

jurisdiction is likely to commit a breach of the peace or to do any wrongful act that may probably occasion a breach of the peace within or beyond such limits, such Magistrate may in manner hereinafter provided require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix.

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

73. Whenever it appears to a Magistrate that—

(a) within the local limits of his jurisdiction any person is behaving in a suspicious manner and that there is reason to believe such person is behaving in such manner with a view to committing an offence; or

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

(c) there is within such limits any person who within or without such limits either orally or in writing disseminates or attempts to disseminate or in any way abets the dissemination of—

(i) any seditious matter, that is to say, any matter the publication of which is punishable under section 124A of the Penal Code or under the Sedition Enactment (*Chapter 24*); or

(ii) any matter concerning a public servant which amounts to criminal intimidation or defamation under the Penal Code; or

(d) there is within such limits any person who has in his possession or custody any instrument which may be used for housebreaking or who is armed with any lethal weapon and is unable to explain satisfactorily his movements or to account for the possession or custody of the housebreaking instruments or lethal weapon;

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

74. Whenever it appears to a Magistrate that any person within the local limits of the jurisdiction of such Magistrate—

Security for good behaviour from habitual offenders.

(a) is an habitual robber, housebreaker or thief or an habitual receiver of stolen property knowing the same to have been stolen;

(b) habitually commits extortion or, in order to the committing of extortion, habitually puts or attempts to put persons in fear of injury;

(c) is an habitual protector or harbourer of thieves;

(d) is an habitual aider in the concealment or disposal of stolen property; or

(e) is a notorious bad liver or is a dangerous character; such Magistrate may in manner hereinafter provided require such person to show cause why he should not be ordered to execute a bond with sureties for his good behaviour for such period not exceeding one year as such Magistrate thinks fit to fix.

75. (1) When a Magistrate acting under any of the last three preceding sections deems it necessary to require any person to show cause under such section he shall, if such person has not been arrested without warrant and brought before the Court for the purpose of the inquiry hereinafter mentioned, issue a summons requiring him to appear and show cause or, when such person is in custody but not present in Court, a warrant directing the officer in whose custody he is to produce him before the Court.

Summons or warrant if required.

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

76. Every summons or warrant issued under the last preceding section shall contain a brief statement of the substance of the information on which such summons or warrant was issued, and shall state the amount of the

Form of summons or warrant.

bond to be executed, the term for which it is to be in force and the number, character and class of sureties, if any, required.

Inquiry to
be held.

77. (1) When any person appears or is brought before a Magistrate in compliance with a summons or in execution of a warrant issued under section 75 the Magistrate shall proceed to inquire into the truth of the information on which he has acted and to take such further evidence as may be necessary.

(2) When any person has been arrested without warrant and brought before a Magistrate for the purpose of being bound over either to keep the peace or to be of good behaviour the Magistrate shall instead of requiring him to show cause explain to such person the purport and object of the inquiry and shall take such evidence as may be produced on either part.

(3) An inquiry under this section shall be made as nearly as may be practicable in the manner hereinafter prescribed for conducting summary trials before Magistrates except that no charge need be framed.

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

Order to
give
security.

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

Provided that—

(a) no person shall be ordered to give security of a nature different from or for an amount larger than or for a period longer than that specified in the summons or warrant issued under section 75, if any;

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

(c) when the person in respect of whom the inquiry is made is not competent to contract the bond shall be executed only by his sureties.

79. If on an inquiry under section 77 it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond the Magistrate shall make an entry on the record to that effect and if such person is in custody only for the purposes of the inquiry, shall release him or, if such person is not in custody, shall discharge him.

Discharge of persons informed against.

Proceedings in all Cases Subsequent to Order to Furnish Security.

80. (1) If any person in respect of whom an order requiring security is made under sections 71 or 78 is at the time such order is made sentenced to or undergoing a sentence of imprisonment the period for which such security is required shall commence on the expiration of such sentence.

Commencement of period for which security is required.

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

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

Contents of bond.

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

Power to reject sureties.

83. (1) If any person ordered to give security under sections 71 or 78 does not give such security on or before the date on which the period for which such security is to be given commences he may be committed to prison, or if he already is in prison may be detained in prison, until such period expires or until within such period he gives

Imprisonment in default of security.

such security to the Court which made the order requiring it or to the officer in charge of the prison in which he is detained.

(2) If such person is unable or unwilling to execute such bond but is willing to leave the State and not return thereto for such period as the Court shall approve, the Court may, subject to the execution of any sentence of imprisonment to which he has been sentenced, order accordingly.

(3) Pending the departure of the offender from the State he may be remanded in custody.

Power to release person imprisoned for failing to give security.

84. When a Court is of opinion that any person imprisoned for failing to give security under this Chapter may be released without hazard to the community or to any other person the Court may order such person to be discharged:

Provided that the Court of a Magistrate shall not exercise this power except in cases where the imprisonment is under its own order.

Magistrate to report in cases in which the security has been ordered by a superior Court.

85. Whenever a Magistrate is of opinion that any person imprisoned for failing to give security under this Chapter as ordered by a Court superior to his Court may be released without the hazard mentioned in section 84 such Magistrate shall make an immediate report of the case for the orders of the superior Court, and such Court may if it thinks fit order such person to be discharged.

Discharge of sureties.

86. (1) Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a Magistrate to cancel any bond executed under this Chapter within the local limits of his jurisdiction.

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

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

(4) Every such order shall for the purposes of sections 81, 82, 83 and 84 be deemed to be an order made under sections 71 or 78 as the case may be.

Chapter VIII.

UNLAWFUL ASSEMBLIES.

87. A Magistrate, the Chief Police Officer or a gazetted police officer or officer in charge of a police district or police station may command any unlawful assembly or any assembly of five or more persons likely to cause a disturbance of the public peace to disperse, and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

Unlawful assembly may be ordered to disperse by Magistrate, etc.

88. If upon being so commanded any such assembly does not disperse, or if, without having been commanded to disperse it conducts itself in such a manner as to show a determination not to disperse, a Magistrate, the Chief Police Officer or a gazetted police officer or officer in charge of a police district or police station may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer, soldier, sailor or airman of Her Majesty's armed forces or of any armed forces lawfully serving within the State, for the purpose of dispersing such assembly and if necessary arresting and confining the persons who form part of it in order to disperse such assembly or that they may be punished according to law.

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

89. If any such assembly cannot be otherwise dispersed and if it is necessary for the public security that it should be dispersed a Magistrate not below the rank of second class or a gazetted police officer may cause it to be dispersed by military force.

Use of military force.

90. (1) When a Magistrate not below the rank of second class or a gazetted police officer determines to disperse any such assembly by military force he may require any commissioned or non-commissioned officer in command of any soldiers, sailors or airmen of Her Majesty's armed forces or of any armed forces lawfully serving within the State to

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

disperse such assembly by military force and to arrest and confine such persons forming part of it as the Magistrate or the gazetted police officer may direct or as it may be necessary to arrest and confine in order to disperse the assembly or that they may be punished according to law.

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

When commissioned officer may disperse unlawful assembly by military force.

91. When the public security is manifestly endangered by any such assembly, and when neither a Magistrate nor a police officer, empowered by section 90 to require such an assembly to be dispersed by military force, can be communicated with, any commissioned officer of Her Majesty's armed forces or of any armed forces lawfully serving within the State may disperse such assembly by military force and may arrest and confine any person forming part of it in order to disperse such assembly or that they may be punished according to law; but if while he is acting under this section it becomes practicable for him to communicate with any Magistrate not below the rank of second class or gazetted police officer he shall do so and shall thenceforward obey the instructions of such Magistrate or police officer as to whether he shall or shall not continue such action.

Protection against prosecution for acts done under this Chapter.

92. No prosecution against any Magistrate or police officer or any officer, soldier, sailor or airman of any armed forces, for any act purporting to be done under this Chapter, shall be instituted in any criminal Court except with the sanction of the Sultan in Council; and

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

(b) no person doing any act in good faith in compliance with a requisition under section 88 or 90;

(c) no inferior officer, soldier, sailor or airman doing any act in obedience to any order which he was bound to obey;

(d) no officer acting under section 91 in good faith; shall be deemed to have thereby committed an offence.

Chapter IX.

PUBLIC NUISANCES.

93. (1) Whenever a Magistrate of the First Class or a Magistrate in charge of a station considers on receiving a report or other information and on taking such evidence, if any, as he thinks fit that—

Magistrate may make conditional order for removal of nuisance.

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

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

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

(d) any building or tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by and that in consequence its removal, repair or support is necessary; or

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

such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, tree, substance, tank, well or excavation, within a time to be fixed in the order to—

(i) remove such obstruction or nuisance;

(ii) suppress or remove such trade or occupation;

(iii) remove such goods or merchandise;

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

(v) remove, repair or support such building;

- (vi) lop or fell such tree;
- (vii) alter the disposal of such substance;
- (viii) fence such tank, well or excavation,

or appear before such Magistrate at a time and place to be fixed by the order and move to have the order set aside or modified in manner hereinafter provided.

(2) For the purposes of this section a " public place " includes also property belonging to the Government and grounds left unoccupied for sanitary or recreative purposes.

Such order
to be served
or notified.

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

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

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

95. The person against whom such order is made shall—

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

Consequence
of failure
to do so.

96. If such person does not perform such act or appear and show cause as required by section 95 the order shall be made absolute.

Procedure on
appearance
to show
cause.

97. (1) If such person appears and shows cause against the order the Magistrate shall take evidence in the matter.

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

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

Procedure
on order
being made
absolute.

98. When an order has been made absolute under section 96 or 97 the Magistrate shall give notice of the same to the person against whom the order was made, and

shall further require him to perform the act directed by the order within a time to be fixed in such notice and inform him that in case of disobedience he will be liable to the penalty prescribed in that behalf in section 188 of the Penal Code:

Provided that if such person be a corporation it shall be liable only to the fine prescribed by the said section.

99. (1) If such order is not performed within the time fixed the Magistrate may cause it to be performed and may recover the costs of performing it either by sale of the buildings, goods or other property removed by his order or by the distress and sale of any other movable property of such person within or without the local limits of such Magistrate's jurisdiction.

Consequence of disobedience to order.

(2) If such property is without such limits the order shall authorize its attachment and sale when indorsed by a Magistrate within the local limits of whose jurisdiction the property to be attached is found.

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

100. (1) If the Magistrate making an order under section 93 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public he may issue such an injunction to the person against whom the order was made as is required to obviate or prevent such danger or injury pending the final decision of the case.

Injunction pending final decision.

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

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

101. A Magistrate of the First Class or a Magistrate in charge of a station may order any person not to repeat or continue a public nuisance as defined in the Penal Code or any other law in force for the time being.

Power to prohibit repetition or continuance of public nuisance.

Chapter X.

TEMPORARY ORDERS IN URGENT CASES OF NUISANCE.

Power to issue order absolute at once in urgent cases.

102. (1) In cases where in the opinion of a Magistrate immediate prevention or speedy remedy is desirable such Magistrate may by a written order stating the material facts of the case and served in manner provided in section 94 direct any person to abstain from a certain act or to take certain order with certain property in his possession or under his management if such Magistrate considers that such direction is likely to prevent or tends to prevent obstruction, annoyance or injury to any persons lawfully employed, or danger to human life, health or safety, or a riot or an affray.

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

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

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

(5) No order under this section shall remain in force for more than one month from the making thereof.

Chapter XI.

DISPUTES AS TO IMMOVABLE PROPERTY.

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

103. (1) Whenever a Magistrate of the First Class or a Magistrate in charge of a station is satisfied, from a police report or other information, that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof within the local limits of his jurisdiction, he may make an order in writing stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend his Court within a time to be fixed by such Magistrate and to make oral or written statements of their respective claims as respects the fact of actual possession of the subject of dispute.

(2) For the purposes of this section and of section 105 the expression "land or water" includes buildings, markets, fisheries, crops or other produce of land and the rents or profits of any such property.

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

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

Provided that—

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

(b) if the Magistrate considers the case one of emergency he may at any time attach the subject of dispute pending his decision under this section.

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

(6) If the Magistrate decides that one of the parties is then in actual possession of the said subject he shall issue an order declaring such party to be entitled to retain possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction.

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

Power to attach subject of dispute.

104. If the Magistrate decides that none of the parties is then in actual possession or is unable to satisfy himself as to which of them is then in actual possession of the subject of dispute he may attach it until a competent Civil Court has determined the rights of the parties thereto or the persons entitled to possession thereof.

Disputes concerning rights over land or water.

105. (1) Whenever a Magistrate of the First Class or a Magistrate in charge of a station is satisfied as aforesaid that a dispute likely to cause a breach of the peace exists concerning the right to do or prevent the doing of anything in or upon any land or water situate within the local limits of his jurisdiction he may inquire into the matter and may if it appears to him that such right exists make an order permitting such thing to be done or directing that such thing shall not be done, as the case may be, until the person objecting to such thing being done or claiming that such thing may be done obtains the decision of a competent Civil Court adjudging him to be entitled to prevent the doing of or to do such thing as the case may be.

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

Order as to costs.

106. (1) When any costs have been incurred by any party to a proceeding under this Chapter for witnesses the Magistrate giving a decision under sections 103, 104 or 105 may assess such costs and direct by whom the same shall be paid, whether by such party or by any other party to the proceeding and whether in whole or in part or proportion.

(2) All costs so directed to be paid may be recovered as if they were fines.

Chapter XII.

PREVENTIVE ACTION OF THE POLICE.

Police to prevent seizable offences.

107. Every police officer may interpose for the purpose of preventing and shall to the best of his ability using all

lawful means prevent the commission of any seizable offence.

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

Information of design to commit such offences.

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

Arrest to prevent such offences.

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

Prevention of injury to public property.

PART V.

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE.

Chapter XIII.

111. (1) Every information relating to the commission of an offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction and be read over to the informant.

Information.

(2) Every such information shall be entered in a book to be kept by such officer, who shall append to such entry the date and hour on which such information was given, and whether given in writing or reduced to writing as aforesaid shall be signed by the person giving it.

112. (1) When the information aforesaid relates to the commission of a non-seizable offence such officer shall refer the informant to a Magistrate.

Procedure.

(2) No police officer shall in a non-seizable case exercise any of the special powers in relation to police

investigations given by this Chapter without the order of the Public Prosecutor or a Magistrate.

(3) Any officer in charge of a police station or any police officer not below the rank of sergeant receiving such order may exercise the same powers in respect of the investigation, except the power to arrest without warrant, as such police officer may exercise without an order in a seizable case.

Investigation in seizable cases.

113. (1) Any officer in charge of a police station or any police officer not below the rank of sergeant may without the order of a Magistrate exercise all or any of the special powers in relation to police investigations given by this Chapter in any seizable case.

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

Procedure where seizable offence suspected.

114. (1) If from information received or otherwise an officer in charge of a police station has reason to suspect the commission of a seizable offence he shall forthwith send a report of the same to a Magistrate and shall proceed in person or shall depute one of his subordinate officers to proceed to the spot to inquire into the facts and circumstances of the case and to take such measures as may be necessary for the discovery and, where not inexpedient, arrest of the offender:

Provided that—

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

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

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

(3) A police officer below the rank of lance-corporal deputed to inquire into a case under the provisions of subsection (1) shall not exercise any of the powers conferred by sections 115, 120 and 121.

115. (1) A police officer making an investigation under this Chapter may by order in writing require the attendance before himself of any person being within the limits of the police district in which he is making an investigation who from the information given or otherwise appears to be acquainted with the circumstances of the case, and such person shall attend as so required.

Police officer's power to require attendance of witnesses.

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

116. (1) A police officer making a police investigation under this Chapter may examine orally any person supposed to be acquainted with the facts and circumstances of the case and shall reduce into writing any statement made by the person so examined.

Examination of witnesses by police.

(2) Such person shall be bound to answer truly all questions relating to such case put to him by such officer but may refuse to answer any questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

117. (1) No statement made by any person to a police officer in the course of a police investigation made under this Chapter shall be signed by the person making it, nor shall such statement, save as herein provided, be used as evidence.

Statements to police not to be signed or admitted in evidence.

(2) When any witness is called for the prosecution or for the defence, other than the accused, the Court shall on the request of the accused or the prosecution refer to any statement made by such witness to a police officer in the

course of a police investigation under this Chapter, and may then, if the Court thinks it expedient in the interests of justice, direct the accused to be furnished with a copy thereof; and such statement may be used to impeach the credit of such witness if it is inconsistent with subsequent statements made by him.

(3) Notwithstanding anything in this section—

(a) when any fact is deposed to which is discovered in consequence of information received from a person accused of any offence who is 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.

Illustration.

If the accused says: "I stole the property and it is hidden in that well," and the property is not there discovered, no part of the statement is admissible. If, however, the property is there discovered, the fact may be proved but the words "I stole the property" would not be admissible.

(b) a statement made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question, may be proved.

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

No inducement to be offered.

118. (1) No police officer or person in authority shall offer or make or cause to be offered or made any inducement, threat or promise to any person charged with an offence to induce such person to make any statement having reference to the charge against such person.

(2) No police officer or other person shall prevent or discourage by any caution or otherwise any person from making in the course of a police investigation under this Chapter any statement which he may be disposed to make of his own free will.

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

Power to record statements and confessions.

(2) Such statement or confession shall be recorded in full in writing by the Magistrate to whom it is made and shall then be forwarded to the Magistrate, if different, before whom the case is to be inquired into or tried.

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

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

(Signed) A.B.,

Magistrate.

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

(5) No oath or affirmation shall be administered to any person making a statement or confession as in this section provided.

120. (1) Whenever an officer in charge of a police station or a police officer making an investigation has reasonable grounds for believing that any evidence or thing necessary for the purposes of an investigation into any offence which he is authorized to investigate may be found in any place and that such evidence or thing cannot in his opinion be otherwise obtained without undue delay, such officer may search or cause search to be made for such evidence or thing in any place.

Search by police officer.

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

(3) If he is unable to conduct the search in person and there is no other person competent to make the search present at the time, he may require any officer subordinate

to him to make the search, and he shall deliver to such subordinate officer an order in writing specifying the thing for which search is to be made and the place to be searched, and such subordinate officer may thereupon search for such thing in such place.

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

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

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

(2) If any complainant or witness refuses to execute such bond such officer shall report the same to the Court which may thereupon in its discretion issue a warrant or summons to secure the attendance of such complainant or witness before itself to give evidence in the matter of the charge against the accused.

Diary of proceedings in police investigation.

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

(a) the time at which the order, if any, for investigation reached him;

(b) the time at which he began and closed the investigation;

(c) the place or places visited by him; and

(d) a statement of the circumstances ascertained through his investigation.

Report of police officer.

123. (1) Every police investigation under this Chapter shall be completed without unnecessary delay, and the officer making the same shall prepare a report in the form

in the Second Schedule setting forth the names of the parties, the nature of the information, and the names of the persons who appear to be acquainted with the circumstances of the case.

(2) The officer may forward a copy of the report to the Public Prosecutor as provided by section 376 of this Code and shall do so where the Public Prosecutor shall have so directed under the said section.

PART VI.

PROCEEDINGS IN PROSECUTIONS.

Chapter XIV.

THE JURISDICTION OF CRIMINAL COURTS IN INQUIRIES AND TRIALS.

124. Every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed.

Ordinary place of inquiry and trial.

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

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

Illustrations.

(a) *A* is wounded within the local limits of the jurisdiction of the Court of Brunei and dies within those of the Court of Kuala Belait. The offence of culpable homicide of *A* may be inquired into by the Court of either Brunei or Kuala Belait.

(b) *A* is wounded within the local limits of the jurisdiction of the Court of Brunei and is during ten days more within the local limits of the Court of Kuala Belait, and during ten days more within the local limits of the jurisdiction of the Court of Seria, unable in the local limits of the jurisdiction of the Court of either Kuala Belait or Seria to follow his ordinary pursuits. The offence of unlawfully causing grievous hurt to *A* may be inquired into by the Court of either Brunei, Kuala Belait or Seria.

(c) *A* is put in fear of injury within the local limits of the jurisdiction of the Court of Brunei and is thereby induced within the local limits of the jurisdiction of the Court of Kuala Belait to

deliver property to the person who put him in fear. The offence of extortion committed on A may be inquired into by the Court of either Brunei or Kuala Belait.

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

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

Illustrations.

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

(b) A charge of receiving or retaining stolen goods may be inquired into or tried either by the Court within the local limits of whose jurisdiction the goods were stolen or by the Court within the local limits of whose jurisdiction they were at any time dishonestly received or retained.

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

Offences of escaping from custody, of criminal misappropriation or criminal breach of trust and of stealing, where triable.

127. (1) The offence of having escaped from custody may be inquired into or tried by a Court within the local limits of whose jurisdiction the person charged is.

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

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

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

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

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

(d) where it consists of several acts done in different local areas;

it may be inquired into and tried by a Court having jurisdiction over any of such local areas.

Where scene of offence is uncertain, etc.

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

Offence committed on a journey.

130. Whenever any doubt arises as to the Court by which any offence should under the preceding provisions of this Chapter be inquired into or tried a Judge may decide by which Court the offence shall be inquired into or tried.

When doubt arises, a Judge to decide.

Conditions Requisite for Initiation of Proceedings.

131. Subject to the provisions of this Code a Judge or Magistrate may take cognizance of an offence—

(a) upon receiving a complaint as provided by section 133 of this Code;

(b) upon his own knowledge or suspicion that such offence has been committed;

(c) on any person being brought before him in custody without process accused of having committed an offence which such Judge or Magistrate has jurisdiction either to inquire into or to try.

Power to take cognizance of offences.

132. (1) No Magistrate shall take cognizance of—

(a) any offence punishable under sections 121, 121A, 122, 123, 124A, 128, 129, 130 or 505 of the Penal Code, except with the previous sanction of the Public Prosecutor;

Sanction required for prosecution for certain offences.

(b) any offence punishable under sections 172 to 188 of the Penal Code, except with the previous sanction of the Public Prosecutor or on the complaint of the public servant concerned or of some public servant to whom he is subordinate;

(c) any offence punishable under sections 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211, 228 or 228A of the Penal Code, except with the previous sanction of a Judge or a Magistrate of the First Class or the Public Prosecutor or, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, except on the complaint of such Court, or of some other Court to which such Court is subordinate;

(d) any offence described in section 463 or punishable under sections 471, 475 or 476 of the Penal Code, except with the previous sanction of a Judge or Magistrate of the First Class or the Public Prosecutor or, when such offence is alleged to have been committed by a party to any proceeding in any Court in respect of a document given in evidence in such proceeding, except on the complaint of such Court, or of some other Court to which such Court is subordinate;

(e) any offence punishable under sections 490 or 491 of the Penal Code, except upon a complaint made by some person aggrieved by such offence or by the Public Prosecutor;

(f) any offence punishable under sections 493, 494, 495 or 496 of the Penal Code, except upon a complaint made by some person aggrieved by such offence or by a Judge or Magistrate of the First Class or the Public Prosecutor.

(2) The provisions of subsection (1) with reference to the offences named therein shall apply also to the abetment of such offences and to attempts to commit them.

Chapter XV.

COMPLAINTS.

Examination
of com-
plainant.

133. (1) When a Judge or Magistrate takes cognizance of an offence on complaint the Judge or Magistrate shall at

once examine the complainant upon oath or affirmation and the substance of the examination shall be reduced to writing and shall be signed by the complainant and also by the Judge or Magistrate.

(2) Where the complaint is made in writing by a Court or by a public servant acting or purporting to act in his official capacity the Judge or Magistrate need not examine the complainant, but he may, if he considers it necessary, examine such public servant either on oath or affirmation or otherwise.

134. If the Judge or Magistrate sees reason to doubt the truth of a complaint of an offence of which he is authorized to take cognizance he may, when the complainant has been examined, record his reason for doubting the truth of the complaint and may then postpone the issue of process for compelling the attendance of the person complained against and either inquire into the case himself or direct some police officer to make inquiries for the purpose of ascertaining the truth or falsehood of the complaint and report to him the result of such inquiries.

Postpone-
ment of
issue of
process.

135. (1) The Judge or Magistrate before whom a complaint is made may dismiss the complaint if after examining the complainant and recording his examination and considering the result of the inquiry, if any, made under the last preceding section there is in his judgment no sufficient ground for proceeding.

Dismissal of
complaint.

(2) The Judge or Magistrate if he dismisses the complaint shall record his reasons for so doing.

Chapter XVI.

THE COMMENCEMENT OF PROCEEDINGS.

136. (1) If in the opinion of a Judge or Magistrate taking cognizance of an offence there is sufficient ground for proceeding and the case appears to be one in which according to the fourth column of the First Schedule a summons should issue in the first instance he shall issue a summons for the attendance of the accused.

Issue of
process.

(2) If the case appears to be one in which according to that column a warrant should issue in the first instance he may issue a warrant or if he thinks fit a summons for causing the accused to be brought or to appear at a certain time before himself or some other Judge or Magistrate having jurisdiction.

(3) Nothing in this section shall be deemed to affect the provisions of section 52.

Personal attendance of accused may be dispensed with.

137. (1) Whenever a Judge or Magistrate issues a summons he may, if he sees reason to do so, dispense with the personal attendance of the accused.

(2) The Judge or Magistrate inquiring into or trying the case may in his discretion at any stage of the proceedings direct the personal attendance of the accused, and if necessary enforce such attendance in manner hereinbefore provided.

Chapter XVII.

PRELIMINARY INQUIRIES INTO CASES TRIABLE BY THE HIGH COURT.

Procedure in inquiries preparatory to commitment.

138. (1) In the case of persons charged with any of the following offences, that is to say—

- (a) offences against the State, as defined in Chapter VI of the Penal Code,
- (b) murder,
- (c) rape,
- (d) unnatural offences,
- (e) gang robbery,

a preliminary inquiry shall be held by a Magistrate of the First or Second Class with a view to the committal of the accused person for trial before the High Court.

(2) In the case of offences to be tried before the High Court, not enumerated in subsection (1) of this section, on the direction of the Public Prosecutor or on an order made either before or during the hearing by a Judge, a preliminary inquiry shall be held by a Magistrate of the First or Second Class.

(3) All other cases shall be tried summarily.

Procedure at Preliminary Inquiries.

140. (1) When the accused person is brought before him the Magistrate shall proceed to hear the case for the prosecution and to take all such evidence as may be produced in support thereof and such other evidence as the Magistrate may think fit to call for.

Hearing and taking of evidence for prosecution.

(2) The accused person shall be allowed to cross-examine the witnesses for the prosecution, and in such case the prosecutor may re-examine them.

(3) Nothing in this section shall prevent evidence being produced in support of the prosecution or called for by the Magistrate at any stage of the proceedings; provided that an opportunity is given to the accused to cross-examine and to answer and rebut such evidence.

(4) If the Magistrate calls for other evidence than that produced in the case for the prosecution he shall record the fact on the depositions stating shortly the nature of the evidence he has called for.

(5) If the officer or other person conducting the prosecution applies to the Magistrate to issue process to compel the attendance of any witness or the production of any document or other thing the Magistrate shall issue such process unless for reasons to be recorded he deems it unnecessary to do so.

141. (1) When the evidence referred to in the last preceding section has been taken and he has, if he thinks fit, examined the accused under section 220 for the purpose of enabling him to explain any circumstance appearing against him in the evidence, the Magistrate shall if he finds that there are not sufficient grounds for committing the accused person for trial discharge him, unless it appears to the Magistrate that such person should be tried before himself or before some other Magistrate in which case he shall either—

When accused person to be discharged.

(a) forthwith frame a charge or charges in writing and call upon the accused to plead thereto; or

(b) order the accused to be tried before some other Magistrate.

(2) If the Magistrate takes action under paragraph (a) of subsection (1) it shall not be necessary for the Magistrate to recall and re-examine the witnesses for the prosecution, but the accused may require that any witness called for the prosecution may be recalled for further cross-examination.

(3) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if for reasons to be recorded by such Magistrate he considers that there are not sufficient grounds for committing the accused.

(4) When the Magistrate is of opinion that there are peculiar difficulties or circumstances connected with the case or whenever he shall be so directed by a superior Court he may remand the accused or admit him to bail and he shall forthwith send the depositions to such superior Court for instructions.

When charge
to be framed.

142. (1) If after taking the evidence for the prosecution the Magistrate is of opinion that on the evidence as it stands there are sufficient grounds for committing the accused for trial he shall frame a charge under his hand declaring with what offence or offences the accused is charged.

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

“Having heard the evidence against you do you wish to say anything in answer to the charge? You are at liberty to make your defence now or you may reserve your defence until your trial before the High Court. You are not bound to say anything unless you wish to do so, but if you elect to make your defence now any statement you may make or evidence you may give will be taken down in writing and may be put in at your trial.”

(3) A copy of the charge shall, if he so require, be given to the accused free of charge.

Committal of
accused if
defence
reserved.

Hearing and
evidence for
defence.

143. (1) If the accused elects to reserve his defence he shall forthwith be committed for trial before the High Court.

(2) If the accused elects to make his defence before the Magistrate, the Magistrate shall explain to him the

provisions of section 221 of this Code. The statement made by the accused, if any, shall be taken down in writing and read over to him and shall be signed by such Magistrate and kept with the depositions and transmitted with them as hereinafter mentioned.

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

(4) The accused shall be a competent witness in his own behalf in all inquiries under this Chapter.

(5) If the accused applies to the Magistrate to issue process to compel the attendance of any witness or the production of any document or other thing the Magistrate shall issue such process unless for reasons to be recorded he deems it unnecessary to do so.

144. When the evidence referred to in the last preceding section has been taken the Magistrate shall—

Discharge or committal of accused.

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

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

145. (1) When the accused has been committed for trial under section 143 or 144 the Magistrate shall require him to give orally or in writing a list of the names and so far as practicable the addresses of the persons, if any, whom he wishes to be summoned to give evidence on his trial, whether such persons have given evidence before the Magistrate or not, and shall record that he has so done.

List of witnesses for defence on trial.

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

thinks necessary to defray the expense of obtaining the attendance of such witness at the trial.

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

(4) The accused may at any time before his trial give to the Magistrate, or, if he is in custody, to the officer in charge of the prison for transmission to the Magistrate, a further list of persons whom he wishes to give evidence on his behalf on such trial, provided that such list be accompanied by a concise statement of the facts to be proved by such witnesses.

(5) The Magistrate on receiving such list and statement shall issue summonses to compel the attendance of such witnesses at the trial.

(6) The Magistrate shall also issue summonses to compel the attendance at the trial of all the witnesses included in the list framed under subsection (1).

Bond of
witnesses.

146. (1) Witnesses for the prosecution and defence whose attendance is necessary at the trial before the High Court and who appear before the committing Magistrate shall be bound over by him to be in attendance when called upon to give evidence at such trial and may in the discretion of the Magistrate be required to execute bonds and to find sureties for the observance of such bonds.

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

Record to be
forwarded to
Court
of trial.

147. (1) When the accused is committed for trial the committing Magistrate shall send the original record and any document, weapon or other thing which is to be produced in evidence to the Court to which the accused is committed.

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

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

(4) The record shall comprise the following particulars:—

- (a) the serial number;
- (b) the date of the commission of the offence;
- (c) the date of the complaint, if any;
- (d) the name, age, sex, residence, and nationality (or race) of the complainant, if any;
- (e) the name, age, sex, residence, if known, and nationality (or race) of the accused;
- (f) the offence complained of and the offence proved, and the value of the property, if any, in respect of which the offence has been committed;
- (g) the date of the summons or warrant and of the return day of the summons, if any, or on which the accused was first arrested;
- (h) the date on which the accused first appeared or was brought before a Magistrate;
- (i) the name and title of the officer or other person conducting the prosecution;
- (j) the date of making of each adjournment or postponement, if any, and the date to which such adjournment or postponement was made and the grounds of making the same;
- (k) the date on which the proceedings terminated;
- (l) the order made;
- (m) the depositions;
- (n) the statement, if any, of the accused under section 142 (2);
- (o) the charge;
- (p) the list of witnesses given by the accused.

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

Power to
summon
supplemen-
tary wit-
nesses.