thereupon, and punish such offence by-(1)a formal warning:Explanation. - A formal warning shall mean a warning personally addressed to a prisoner by the superintendent and recorded in the punishment-took and on the prisoner's

history-ticket;(2)change of labour to some more irksome or severe form for such period as may be prescribed by rules made by the Provincial Government;(3)hard labour for a period not exceeding seven days in the case of convicted criminal prisoners not sentenced to rigorous imprisonment;(4)such loss of privileges admissible under the remission system for the time being in force as may be prescribed by rules made by the Provincial Government;(5)the substitution of gunny or other coarse fabric for clothing of other material, not being woolen, for a period which shall not exceed three months;(6)imposition of handcuffs of such pattern and weight, in such manner and for such period as may be prescribed by rules made by the Provincial Government;(7)imposition of fetters of such pattern and weight in such manner and for such period as may be prescribed by rules made by the Provincial Government;(8)separate confinement for any period not exceeding three months.Explanation. - Separate confinement means such confinement with or without labour as secludes a prisoner from communication with, but not from sight of, other prisoners, and allows him not less than one hour's exercise per diem and to have his meals in association with one or more other prisoners;(9)penal diet, that is, restriction of diet in such manner and subject to such conditions regarding labour as may be prescribed by the Provincial Government :Provided that such restriction of diet shall in no case be applied to a prisoner for more than ninety-six consecutive hours, and shall not be repeated except for a fresh offence nor until after an interval of one week;(10)cellular confinement for any period not exceeding fourteen days :Provided that after each period of cellular confinement an interval of not less duration than such period must elapse before the prisoner is again sentenced to cellular or solitary confinement :Explanation. - Cellular confinement means such confinement with or without labour as entirely secludes a prisoner from communication with, but not from sight of other prisoners;(11)penal diet as defined in clause (9) combined with cellular confinement;(12)whipping provided that the number of strips shall not exceed thirty :Provided that nothing in this section shall render any female or civil prisoner liable to the imposition of any form of handcuffs or fetters, or to whipping.Section 47. - (1) Any two of the punishments enumerated in the last foregoing section may be awarded for any such offence in combination, subject to the following exceptions, namely:-(1)Formal warning shall not be combined with any other punishment except loss of privileges under clause (4) of that section;(2)penal diet shall not be combined with change of labour under clause (2) of that section, nor shall any additional period of penal diet awarded singly be combined with any period of penal diet awarded in combination with cellular confinement;(3)cellular confinement shall not be combined with separate confinement, so as to prolong the total period of seclusion to which the prisoner shall be liable;(4)whipping shall not be combined with any other form of punishment except cellular and separate confinement and loss of privileges admissible under the remission system;(5)no punishment shall be combined with any other punishment in contravention of rules made by the Provincial Government.(2)No punishment shall be awarded for any such offence so as to combine, with the punishment awarded for any other such offence, two of the punishments which may not be awarded in combination for any such offence.Section 48. - (1) The Superintendent shall have power to award any of the punishments enumerated in the last two foregoing sections, subject, in the case of separate confinement for a period exceeding one month, to the previous confirmation of the Inspector-General.(2)No officer subordinate to the superintendent shall have power to award any punishment whatever.Section 51. - (1) In the punishment-book prescribed in Section 12 there shall be recorded, in respect of every punishment inflicted, the prisoner's name, register number and the class (whether habitual or not) to which he belongs, the prison-offence of which he was guilty, the

date on which such prison-offence was committed, the number of previous prison-offences recorded against the prisoner, and the date of his last prison-offence, the punishment awarded and the date of infliction.(2)In the case of every serious prison-offence, the names of the witnesses proving the offence shall be recorded, and, in the case of offences for which whipping is awarded, the superintendent shall record the substance of the evidence of the witnesses, the defence of the prisoner, and the finding with the reasons therefor.(3)Against the entries relating to each punishment the jailor and superintendent shall affix their initials as evidence of the correctness of the entries.Jail Manual, 1926. - Paragraph 120. - The following executive instruction has been framed by the Government of India with reference to clause (2) of Section 59 of the Prisons Act, IX of 1894, regarding the classification of prison offences into minor and serious offences:-An offence shall be deemed a minor offence when it is dealt with by a minor punishment (see classification of punishments in paragraph 121 below), and a serious offence when dealt with by a major punishment; and in the annual returns offences shall be classified as (1) offences dealt with by major punishments, and (2) offences dealt with by minor punishments.Paragraph 121. - the following executive instructions have been framed by the Government of India under clause (2) of Section 59 of the Prisons Act, IX of 1894, regarding the classifications of minor and major punishments enumerated in Section 46 of the said Act including those prescribed by the Governor-General in Council under Section 46, clauses (4), (6) and (7);-Minor punishment:-(1)formal warning;(2)change of labour for a stated period to some more irksome or severe form;(3)forfeiture of remission earned, not exceedings four days;(4)forfeiture of class, grade, or prison privileges for a period not exceeding three months;(5)temporary reduction from higher to a lower class or grade;(6)penal diet with or without cellular confinement not exceeding forty-eight hours;(7)cellular confinement for not more than seven days;(8)separate confinement for not more than fourteen days;(9)imposition of handcuffs otherwise than by handcuffing a prisoner behind or to a staple;(10)imposition of link fetters for not more than thirty days; and(11)substitution of gunny or other coarse clothing for the portion of the ordinary prison dress which is not woolen.Major punishments:-(1)hard labour in the case of prisoners not sentenced to rigorous imprisonment;(2)(a)forfeiture of remission earned, exceeding four but not exceeding twelve days;(b)forfeiture of remission earned, in excess of twelve days;(c)forfeiture of class, grade, or prison privileges for a period exceeding three months;(d)exclusion from the remission system for a period not exceeding three months;(e)exclusion from the remission system for a period exceeding three months;(f)permanent reduction from a higher to a lower class or grade;(3)cellular confinement for a period exceeding seven days;(4)separate confinement for a period exceeding fourteen days;(5)link-fetters, if imposed for more than thirty days;(6)bar-fetters;(7)cross-bar fetters;(8)handcuffing behind or to a staple;(9)penal diet combined with cellular confinement for more than forty-eight hours;(10)whipping; and(11)any combination of minor punishments admissible under Section 47 of the Act.Note 1. - The major punishments 2 (b) and (e), and any combination of the major punishments 2 (b), 2 (c) and 2 (e) shall not be awarded by the superintendent of a prison without the previous sanction of the Inspector-General of Prisons.Note 2. - The following punishments shall not be carried out in combination even when awarded at different times for different offences: (a) penal diet with whipping, (b) penal diet with standing handcuffs, (c) standing handcuffs with cross-bar fetters, and (d) cross-bar fetters with bar fetters.Paragraph 766. - When any prisoner is sentenced to solitary confinement under Section 73 of the Indian Penal Code, the jailor shall enter his name and particulars of the sentences in the solitary confinement register and submit the

register to the superintendent for verification of the entry. This register shall be examined by the jailor on the 1st of every month, and he shall then see that every prisoner who has an uncompleted sentence of solitary confinement is placed in a cell for the period prescribed in Section 74 of the Indian Penal Code, or according to any order on his warrant, if not contrary to that section, provided that he has previously been certified by the medical officer to be fit for such confinement. If there is not a sufficient number of cells available for all such prisoners, he may place half of the number in cells on the 1st of the month, and the other half on the 15th of the month. No period of judicial solitary confinement exceeding fourteen days or, if the sentence of imprisonment is for more than three months, exceeding seven days, can be inflicted in each calendar month. If the period of solitary confinement is stated on the warrant in months, one month's solitary confinement shall be counted as four weeks, two months as eight weeks, and three months as twelve weeks. The execution of a sentence of solitary confinement need not be postponed on account of an appeal having been lodged.Paragraph 784. - Every under-trial prisoner shall be furnished with a history-ticket showing his name, date when first placed on trial, date of admission to the jail, crime of which accused, previous convictions, if any are known, Court in which the case is pending, whether he is a confessing prisoner or not dates to which his trial has been remanded, weight on admission, and weight subsequently once a fortnight.Paragraph 917. - (1) Any police officer of not lower rank than a deputy superintendent shall, for any purpose connected with the discharge of his duty as such police officer, be permitted to enter the jail at any time.(2)Police officers of a lower rank than deputy superintendents who are in uniform and have been detailed for the duty shall be permitted to enter the jail for the purpose of recognizing old offenders, or for conducting operations for the identification of prisoners during work hours on any week day.(3)No police officer shall be permitted to interview any prisoner except in so far as may be necessary for the identification of such prisoner, without an order in writing from the District Magistrate or the District Superintendent of Police, addressed to the superintendent of the jail.(4)Any interview permitted under an order from the District Magistrate or the District Superintendent of Police shall take place in the presence of the jailor or other proper officer of the jail, who shall, if required to do so, keep at such a distance that he may not hear the conversation that takes place.(5)The superintendent of the jail shall, for the purpose of this rule, produce any prisoner in his charge whom the police are authorized to interview, and shall afford every reasonable facility for this purpose.(6)The superintendent shall arrange that every visitor to the jail shall be attended by two warders armed with batons.Questions on some of the main points to be noticed by visitors at their visits to jails(1)Buildings. - Are the buildings secure and in good repair?(2)Overcrowding. - Is there any overcrowding? If so, where are the excess prisoners accommodated, and are steps being taken to relieve it?(3)Drainage. - Is the drainage of the jail in a satisfactory state? If not, what are the defects?(4)Water-supply. - Is the water-supply sufficient and good and the means of carriage suitable?(5)Have the drinking water wells been cleaned out recently?(6)Food. - Are the articles of food in the store-room and elsewhere properly kept and in good condition?(7)Does the weight of vegetables agree with the calculated weight in the diet roll and are they of good quality and properly cleaned?(8)Is the food issued correct in quantity and properly cooked?(9)Is the full number of rations for all the prisoners forthcoming?(10)Are the oil and condiments added to the curry to the presence of some responsible officer?(11)Clothing. - Have the prisoners the prescribed amount of clothing and bedding in their possession? Is it in serviceable order? Is the bedding placed in the sun every morning when the weather permits, and is the prescribed extra blanket issued during the cold

months?(12)Bathing. - Are the prisoners required to bath regularly?(13)Are full tasks exacted from all labouring prisoners fit for hard labour? Who checks the work done in the evening? Is the out-turn of each convict properly recorded on the work-tickets?(14)Remission. - Is ordinary remission for industry given with reference to the actual takes performed?(15)Are there any convicts who are not receiving remission for industry for failure to perform tasks? If so, have efforts been made to enforce work by means of punishment?(16)Punishments. - Is the ratio of punishments in the jail unduly high?(17)Discipline. - Are convicts regularly searched for contraband?(18)Are convicts prevented from wandering about?(19)Are gangs of convicts marched about in proper order ?(20)Habituals. - Are habituals separated from others at night and is their separation from others by day carried out as far as possible?(21)Lunatics. - Are there any civil lunatics in jail who have been detained under observation longer than the period allowed by [law] and, if so, on whose warrant ?(22)Are there any criminal lunatics who have been unduly detained in jail?(23)Females. - Are the women prisoners thoroughly screened from the view of male prisoners?(24)Juveniles. - Are Juvenile prisoners under the age of 18 separated, both by day and night, from adults, and are those juveniles who have arrived at the age of puberty separated from those who have not, as required by Section 27 (2) of the Prisoners Act, 1894? Do juvenile prisoners receive instruction?(25)Adolescents. - Are all adolescent prisoners, of ages ranging from 18 to 20 or 22, separate at night, both from juveniles and adults?(26)Cells. - Is ever cell utilized at night?(27)Appeals. - Has there been any undue delay in forwarding appeals to the Courts, or in the receipt of the Courts orders on appeals?(28)Garden. - Is the whole vegetable supply of the jail obtained from the jail garden? If not, why cannot this be done?Paragraph 990. - The date on which a prisoner is entitled to be released shall be calculated by the superintendent and jailor, and an entry shall be made in the release diary under that date, giving the name and serial number of the prisoner. It is not the duty of the committing officer to note the date of release on the warrant. If the date of release is stated on the warrant incorrectly or omitted, the warrant shall not be returned for correction on that account. the entry in the release diary shall made by the jailor personally in a district jail, and in a central jail by such officer as the superintendent shall depute by written order; but such entries will be checked and initialled by the jailor. In case the term of imprisonment be changed, either by the judicial imposition of additional imprisonment or by remission of any part of the sentence, or by absence from the jail on bail or after escape, the entry shall be scored through with red ink and a reference made to the date of release under the new order, under which date a new entry shall be made. When a whipping is awarded in addition to imprisonment, an entry shall be made in red ink in the release diary on the page for the day on which the prisoner is to receive strips. Should this date be uncertain, owing to an appeal being made, two or three forward entries shall be made in the release diary as a reminder that the prisoner is to be brought up at the proper time to receive strips. The superintendent shall himself check each entry in the release diaries and admission register, and shall be personally responsible for the correctness of such entries and for any illegal detention of a prisoner or failure to execute a sentence due to neglect of this rule.Paragraph 1052. - A copy of the rules relating to Insolvency (Act III of 1907, as amended by Act V of 1920) shall be kept up in the civil ward of every jail, and superintendents of jails shall assist civil debtors and revenue defaulters who wish to be declared insolvents in making the necessary application under the Act. These applications may be written by a warder or other official, and such paper and writing materials as are necessary may be supplied.Reformatory Schools Act (VIII of 1897)Section 10. - The officer in charge of a prison in which a youthful offender is confined, in execution of a sentence of imprisonment, may bring him, is

he has not then attained the [age of sixteen] years, before the District Magistrate within whose jurisdiction such a person is situate; and such magistrate may, if such youthful offender appears to be a proper person to be an inmate of a Reformatory School, direct that, instead of undergoing the residue of his sentence, he shall be sent to a Reformatory School and there detained for a period which shall be subject to the same limitations as are prescribed by or under Section 8, with reference to the period of detention thereby authorized.The Indian Lunacy Act, 1912 (TV of 1912)Section 16. - (1) When any person alleged to be a lunatic is brought before a magistrate under the provisions of Section 13 or Section 15, the magistrate may by an order in writing, authorize the detention of the alleged lunatic in suitable custody for such time not exceeding ten days as may be, in his opinion necessary to enable the medical officer to determine whether such alleged lunatic is a person in respect of whom a medical certificate may be properly given.(2)The Magistrate may, from time to time, for the same purpose by order in writing, authorize such further detention of the alleged lunatic for periods not exceeding ten days at a time as he thinks necessary:Provided that no person shall be detained in accordance with the provisions of this section for a total period exceeding thirty days from the date on which he was first brought before the Magistrate.

Chapter 32

Under-Trial Prisoners in Need of Medical Assistance

719. When the jail superintendent reports under paragraph 183 of the Jail Manual to the Magistrate or the Sessions Judge, as the case may be, that any under-trial prisoner is seriously ill, the Magistrate or the Judge concerned should take steps wherever possible to release the prisoner on bail. Where no bail is forthcoming or where bail cannot be granted, the jail superintendent should see that medical attention is provided.

720. When a Magistrate on tour is trying a prisoner who appears to be ill and in need of medical attention he should arrange to have him detained in the nearest hospital or dispensary. This applies to prisoners accused of a cognizable offence who can not be released on bail either because they can not furnish it or because bail cannot properly be granted. The prisoner shall not ordinarily be removed from the hospital or dispensary until the officer in charge thereof certifies that he is sufficiently recovered to undergo trial in Court.

721. Women produced for trial shortly before or soon after child-birth should be dealt with in the same way.

Chapter 33

Magisterial Lock-Ups

722. For each magisterial lock-up in his district the District Magistrate shall appoint a Magistrate at the station either by name or by office, as the officer in charge. In the absence of the officer in charge the senior stipendiary Magistrate present at the station, or if no stipendiary Magistrate is available, a naib-tahsildar shall be in change of the lock-up.

723. Where the lock-up is adjacent to a treasury or sub-treasury the treasury police guard shall be responsible for the custody of prisoners. At other places a separate guard shall be kept.

724. The naib-nazir, or such other ministerial officer as may be appointed by the District Magistrate in this behalf, shall keep a daily nominal roll register in Form No. 219-Hindi/22-Marathi XII-Jail-Vernacular of all under-trial convicted prisoners kept in the lock-up. He shall also keep a register in Form No. 269-Hindi XII-Jail-Vernacular showing the daily statement of prisoners in the lock-up. The police guard shall inform him whenever a prisoner is brought in or discharged.

Note. - When these registers are full they shall be deposited in the criminal record room of the district office and preserved for a period of three years.

725. On the 1st of each month the officer in charge shall submit to the District Magistrate a list of under-trial prisoners who have been in the lock-up for over a month with reasons for their detention. The list shall be sent through the magistrates concerned, who shall note thereon the reasons for the delay in the progress of the case. The District Magistrate shall send to the Inspector-General of Prisons a similar list of those who have been in the lock-ups of his district for over three months.

726. A food ration shall be supplied to each prisoner daily on a scale fixed by the District Magistrate. Each prisoner shall be supplied with cooked or uncooked food at his option. If uncooked, it shall be cooled at the prescribed cooking place under the supervision of the police guard, provided that the District Superintendent of Police considers that there are sufficient

precautions for the safety of the prisoner.

727. The head constable of the guard shall see that the food supplied is of the prescribed quantity and quality and bring any complaints about it to the notice of the officer in charge.

728. Unless the District Magistrate directs otherwise, all food for under-trial prisoners shall be supplied by an authorized contractor. The contractor shall be paid on the 1st and 16th of each month on presenting a certificate, signed either by the station officer or the officer in charge as the District Magistrate may require, that the food supplied was of the prescribed quality.

729. Each prisoner shall be supplied with a tarat patti and blanket. With the permission of the officer in charge he may bring his own bedding and use it.

730. In each lock-up there shall be separate cells for males and females, but the female cells may be used for males when there are no female prisoners.

731. A board shall be affixed on the outside of each cell showing its cubic contents in cell floor space, and the maximum number of prisoners admissible according to the limit fixed by the District Magistrate, allowing not less than 500 cubic feet per prisoner.

732. The sanitary conveniences and health of the prisoners shall be supervised by the medical officer in charge of the nearest dispensary, who shall visit the lock-up once a week. He shall record his suggestions and remarks in the visitors book, and the officer in charge of the lock-up shall be responsible for carrying out all reasonable suggestions after taking the orders of the District Magistrate if necessary. The officer in charge of the lock-up shall record a note against any suggestion which has not been accepted, giving his reason for not carrying it out. The Civil Surgeon of the district shad inspect the lock-ups in his jurisdiction when he is on tour and shall supervise the work of his subordinates.

733. Latrines in barrack-rooms shall be used only at night. They are not to be used in the day-time except by prisoners who are sick and awaiting removal to hospital. All prisoners shall be taken out for latrine parades first thing in the morning and last thing in the evening before lock-up for the night. During

the day time they shall be paraded at 4-hour intervals. If a prisoner is found going frequently to the latrine outside the fixed times he should be reported to the medical officer in charge for treatment. It is only if there is good reason to believe that a prisoner is visiting the latrines unnecessarily that the irregularity should be treated as a lock-up offence and dealt with accordingly.

734. The head constable in charge of the guard shall keep the barrack keys. If for any special reason he has to leave the lock-up he shall hand over the keys to the senior constable on the premises.

735. Under-trial prisoners shall be given all reasonable facilities for interviewing or writing to their friends or legal advisers, under the orders of the officer in charge. The officer in charge, or some other officer deputed by him, must always be present during interviews with friends.

736. A visitors book shall be kept at all lock-ups, and at every visit medical and other visitors shall record their visit in it and any remarks they wish to make.

Chapter 34

Rules Relating to Certain Quasi-Judicial Duties of Clerks of Court

737. Criminal appeals, applications for criminal revisions and other petitions shall be received by the clerk of Court of the Sessions Judge. He shall examine them and make a note in writing on them showing whether they conform to the provisions of the Act under which they purport to have been filed, and of the Court-fees and Limitation Acts, were unnecessary delay.

738. In the temporary absence of the Sessions Judge and the Additional Sessions Judge (if any), the clerk of Court shall adjourn proceedings, make orders for the re-attendance of witnesses, and take bail from an apprehended witness.

739. the duties of the clerk of court shall also include-

(a)examining calender statements submitted by District Magistrates and noting thereon;(b)sending a certified copy of judgement or order disposing of an appeal or revision to the lower Court concerned under his own signature and the seal of the Court and sending copies of judgements and

orders in cases of acquittal or conviction of Government servants to their departmental superiors;(c)keeping a general check register of all returns due from and to the office of the Sessions Judge and examining and noting on them;(d)examining periodically the records deposited in the record-room, and reporting to the Sessions Judge any matters which appear to call for notice;(e)passing orders of payment on contingent vouchers of usual and petty expenditure up to such amount, not exceeding Rs. 5, as may be fixed in each case by the Sessions Judge.

740. The Sessions Jude may assign to the deputy clerk of Court any of the duties performed by the clerk of Court.

741. Nothing herein contained shall in any way derogate from the general responsibility of the clerk of court for the smooth and efficient working of all sections of the office and for seeing that prompt attention is given to all complaints and enquiries made by members of public having business in the office or in the Courts.

Chapter 35

Verification of Solvency of Sureties

742. Before a surety is accepted a statement of his assets and liabilities declared to be true and complete to the best of his knowledge and belief should be obtained from him and verified. Only realizable assets should be taken into consideration.

743. The responsibility for accepting a surety as solvent for the required amount is primarily that of the magistrate who has demanded the security, and in ordinary cases he should discharge it himself by making such summary enquiry as in the circumstances of the case he may think fit. When the case is important or the amount of security demanded is large the Magistrate may ask the nazir or naib-nazir to enquire into the solvency of the surety and submit a report, or ask the surety to produce a certificate of solvency from the tahsildar.

Note. - The production of a solvency certificate is not essential and in most cases a summary enquiry by the Magistrate or nazir or naib-nazir should suffice. This should not however be considered as in any way limiting the right of a Magistrate to demand a solvency certificate in cases of doubt or cases involving large sums. It is the Magistrate's duly to see that while he keeps proper control of the proceedings he causes parties as little inconvenience as possible.

Chapter 36

Alterations of Figures in Official Documents

744. To guard against fraud the alteration of figures in registers, records, and official documents of any kind, where the figures denote money or anything else, shall be made by cancelling the incorrect figure and writing the correct figure above or beside it. the cancellation must leave the in-correct figure clearly legible, and must be attested by the intials of the person who made it. There must be no erasing, obliterating, or altering one figure into another.

Chapter 37

Report of the Conviction of a Government Servant

745. When a Government servant or pensioner is convicted of an offence a copy of the judgement, free of cost, shall be sent by the presiding officer to the head of the office or department in which the person convicted is employed or was employed before retirement, so that action in the case may be considered.

746. The report shall be made on form No. 100 on Schedule V. Magistrates subordinate to the District Magistrate shall send the form through him, and make a note in the daily calendar (form No. 42 on Schedule V) that they have done so.

747. It must be remembered that a copy of the judgement or order acquitting or discharging a Government servant is to be supplied free of cost on the application of his departmental superior.

Chapter 38

Legal Practitioner' Clerks

748. The expression "recognized clerk" means a clerk employed by a legal practitioner, and permitted as such to have access to the Courts in which his employer is authorized to practise, and to the office attached thereto.

749. Two or more clerks of a legal practitioner may be recognized if the extent of practice necessitates their employment. Special care should be taken to see that this condition is satisfied in the case of practitioners of less than ten years' standing.

750. The District Judge shall maintain in the following form a register of all recognized clerks employed in his district:-

Register of recognized clerks oflegal practitioners

S. No.	Name	Father's name	Residence	Date of registration
(1)	(2)	(3)	(4)	(5)

Name of legal practitioners under whom employed	Courts in which the legal practitioner isauthorized to practise	Date of removal from the register with cause ofremoval in brief	Remarks
(6)	(7)	(8)	(9)

Note. - The register will be open for inspection on payment of the usual fees prescribed for inspection of Court and other registers.

751.

(1)Every application for recognition shall be made by a legal practitioner, by a letter addressed to the District Judge in the following form:-"I beg that (name)..... son of..... aged..... resident of..... may be recognized as my clerk.I have made due enquiries with regard to the character and qualifications of the candidate, and certify that in my opinion he is a fit and proper person to be recognized as a legal practitioner's clerk, under the rules made by the High Court of Judicature at Nagpur. I also certify that he will be employed bona fide in my service for clerical work".(2)The application shall State the legal practitioner's standing at the Bar, the name or names of the recognized clerks, if any, already in his service, and the educational qualifications of the person proposed to be employed as a recognized clerk.

752. An application for renewal of recognition shall be made by the legal practitioner to the District Judge before the 15th January of each year.

753. A fee of Re. 1 for recognition and an annual fee of Re. 1 for the renewal of recognition shall be payable in respect of each clerk. the fee payable for renewal will be Rs. 2, if the application for renewal is made after the date mentioned in Rule 752. These fees shall be paid in the shape of court-fee stamps affixed to the applications.

754. No person convicted of an offence involving moral turpitude shall be registered as a recognized clerk, unless after taking into consideration the age and antecedents of the persons, the circumstances in which the offence was committed, the interval since conviction, and the conduct of the person during that interval, the District Judge is of the opinion that the conviction should no longer operate as a bar to registration. No person shall be registered as a recognized clerk unless he is approved by the Bar Association, and unless the District Judge is satisfied that he has had a sufficient elementary education in the language of the district, Hindi or Marathi, and also in English if the legal practitioner employing him is practising in the High Court.

755. No person shall be admitted or continued as a recognized clerk if he is, or acts as, a recognized agent (mukhtyar), either under a special or general power of attorney, or any person other than the legal practitioner by whom he is employed.

756. The names with necessary particulars of recognized clerks registered in the office of a District Judge shall be intimated to subordinate Courts and the District Magistrate. On receipt of the information the Judge or the senior judge, as the case may be, at outlying stations shall have the necessary entries made in the register, which shall be maintained in the form given in Rule 750.

757. No clerk recognised as the clerk of one legal practitioner shall do business in Courts or in offices thereof on behalf of any other legal practitioner unless permitted in writing to do so by his master on special occasions.

Note. - Two legal practitioners shall not be allowed to engage the same clerk, provided that if the two legal practitioners are closely related, such as father and son or brothers, they may be allowed to have one clerk.

758. No clerk employed by a legal practitioner shall be allowed access to the High Court or any court subordinate to it, or to any of the offices attached thereto, unless he is a recognized clerk.

759.

(1)A registered clerk may act in all matter of a routine nature which do not require the personal attendance of legal practitioners such as-(a)to present applications signed by his master for-(i)copies of records,(ii)return of documents,(iii)issue of process with diet-money, if any,(iv)payment of incidental costs,(v)translation and typing of evidence in the High Court;(b)to inspect records, if authorized by his master and sanctioned by the Court or other officer empowered to do so;(c)to file powers of attorney in favour of his master;(d)to identify, if required, and if in a position to do so, persons making inspection of records or swearing affidavits.(2)Acts which the law requires to be done by a party or his recognized agent or by pleader duly appointed on his behalf, such as the presentation of a plaint or memorandum of appeal, shall not be done by a recognized clerk.(3)When a recognized clerk receives any money from his master's employer he shall give to the employer a receipt for the amount received by him specifying exactly what the money was received for, e.g., writing fees or costs, and if for costs, for what costs, e.g., plaint, process-fees, pleader's fee, etc. the details shall be set out separately either in the receipt itself, or on a separate piece of paper attached to it.

760. The District Judge, for reasons to be recorded in writing, and after hearing the clerk in his defence, if he so desires, may order the removal of any recognized clerk and strike off his name from the register, and on the passing of such order the clerk shall cease to be a recognized clerk. Every such order shall be communicated to all concerned as in Rule 756.

Note. - Proceedings taken against clerks under this rule are administrative and not judicial proceedings.

761. No person removed under the preceding rule shall be recommended for registration by any legal practitioner at the same or at any other station unless he has been declared to be eligible for registration under Rule 763.

762. The name of a recognized clerk found on enquiry under Rule 760 to be using the Court premises, for private purposes, such as preparation of documents unconnected with any case in which his master is engaged, may be struck off from the register.

763. The District Judge may at any time revise an order passed by him under Rule 760 and may, for reasons to be recorded in writing, reinstate the person removed or declared him eligible for registration.

764. Whenever a pleader ceases to employ a recognized clerk he shall notify the fact to the District Judge and shall also briefly state the reason why he has ceased to employ him. On receipt of this information the name of the clerk shall be struck off the register and all concerned shall be informed as in Rule 756.

Chapter 39

Petition-WritersThe following rules regarding petition-writers have been made by the High Court under Section 28-A of the Central Provinces Courts Act, 1917, as amended by the Central Provinces Courts (Amendment) Act, 1935:-A.-General

765. In these rules-

"Petition" means a document written for the purpose of being presented to a criminal Court and includes a complaint and petition of appeal."To practise as a petition-writer" means to write petitions as defined above for hire, and includes the writing of a single petition for hire.A petition-writer is said to practise in a Court when he writes petitions for the purpose of being presented to that Court.

766. No person shall practise as a petition-writer in the Criminal Courts of the province unless he has been duly licensed under these rules :

Provided-(a)that any person licensed under any rule hitherto in force shall be deemed to have been licensed under these rules;(b)that a legal practitioner or his clerk shall not be considered to practise as a petition-writer, in respect of any petition written by the legal practitioner or by his clerk on his behalf, for presentation to a Court in which the legal practitioner is qualified to practise: provided that when the petition is written by a clerk it shall be signed by his employer.

767. No petition shall be rejected merely on the ground that it has been written by a person who is not a licensed petition-writer. Every petition shall show clearly the name and designation of the person by whom it has been scribed, and a Court may refuse to accept a petition not complying with this direction.

B.-Licensing of Petition-Writers

768. The number of licences granted under these rules shall be in accordance with the scale fixed for each district by the District Magistrate. The scale may be altered when necessary, but licences should not be

granted indiscriminately without reference to the fixed scale.

769. Any person above the age of 20 years may present a stamped application to the District Magistrate of the district in which he resides or desires to practise, to be licensed as a petition-writer.

770.

(1)The application shall be written by the applicant with his own hand and presented by him in person, and shall state-(a)the applicant's name, father's name, date of birth according to the English calendar, residence and present occupation (if any);(b)the language or languages with which the applicant is acquainted;(c)the names of two respectable persons to whom reference may be made as to the applicant's character.(2)If the applicant has been convicted of a criminal offence or removed from Government service, this shall be stated in the application.(3)If the applicant is in the service of Government or of a legal practitioner, his application shall state that he is prepared to resign such service on being licensed as a petitioner-writer. No person shall be licensed as a petition-writer whilst he is in the services of Government or of a legal practitioner.

771. The District Magistrate to whom the application is made may, in his discretion, on being satisfied-

(a)that the applicant is over 20 years of age,(b)that he is of good character, and(c)that he is otherwise eligible, grant the applicant a licence in Form A annexed to these rules.

772. Every appointment shall be probationary in the first instance, and no probationer shall be confirmed until he satisfies the District Magistrate-

(a)that he is able to draw up in a legible hand a clear and concise application, complaint or petition of appeal in the language of the Court in which he practises;(b)that he is acquainted with the provisions of the Penal Code, the Criminal Procedure Code, the Court-fees Act, the Stamp Act and the Limitation Act, so far as a knowledge of these Acts is necessary for the efficient performance of the duties of a petition-writer.

773. A register of licensed petition-writers in Form C annexed to these rules shall be maintained in the office of every District Magistrate. A page or pages of the register shall be set apart for each petition-writer.

When a new register is opened, the superseded register shall be destroyed.C.-Conduct of Petition-Writers

774. Every licensed petition-writer shall maintain a register in Form B annexed to these rules and shall enter therein every petition written by him, and shall produce the register for the inspection of any judicial officer, when required to do so.

775. Every licensed petition-writer shall, at his own expense, provide himself with an official seal of the following pattern :-

Petitioner WriterName.....No.....District.....

776. Every licensed petition-writer, in writing petitions, shall confine himself to expressing in plain and simple language such as the petitioner can understand and in a concise and proper form the statements and object of the petition, and shall not introduce any argument or quotation from a law report or other law book, or refer to any decision not brought to his notice by the petitioner.

777. Every licensed petition-writer shall affix his seal (with his name and licence number filled in) on every petition written by him, and shall enter on such petition the number which it bears in his register and the fee which he has charged for writing it.

778. Every licensed petition-writer shall re-write at his own cost any petition written by himself when required to do so by the order of a competent authority.

779.

(1)Subject to the provisions of Rule 782 every licensed petition-writer shall charge such fees only as may be prescribed by the District Magistrate. He shall note, in the petition as well as in the appropriate column of his register, the amount actually received by him.(2)A licensed petition-writer shall not take payment for his services by an interest in the result of any litigation in connection with which he is employed and shall not fined, or contribute towards, the funds employed in carrying on any litigation in which he is not otherwise personally interested.(3)Every licensed petition-writer shall give to his employer a receipt for the amount received by him, specifying exactly what the money was received for, e.g., writing fees or costs and, if for costs, for what cost, e.g., complaint process-fees, etc. The details shall be set out separately either in the receipt itself or on a separate piece of paper attached to it.

780. A licensed petition-writer shall not accept any mukhtyarnama, whether general or special for the conduct of any case in a Criminal Court other than a case in which he is himself a party.

781. Every licenced petition-writer-

(a)who resigns or is removed from his appointment, or(b)who enters the service of Government or of an Indian State or of a legal practitioner, or(c)who is suspended or dismissed under those rules, shall forthwith surrender his licence to the District Magistrate.D.-Procedure in dealing with Breaches of Rules

782. Any judicial officer who, upon the representation of any person employing a petition-writer, and after hearing such petition-writer (if he desires to be heard) finds that the fee charged for writing a petition presented in his Court was excessive may, by order in writing, reduce the fee to such sum as appears to be reasonable and proper, and may require the petition-writer to refund the amount received in excess of such sum. An order passed under this rule shall not be revised except by the officer who made it.

783. Any judicial officer may order a licenced petition-writer to rewrite any petition written by him which contravenes Rule 776, or is illegible, obscure or prolix, or contains any irrelevant matter or misquotation, or is, from any other cause, in the opinion of such officer, informal or otherwise objectionable. An order passed under this rule shall not be revised except by the officer who made it.

784. Any person who breaks Rule 766 shall be liable to a penalty not exceeding fifty rupees.

785. Any licensed petition-writer, who breaks any of the Rules 774, 775, 777,779,780 and 781, shall be liable to a penalty not exceeding fifty rupees.

786. Breaches of rules specified in Rules 784 and 785 shall be cognizable by the District Magistrate. No penalty shall be inflicted in respect of such breaches unless the person charged has had an opportunity of defending himself.

787. Any probationer who fails to satisfy the District Magistrate on the points mentioned in Rule 772, within one year from his being appointed a probationer is liable to be removed from his appointment by order of the District Magistrate.

788. Any licensed petition-writer who-

(a)habitually writes petitions contrary to Rule 776 or containing irrelevant matter or which are unnecessary or informal or otherwise objectionable; or(b)in the course of his business as a petition-writer uses disrespectful, insulting or abusive language; or(c)is found to be incapable of efficiently discharging the functions of a petition-writer; or(d)habitually remains absent during Court hours or is absent from his headquarters for a considerable period without sufficient cause; or(e)by reason of any fraudulent or improper conduct, is found to be unfit to practise as such; or(f)is convicted of a criminal offence;may be suspended or dismissed by order of the District Magistrate.

789. No appeal shall lie from any order passed under any of the above rules.

790. the High Court will exercise its general powers of superintendence and control with regard to orders passed under Rule 784, 785, 787 or 788 in the same manner as with regard to other administrative orders of the District Magistrate.

Form AForm of LicenceCertified that..... son of..... resident of....., has, this day, been licensed as a petition-writer in the..... district, and is hereby permitted to practise as such in the manner prescribed by the rules relating to petition-writers in the provinces and subject to the provisions of the said rules.Given under my hand and the seal of this Court this..... day of..... 20 at.....SealDistrict MagistrateForm BRegister to be maintained by every licensed petition-writer

S.No. of petition	Date on which petition was written	Name, parentage and residence of the person atwhose instance the petition was written	Description of petition
(1)	(2)	(3)	(4)

Brief abstract of contents of petition	Value of Court-fee labels affixed to the petition	Fees charged for writing the petition	Remarks	Signature of petition-writer
(5)	(6)	(7)	(8)	(9)

Form CRegister of Licensed Petition-writersPage of RegisterRegister No.Name of petition-writer-Father's name-Residence-Place of business-Dale of grant of licence-Date of confirmation of appointment-*Remarks-Note 1. - One or more pages to be set apart for each petition-writer.*Note 2. - In the column of remarks shall be entered a note of any penalty imposed

under Rule 784 or 785 and of any order passed under Rule 782, 783, 786, 787 or 788.Notifications(i)Notification No. 9880-1115-28/60. - Notwithstanding any thing contained in the Rules and Orders (Civil) or Rules, and Orders (Criminal) or in any other previous orders the hours of work in every judicial office Civil of Criminal shall with immediate effect, and until further orders, be from 10-30 p.m. to 5 p.m. with a break of half an hour from 2 p.m. and 2-30 p.m. and a full holiday of second Saturday in a month.

2. The High Court Notification No. 13356, dated the 13th December, 1962 is hereby superseded. [Published in M.P. Rajpatra Part I dated 8.1.1965 Page 85.]

(ii)Notification No. 143 dated the 5th January, 1966. - The High Court is pleased to extend, with the approval of the State Governor, Rules 415 to 421 of the Rules and Orders (Criminal) which are in force in the Mahakoshal Region of the State to the whole State. [Published in M.P. Rajpatra Part I, dated 17-6-1966 Page 1118.]