

(1) Number of pages 32

(2) Date of repair 7.8.87

(3) Initials of the Referencer lora ✓

TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

JUDICIAL DEPARTMENT

G.O. No.
B.P. No.

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*Proceedings of the Madras Government, Judicial Department,
2nd May 1862.*

No. 7. To the Honorable Sir COLLEY HARMAN SCOTLAND, Kt., Chief Justice, and
the Honorable Sir ADAM BITTLESTON, Kt., Puisne Judge of Her Majesty's
Supreme Court of Judicature, Madras, dated Fort Saint George, 2nd May 1862,
No. 707.

To repeal Act XVI, 1852, in those parts of British India, in
which the Indian Penal Code is in force, and to re-enact
some of the provisions thereof with amendments, and fur-
ther to improve the administration of Criminal Justice in
Her Majesty's Supreme Courts of Judicature.

We have the honor to forward to you
copies of a Bill, as per margin, brought into
the Legislative Council of the Government of
India, and to request your attention to Section
LV thereof, with reference to the last paragraph
of the "Statement of Objects and Reasons."

(Signed) W. T. DENISON,
(") H. GRANT,
(") W. A. MOREHEAD,
(") E. MALTBY.

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Repeal Act XVI of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature.

WHEREAS, in consequence of the passing of the Indian Penal Code, many of the provisions of Act XVI of 1852 have become inapplicable and others require amendment, and it is expedient to repeal the said Act and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature; It is enacted as follows:—

I. Whenever, on the trial of any indictment for an offence, there shall appear to be a variance between any statement in such indictment and the evidence offered in proof thereof, it shall be lawful for the Court before which the trial shall be had, if it shall consider that by the amendment of the indictment the person indicted will not be prejudiced in his defence on the merits, to order such indictment to be amended, according to the proof, by some Officer of the Court or other person, both in that part of the indictment where such variance occurs,

*(Indictment for perjury &c.
in the Court of Criminal Justice
for H.M. Supreme Court)*

to request your attention
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and in every other part of the indictment which it may become necessary to amend on such terms as to postponing the trial if the person indicted apply for a postponement, and ordering the same to be had before the same or another Jury as such Court shall think reasonable; and after any such amendment the trial shall proceed, whenever the same shall be proceeded with, in the same manner in all respects and with the same consequences both with respect to the liability of witnesses to be indicted for giving false evidence and otherwise, as if no such variance had occurred, provided that in all such cases where the trial shall be so postponed as aforesaid, it shall be lawful for such Court to respite the recognizances of the prosecutor and witnesses, and of the person indicted and his surety or sureties, if any, accordingly, in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence respectively, and the person indicted shall be bound to attend to be tried at the time and place to which such trial shall be postponed, without entering into any fresh recognizances for that purpose, in such and the same manner as if they were originally bound by their recognizances to appear and prosecute, or give evidence at the time and place to which such trial shall be so postponed. Provided also, that where any such trial shall be ordered to be had before another Jury, the Crown and the person indicted shall respectively be entitled to the same challenges as they were respectively entitled to before the first Jury was sworn.

II. If upon the trial of any person charged with the offence of criminal breach of trust under Section 405 of the Indian Penal

On trial for criminal breach of trust and other offences, if the offence be theft, the Court may order indictment to be amended.

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Code or of the offence of cheating and thereby dishonestly inducing the person deceived to deliver property under Section 420 of the Indian Penal Code or of criminal breach of trust as a carrier, wharfinger, or warehouse-keeper under Section 407 of the said Code, evidence shall be given to prove that such person took the property in question in any such manner as to amount to the offence of theft under Section 378 of the said Code, the Court may order the indictment to be amended under the provisions of Section I of this Act.

III. If upon the trial of any person charged with the offence of criminal breach of trust as a clerk or servant under Section 408 of the Indian Penal Code, evidence shall be given to prove that such person took the property in question in any such manner as to amount to the offence of theft under Section 378 of the said Code, or the offence of theft as a clerk or servant of property in possession of his master under Section 381 of the said Code, the Court may order the indictment to be amended under the provisions of Section I of this Act.

IV. If upon the trial of any person charged with the offence of theft under Section 378 of the Indian Penal Code, or the offence of theft in a building, tent, or vessel under Section 380 of the said Code, evidence shall be given to prove that in respect of the property stated in the indictment, such person was guilty of the offence of dishonest misappropriation of property under Section 403 of the said Code,

to request your attention

or the offence of criminal breach of trust under Section 405 of the said Code, the Court may order the indictment to be amended under the provisions of Section I of this Act. 15

V. If upon the trial of any person charged with the offence of theft as a clerk or servant, of property in the possession of his master under Section 381 of the Indian Penal Code, evidence shall be given to prove that such person was guilty of the offence of dishonest misappropriation of property under Section 403 of the said Code, or the offence of dishonest misappropriation of property possessed by a deceased person at the time of his death under Section 404 of the said Code, or of such dishonest misappropriation under the said Section 404, the offender being at the time of the person's decease employed by him as a clerk or servant, or the offence of criminal breach of trust under Section 405 of the said Code, or the offence of criminal breach of trust as a clerk or servant under Section 408 of the said Code, in respect of the property stated in the indictment, the Court may order the indictment to be amended under the provisions of Section I of this Act. 25

VI. Every verdict and judgment which shall be given after the making of any amendment under the provisions of this Act, shall be of the same force and effect in all respects as if the indictment had originally been in the form in which it is, after such amendment shall have been made. 5

VII. If it shall become necessary at any time, for any purpose

Records to be drawn up in amended form, without noticing the amendments. whatsoever, to draw up a formal record in any case where any amendment shall have been made under the provisions of this Act, such record shall be drawn up in the form in which the indictment is, after such amendment shall have been made, without taking any notice of the fact of such amendment having been made. 5 10

VIII. In any indictment for murder or culpable homicide, or for abetting murder or culpable homicide, or for attempting to commit

The means by which the injury was inflicted need not be specified in indictments for murder and manslaughter. murder which shall be preferred after this Act shall come into operation, it shall not be necessary to set forth the manner in which, or the means by which, the death of the deceased was caused or attempted to be caused, but it shall be sufficient in every indictment for murder to state that the person charged with the offence did murder the deceased by doing an act with the intention of causing the death of a human being, or, as the case may be, by doing an act with the intention of causing such bodily injury to the deceased as the offender knew to be likely to cause the death of the deceased, or by doing an act with the intention of causing bodily injury to some person, and that the bodily injury intended to be inflicted was sufficient in the ordinary course of nature to cause death, or by doing an act knowing it to be so imminently dangerous that it must in all probability cause the death of a human being, or such bodily injury as was likely to cause the death of a human being and committing such act without any excuse for incurring the risk of causing 5 10 15 20 25 30

and to request your attention

death or such injury as aforesaid, and in every indictment for abetting murder or for attempting to commit murder, it shall be sufficient to state that the person charged with the offence abetted the murder of the deceased or attempted to murder the deceased as the case may be. 35

IX. Upon any indictment for murder, the Jury may find the

Upon indictment for murder, Jury may find accused guilty of culpable homicide not amounting to murder. person charged with the offence not guilty of murder, but guilty of culpable homicide not amounting to murder. 5

X. Upon an indictment for the murder of a child, the Jury may

Upon indictment for murder Jury may find the accused guilty of concealing, or endeavouring to conceal the birth of a child. find the person indicted not guilty of murder, but guilty of intentionally concealing or endeavouring to conceal the birth of such child under Section 318 of the Indian Penal Code, and the person so found guilty, shall be liable to be punished under the said Section of the said Code. 10

XI. It shall not be necessary in an indictment for voluntarily causing grievous hurt to specify the particular kind of grievous hurt. 5

XII. Upon an indictment for voluntarily causing grievous

Provision for cases of trial for causing grievous hurt and other similar offences. hurt or for voluntarily causing hurt to any person, or for an offence under Section 333, 337, or 338 of the Indian Penal Code, the person indicted shall not be entitled to be acquitted upon the ground that the hurt caused the death of the person injured or that the person indicted was guilty of culpable homicide. 10

XIII. In an indictment for theft the person indicted may be charged with having dishonestly taken the

Form of indictment in cases of theft.

property stated in the indictment out of the possession of the person mentioned therein without that person's consent, and such allegation shall be supported by proof that the person indicted intending to take dishonestly such property out of the possession of the person mentioned in the indictment without that person's consent moved that property in order to such taking. 5

XIV. In every indictment in which it shall be necessary to

Form of indictment in cases of forgery and uttering, stealing and embezzling, or obtaining by false pretences.

mention any instrument or document, or to make an averment or allegation respecting any instrument or document, it shall be sufficient to describe such instrument or document by any name or designation by which the same is usually known, or by the purport thereof, without setting out any copy or fac-simile thereof, or otherwise describing the same, or the value thereof. 10

XV. In every indictment in which it shall be necessary to

Intent to defraud particular person need not be alleged or proved.

allege an intent to defraud, it shall not be necessary to allege or prove an intent to defraud any particular person, but it shall be sufficient to allege and prove an intent to defraud. 5

XVI. If, on the trial of any person charged with any offence, it shall appear to the

A party indicted for felony or misdemeanour may be found guilty of an attempt to commit the same, and shall be liable to the same consequences as if charged with and convicted of the attempt only. No person so tried to be afterwards prosecuted for the same.

Jury upon the evidence that the person charged did not complete the offence charged, but was guilty of an offence within the meaning of 5

copy of the indictment & to request your attention

Section 511 of the Indian Penal Code by attempting to commit such offence, or to cause such offence to be committed, and in such attempt doing an act towards the commission of such offence, such person shall not by reason thereof be entitled to be acquitted, but the Jury shall be at liberty to return as their verdict that the person accused is not guilty of the offence charged, but is guilty of an attempt to commit the same within the meaning of Section 511 of the Indian Penal Code, and the offender so found guilty shall be liable to be punished in the same manner as if he had been convicted upon an indictment framed under the said Section for attempting to commit the particular offence charged in the indictment, and no person so tried as herein lastly mentioned shall be liable to be afterwards prosecuted for an attempt to commit the offence for which he was so tried.

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XVII. If, upon the trial of any person indicted for criminal misappropriation of property, it shall be proved that he was guilty of committing theft of such property, he shall not by reason thereof be entitled to be acquitted of the offence charged against him.

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XVIII. If, upon the trial of two or more persons indicted for jointly receiving stolen property, it shall be proved that one or more

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of such persons separately received any part of such property, it shall be lawful for the Jury to convict upon such indictment such of the said persons as shall be proved to have received any part of such property.

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~~XIX.~~ A person may be indicted and punished for abetting an offence which has been committed in consequence of the abetment,

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notwithstanding the person who committed the offence shall not have been indicted or found guilty, or shall not be in custody or amenable to justice, and every abettor of an offence may be indicted, tried, and punished for the abetment as a substantive offence, and may be tried either jointly with the principal offender or separately, and punished by any of Her Majesty's Supreme Courts of Judicature which would have power to try the principal offender, or which would have power to try the abettor if he had committed the offence himself, either in the place in which he is guilty of the abetment, or in the place in which any act shall have been committed in pursuance of the abetment.

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~~XX.~~ A person may be indicted and punished for dishonestly receiving or retaining stolen property, notwithstanding the person

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by whose offence the possession of such property shall have been transferred, or who shall have criminally misappropriated such property or committed criminal breach of trust in respect thereof, shall not have been found guilty of such offence, or shall not be in custody or amenable to justice.

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~~XXI.~~ It shall be lawful to insert several counts in the same indictment against the same person for different offences. But the Judge, before whom the person indicted shall be tried, may

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copy of the bill of indictment
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direct that any one or more of the counts shall be treated as a distinct indictment or indictments, and that the person indicted shall be tried thereupon in the same manner as if such count or counts had been in separate and distinct indictments.

XXII. If, upon the trial of any indictment

If the property alleged in an indictment for theft appears to have been taken at different times, prosecutor need not elect, unless where more than three takings, or more than six months between the first and last taking.

for theft, it shall appear that the property alleged in the indictment was taken or moved at different times, the prosecutor shall not by reason thereof be required to

elect, upon which taking or moving he will proceed, unless it shall appear that there were more than three takings or movings, or that more than the space of six calendar months elapsed between the first and the last of such takings or movings, and in either of such last mentioned cases, the prosecutor shall be required to elect to proceed for such number of takings or movings not exceeding three as shall appear to have taken place within the period of six calendar months from the first to the last of such takings or movings.

XXIII. In every indictment for giving or fabricating false

Form of indictment for giving or fabricating false evidence, &c.

evidence, or for using or attempting to use false or

fabricated evidence, or for any offence which

by the Indian Penal Code is punishable in

the same manner as the offence of intentionally giving false evidence, or for abetting or

attempting to commit any of the offences

aforesaid, it shall be sufficient to set forth

the substance of the offence charged, without setting out any part of any proceeding

either in law or in equity and without

setting forth the commission or authority

of the Court or person before whom such offence was committed.

XXIV. In every indictment in which it

Coin and Bank or Government Notes may be described simply as money. shall be necessary to make any averment as to any money or any note

of any Bank, or any note of Government

payable on demand, or which by any law

is or shall be declared to be a legal

tender, it shall be sufficient to describe

such money or note simply as money with-

out specifying any particular coin or Bank

or other note, and such allegation, so far

as regards the description of the property,

shall be sustained by proof of any

amount of coin or of any such note as afore-

said, although the particular species of coin,

of which such amount was composed, or the

particular nature of the note, shall not be

proved, and in cases of obtaining money or

any such note or notes as aforesaid by cheat-

ing by proof that the offender obtained any

piece or pieces of coin, or any such note or

notes, or any portion thereof, or of the

value thereof by cheating, although such

piece or pieces of coin or note or notes

may have been delivered to him in order

that some part of the value thereof should

be returned to the party delivering the

same or to any other person or persons,

and such part shall have been returned ac-

cordingly.

XXV. It shall not be necessary to al-

lege in any indictment any circumstances for

the purpose of showing

that the case does not come, nor shall it be

necessary to allege that the case does not

come within any of the general exceptions

contained in Chapter IV of the Indian

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Penal Code or within the exceptions contained in Section 136, Section 300, Section 323, Section 324, Section 325, Section 326, Section 375, or Section 499 of the said Code, but every charge shall be understood to assume the absence of all such circumstances, and it shall not be necessary on

Evidence as to general exception. the part of the prosecutor to prove at the trial the absence of such circumstances in the first instance; but the person indicted shall be entitled to give evidence of the existence of any such circumstances, and evidence in disproof thereof, may then be given on the part of the prosecutor.

XXVI. In proving the existence of circumstances as a defence under the 2nd, 3rd, 5th, 6th, 7th, 8th, 9th, or 10th exception to Section 499 of the Indian Penal Code good faith shall be presumed, unless the contrary appear.

XXVII. In every indictment, words used in describing an offence, shall be deemed to have been used in the sense attached to them by the Indian Penal Code.

XXVIII. Any person accused of murder or of culpable homicide may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature, if the act which shall have caused the death shall have been committed wholly or partly within the local limits of the jurisdiction of such Court, or if the death shall have taken place within such local limits in the same manner as if

both the act had been committed, and the death had taken place within such local limits.

XXIX. Whenever the offence of which any person shall be accused, shall consist of any thing which has been done and of any consequence which has ensued therefrom, the person accused may be dealt with, tried and punished by any of Her Majesty's Supreme Courts of Judicature if either the act shall have been done or the consequence shall have ensued within the local limits of the jurisdiction of such Court in the same manner as if both the act had been done and the consequence had ensued within such local limits.

XXX. Whenever a person shall be accused of any offence punishable under Section 411, 412, 413 or 414 of the Indian Penal Code in respect to the receiving or retaining of stolen property, such person may be dealt with, tried and punished by any of Her Majesty's Supreme Courts of Judicature, if the offence by which the possession of the property shall have been transferred, shall have been committed either wholly or in part within the local limits of the jurisdiction of such Court or if any of the stolen property shall have been received or retained by the person accused within such local limits.

XXXI. If any person shall be accused of any offence under Section 424 of the Indian Penal Code of dishonestly or fraudulently concealing or removing any property of himself or of any

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other person, or of dishonestly or fraudu-
lently assisting in the concealment or
removal thereof, such person may be tried,
convicted and punished by any of Her
Majesty's Supreme Courts of Judicature, if
the property shall have been concealed or
removed in any place within the local
limits of such Court or shall have been
removed from any place within such local
limits.

~~XXXIII.~~ If any act shall have been committed or the conse-
quence of any act shall have ensued on the
boundaries of the local jurisdiction of such
Court or so near to such boundaries as to
render it doubtful whether such act was
committed or such consequence ensued
within such local limits or not, such act or
consequence may for all purposes be stated,
deemed and taken to have been committed
or to have ensued within such local limits.

~~XXXIII.~~ If any person shall be accused
of any offence alleged
to have been committed
on a journey or on
any voyage in British India, such person
may be dealt with, tried and punished by
any of Her Majesty's Supreme Courts of
Judicature, if any part of the journey or
voyage shall have been performed within
the local limits of the jurisdiction of such
Court or the person accused shall have
been apprehended within such local limits.

~~XXXIV.~~ If any person shall escape
from any custody in
which he is lawfully de-
tained in pursuance of a sentence of a
Court of Justice or by virtue of a commuta-
tion of such sentence, or shall be charged

with any offence punishable under Section
227 of the Indian Penal Code or under
Section XII of Act XXIV of 1855
(relating to Penal servitude), the offender
may be dealt with, tried and punished
by any of Her Majesty's Supreme Courts
of Judicature, if such person shall be
apprehended and retaken within the local
limits of the jurisdiction of such Court, or if
he was formerly tried by such Court, or in
the case of an escape from custody if he
shall have escaped from custody in any
place within such local limits.

~~XXXV.~~ Any person accused of an of-
fence may be dealt with,
tried and punished by
any of Her Majesty's Su-
preme Courts of Judi-
cature, if the offence shall have been either
commenced or completed within the local
limits of the jurisdiction of such Court in
the same manner as if the offence had been
wholly and entirely committed within such
local limits.

~~XXXVI.~~ Every Justice of the Peace
shall have power to deal
with any person charged
with an offence, for which
he is liable under this Act to be tried by
one of Her Majesty's Supreme Courts of
Judicature, in the same manner as if such
offence had been wholly and entirely com-
mitted within the local limits of such Court.

~~XXXVII.~~ A former conviction or
acquittal before a Court
of competent jurisdiction
of any offence hereby
made punishable by Her
Majesty's Supreme Courts of Judicature,
shall be a bar to any subsequent trial or con-
viction for the same offence.

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XXXVIII. The provisions of Sections

10, 12, 13, 14, 15, 16, 18
and 23 of the 9th Geo.
4 c. 74 entitled "an Act
for improving the ad-
ministration of Criminal

Justice in the East Indies" shall be deem-
ed to apply to, and to include offences punish-
able under the Indian Penal Code. Section
5 of the said Act shall be deemed to include
culpable homicide, and the words felony or
misdemeanor in Section 100 of the said
Act, shall be deemed to extend to and in-
clude any offence punishable under the In-
dian Penal Code by means of or in conse-
quence of which the possession of property
shall have been transferred.

XXXIX. No indictment for any offence

shall be held insufficient
for want of the averment
of any matter unnecessary

to be proved, nor for the omission of the
words "as appears by the record" or of the
words "with force and arms," or of the
words "against the peace" nor for the in-
sertion of the words "against the form of the
statute" instead of "against the form of the
statutes" or *vice versa*, nor because any person
mentioned in the indictment is designated
by a name of Office or other description or
appellation instead of his proper name, nor
for omitting to state the time at which the
offence was committed in any case where
time is not of the essence of the offence,
nor for stating the time imperfectly, nor for
stating the offence to have been committed
on a day subsequent to the finding of the
indictment or on an impossible day or on a
day that never happened, nor for want of a
proper or perfect venue, nor for want of a
proper or formal conclusion, nor for want of
or imperfection in the addition of any de-

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fendant, nor for want of the statement of
the value or price of any matter or thing,
or the amount of damage, injury, or spoil in
any case where the value or price or the
amount of damage, injury, or spoil is not of
the essence of the offence.

XI. Every objection to an indictment

for uncertainly or for any
formal defect apparent on
the face thereof shall be
taken by demurrer or mo-
tion to quash such indict-
ment before the Jury shall be sworn, and
not afterwards, and every Court before
which any objection shall be taken by
demurrer or motion to quash for any formal
defect, may, if it be thought necessary cause
the indictment to be forthwith amended in
such particulars by some officer of the
Court or other person, and thereupon the
trial shall proceed as if no such defect had
appeared.

XII. No person prosecuted shall be en-
titled to traverse or post-
pone the trial of any in-
dictment found against
him at any Session of Oyer and Terminer
or Session of Gaol delivery; provided
always that if the Court upon the appli-
cation of the person so indicted, or other-
wise shall be of opinion that he ought
to be allowed a further time either to
prepare for defence or otherwise, such
Court may adjourn the Sessions to any
subsequent day, and may adjourn the trial
of such person to such day or to the next sub-
sequent Session, upon such terms as to bail
or otherwise as to such Court shall seem
meet, and may respite the recognizances

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XLII

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of the prosecutor and witnesses accordingly, in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence at such subsequent day or Session without entering into any fresh recognizance for that purpose.

XLIII. In any plea of Autrefois convict or Autrefois acquit, it shall be sufficient

Provision as to plea of autrefois convict or autrefois acquit.

for the person accused to state that he has been lawfully convicted or acquitted (as the case may be) of the offence charged in the indictment.

XLIII. A charge of an offence under Section 497 of the Indian Penal Code shall not be

Prosecution for adultery not to be instituted except by the husband.

instituted except by the husband of the woman.

XLIV. A charge of an offence under Section 498 of the Indian Penal Code shall not

Prosecution for enticing away a married woman not to be instituted except by husband or person in charge of the woman.

be instituted except by the husband of the woman, or by the person having care of such woman on behalf of her husband.

XLV. Upon the trial of an indictment for either of the offences mentioned in the last

On trial of offences under last two Sections, proof necessary of the husband having instituted the charge.

two Sections it shall be necessary to prove that the charge was instituted by the husband, and that the indictment is prosecuted by him.

XLVI. In the construction of this Act, unless where a contrary intention appears from the

Definitions.

context, the word "Indictment" shall be understood to include "information," "inquisition," or "presentment" as well as "indictment," and also any "plea," "replication," or other pleading, and the terms "finding of the indictment" shall be understood to include "the taking of an inquisition, the exhibiting of an information" and the making of a presentment, and words importing the singular number or masculine gender shall include several persons, and parties, as well as one person or party, and females, as well as males, and bodies corporate as well as individuals, and several matters and things as well as one matter and thing. Words which refer to acts done shall include illegal omissions, the words "British India" shall denote the territories that are or shall become vested in Her Majesty by the Statute 21 and 22, Vic. C. 106 entitled "an Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca, and the word "property" shall be understood to include goods, chattels, money, valuable securities, and every other matter or thing, whether real or personal, upon or with respect to which any offence may be committed.

XLVII. Whenever any person shall be

Persons sentenced to rigorous confinement may be imprisoned in House of Correction.

sentenced by any of Her Majesty's Supreme Courts of Judicature to rigorous

imprisonment, or to imprisonment with hard labor, or to solitary confinement, he shall be imprisoned in the House of Correction, whether such House of Correction be under the control of the Sheriff or not. The keeper of the House of Correction is vested shall receive the person so sentenced, and shall be responsible for his safe custody.

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XLVIII. Whenever any person shall be

Persons sentenced to transportation or penal servitude may be kept in the House of Correction.

sentenced by any of Her Majesty's Supreme Courts of Judicature to transportation or penal

servitude, such person shall be kept in the House of Correction, as the place of intermediate custody, whether such House of Correction be under the control of the Sheriff or not. The keeper of the House of Correction is vested shall receive the person so sentenced, and shall be responsible for his safe custody.

XLIX. If the Sheriff be not the Officer

If the Sheriff be not the keeper of the House of Correction, how he shall proceed.

in whom the control of the House of Correction is vested, he shall cause any person sentenced as

aforesaid to be delivered to the keeper of the House of Correction together with a warrant to be signed by a Judge of the said Supreme Court authorizing the detention of such person. Such keeper shall be bound to receive the person so delivered over to his custody, and shall be responsible for the safe custody of such person.

L. All Constables and Police Officers are

All Constables, &c. bound to assist.

hereby empowered to aid and assist the Sheriff in carrying to the House of

Correction any person sentenced as aforesaid.

LI. If the Sheriff be not the Officer in

Sheriff absolved from responsibility.

whom the control of the House of Correction is vested, he shall be absolved from all responsibility in respect of the custody of any

person sentenced as aforesaid from the time such person shall be delivered over to the custody of the keeper of the House of Correction.

LII. Whenever any person shall be sen-

Persons sentenced by Justice of Peace to rigorous imprisonment or hard labour may be committed to the House of Correction.

tenced by a Justice of the Peace or Police Magistrate to rigorous imprisonment, or to imprisonment with hard labor, for any offence committed within the local limits of the jurisdiction of any of Her Majesty's Supreme Courts of Judicature, the person so sentenced shall be committed to the custody

of the keeper of the House of Correction, whether such House of Correction be under the control of the Sheriff or not.

LIII. From and after the passing of this

Provision for persons now in the House of Correction.

Act, all persons who are confined at the date of the passing of this Act

in the House of Correction, whether under the sentence of any of Her Majesty's Supreme Courts of Judicature, or of any Justice of the Peace or Police Magistrate, shall be considered to be and shall remain in the custody of the Officer in whom the control of such House of Correction is vested, whether such Officer be the Sheriff or not, and such Officer shall be responsible for the safe custody of all such persons.

LIV. This Act shall commence and take

Commencement of Act at Fort William in Bengal.

effect in Her Majesty's Supreme Court of Judicature at Fort William in Bengal, or in any

Court to which the whole or any part of the Criminal jurisdiction of that Court shall be transferred, from the time of the passing thereof, and shall, so far as the same is applicable, extend to all indictments and proceedings in respect of any offence pun-

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ishable under the Indian Penal Code, which have been or shall be instituted or commenced in the said Court or in any other Court to which the whole or any part of the Criminal jurisdiction of such Court shall be transferred. 15

LV. This Act shall commence and take effect in Her Majesty's Supreme Courts of Judicature at Fort St. George and Bombay respectively, or in any Court to which the whole or any part of the Criminal jurisdiction of those Courts respectively shall be transferred, from the time at which it shall be notified in the Official Gazette by an order of the Governor in Council of Fort St. George and Bombay respectively, that the Act is to take effect in such Courts; and from such time the provisions of the Act shall, so far as the same is applicable, extend to all indictments and proceedings in respect of any offence punishable under the Indian Penal Code which have been or shall be instituted or commenced in the said Courts or in any other Courts to which the whole or any part of the Criminal jurisdiction of such Courts shall be transferred. 10 15 20

LVI. From the time at which this Act shall take effect in any of Her Majesty's Supreme Courts of Judicature as provided in the last two preceding Sections, Act XVI of 1852 is repealed so far as it relates to indictments and proceedings in such Court, except as to offences not punishable under the Indian Penal Code. 5

Act XVI of 1852
how far repealed.

Act XVI of 1852
how far repealed.

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Government of India.

HOME DEPARTMENT.

LEGISLATIVE.

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BILL

TO

Repeal Act XVI of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature.

(Mr. Harington.)

Price 12 Annas.

Printed at the Bengal Printing Company's Press.

Ind. No. 1091.

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207/14
STATEMENT OF OBJECTS AND REASONS.

This Bill is introduced at the request of the Honorable and learned Chief Justice of Calcutta. The principal object of the Bill is to adopt the procedure of Her Majesty's Supreme Courts of Judicature to the trial of offences punishable under the Indian Penal Code. On the 1st January last, the substantive Criminal Law relating to offences and persons within the jurisdiction of the Supreme Courts of Judicature underwent the same complete change as in places beyond the limits of the jurisdiction of those Courts. There is now one uniform substantive Criminal Law for all India, namely, the Indian Penal Code; but while, contemporaneously with the introduction of the Indian Penal Code, a Code of Criminal Procedure has been given to the Mofussil Courts, which has been prepared in reference to that Code and is well suited to carry out its provisions, the Code of Criminal Procedure previously in force in the Supreme Courts of Judicature is still in force in those Courts. Two Criminal Sessions for the trial of offences punishable under the Indian Penal Code have already been held at Calcutta, in the course of which the unsuitableness of the present law to offences falling under the Indian Penal Code was very apparent, and some inconvenience was experienced. Similar inconvenience will continue to be experienced until this Bill is passed, and I have therefore been desired, in introducing the Bill, to ask for the suspension of the Rules of the Council with a view to the Bill being passed into law at once.

The Bill has been prepared by the Honorable and learned Chief Justice, Sir Barnes Peacock, with the assistance of his Honorable and learned colleagues.

With regard to Madras and Bombay I may mention that, although the Bill is so framed as to make it of general application, it is proposed to leave the time at which the Bill should take effect in those Presidencies, to be determined by the Local Governments. This will give the Honorable and learned Judges of Her Majesty's Supreme Courts of Judicature at Madras and Bombay, whom there is not time to consult, an opportunity of stating, in communication with the Local Governments, any objections they may have to any of the provisions of the Bill before it comes into operation in their Courts.

H. B. HARRINGTON.

The 9th April 1862.

W. W.

*use coun-
cil of the Govt. of India,
& to request your atten-
tion*

Government of India

HOME DEPARTMENT.

LEGISLATIVE

ANNEXURE

TO

Bill to repeal Act XVI of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Court of Judicature.

Statement of Objects and Reasons.

Price 1 Anna.

Printed at the Bengal Printing Company's Press.

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Judicial.

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~~17/5~~ No. 707

The Honble Sir Colley Harman Scotland, &
Chief Justice, &
The Honble Sir Adam Bittestone, &C.,
Puisne Judge of
H. M. Supreme Court of Judicature,
Madras.

Honble Sirs-

We have the honor
to forward to you
copies of a Bill, as &

to repeal Act XVI-52 in those parts of British India, in which the Indian Penal Code is in force, & to re-enact some of the provisions thereof with amendments, & further to improve the administration of Criminal Justice in H. M. Supreme Court of Judicature.

margin brought into the Legislative Council

of the Govt. of India, & to request your attention

Received

attention to Section
IV thereof; with re-
ference to the last pa-
ra of the "Statement
of Objects & Reasons."

by R

Sd/- George
20 May 1874

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Supreme Court

1802

1803

1804

Judicial 1802 N.H.

1807

To the Honorable
the Judges of the
Supreme Court of
Judicial 1802.

1802 May 1802.

1804 1809.

It is hereby ordered that
to report that 1804 1802 and
to be read and of all pro-
visions and to improve the
administration of Criminal
Justice in the State of New
Hampshire.

1804 1809

1804