

PART C.—Commission

1. The provisions of the Code with regard to issue of Commissions in criminal cases have undergone important changes during the last few years. Now any Magistrate can issue a commission for the examination of a witness under the circumstances mentioned in sub-section (1) of Section 503 of the Code as substituted by Act 1 of 1951 and then amended by Act No. 26 of 1955. It is not now necessary that an application should be made for the purpose to the District Magistrate.

All magistrates can now issue commissions for examination of witnesses

Where the examination of the President or the Vice-President or the Governor of a State as a witness is necessary for the ends of justice, a commission shall be issued for the examination of such witness. (Proviso to section 503).

President Governors, etc, to be always examined on commission.

2. If the witness is within the territories to which the Code extends, the Commission shall be directed to the District Magistrate or the Chief Presidency Magistrate within the local limits of whose jurisdiction the witness is to be found. [Section 504(1)].

Commissions within India.

The Code of Criminal Procedure now extends to the whole of India except the States of Jammu and Kashmir and Manipur [Section 1(2)]. In this connection also see the definition of 'India' in Section 4(1) (J).

3. (1) If the witness is in India but in an area to which this Code does not extend, the commission shall be directed to such Court or officer; as the Central Government may, by notification in the official Gazette, specify in this behalf. [Section 504(2)].

Arrangements with Jammu and Kashmir State.

(2) The Central Government has issued the following notification under sub-section (2) of Section 504 of the Code:—

New Delhi, the 13th May, 1952

S.R.O. 847.-In pursuance of sub-section (2) of section 504 of the Code of Criminal Procedure, 1898, (V of 1898), and in supersession of the notification of the Government of India in the Ministry of Home Affairs No. 4/8/48-Judicial, dated the 9th - May, 1950,

the Central Government hereby specifies the following Courts in the State of Jammu and Kashmir to which the said Code does not extend, to Courts to which commissions for examination of witnesses residing within the local limits of their respective jurisdiction may be directed, namely:-

1.	The Court of the District Magistrate, Srinagar.
2.	The Court of the District Magistrate, Jammu.
3.	The Court of the District Magistrate, Baramulla.
4.	The Court of the District Magistrate, Anantnag.
5.	The Court of the District Magistrate, Doda.
6.	The Court of the District Magistrate, Udhampur.
7.	The Court of the District Magistrate, Kathua.
8.	The Court of the District Magistrate, Poonch.
9.	The Court of the District Magistrate, Ladakh.

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dated the 17th May, 1952 (No. 67/51-Judl.)

Arrangements
with Foreign
Countries.

4. (1) If the witness is in a country or place outside India and arrangements are made by the Central Government with the Government of such country or place for taking evidence of witnesses in Criminal matters, a commission for the purpose can be issued by the Courts in India, in such form and to such Court or authority and through such channels as may be specified by the Central Government in a notification in the Official Gazette. [Section 504(3)]

(2) Any Court, Judge or Magistrate exercising jurisdiction in a country or place outside India and having authority under the law in force in that country or place to issue commissions for examination of Wit-

nesses in criminal matters may issue such a commission for the examination of witnesses in India if such Court; Judge or Magistrate is specified in this behalf by the Central Government in a notification in the Official Gazette. The provisions of Section 505 to Section 507 of the Code relating to execution and return of commission shall apply as if these commissions had been issued by a Criminal Courts in India, (Section 508-A of the Code).

(3) The Central Government has issued the following notifications specifying the courts to which commissions for the examination of witnesses residing in the Union of Burma, United Kingdom, Australia, Canada, Ceylon, and Pakistan may be issued under the Code of Criminal Procedure. When commissions under the Code are issued to the specified authorities in these countries, the instructions contained in Volume I, Chapter 10, Part D, will apply *mutatis mutandis* so far as they may be applicable.

Notifications

I. Government of India, Ministry of Home Affairs notification No. 4/8/48-Judicial, dated the 25th January, 1950:—

In pursuance of sub-section (2B) of section 503 of the Code of Criminal Procedure, 1898 (V of 1898), the Central Government is pleased to specify the following Courts having authority in the Union of Burma, to whom commissions for examination of witnesses residing in the Union of Burma may be issued under the said Code, namely:—

The Court of any District Magistrate or a Magistrate of the first class within the local limits of whose jurisdiction in the Union of Burma the witness resides.

II. Government of India, Ministry of Home Affairs notification No. 4/8/48-Judicial, dated the 8th April, 1950:—

In pursuance of sub-section (2B) of section 503 of the Code of Criminal Procedure, 1898 (V of 1898) the Central Government is pleased to specify the Courts and Judges mentioned in column 2 of the schedule hereto annexed as Courts and judges having authority in the country specified in the corresponding entry in column 1 of the said schedule, to whom commissions for examination of witnesses residing in that country, may be issued under the said Code.

THE SCHEDULE

Country	Court or Judge
1	2
The United Kingdom	<p>(a) The Supreme Court of Judicature at the Royal Courts of Justice, London, in case the witness resides in England; or</p> <p>(b) The Supreme Court of Northern Ireland, in case the witness resides in northern Ireland, or</p> <p>(c) The Court of Sessions, Scotland if the witness resides in Scotland.</p>
Australia	<p>(a) The Chief Justice of the Supreme Court of the State in which the witness resides; or</p> <p>(b) The Judge of the Supreme Court of the Australian Capital Territory, Canberra, in case the witness resides in that territory, or</p> <p>(c) The Judge of the Supreme Court of the Northern Territory, Darwin, in case the witness resides in that territory.</p>
Canada	The Supreme Court of Canada or any Superior Court in any Provinces of Canada.
Ceylon	The Supreme Court of Ceylon.
Pakistan	Any District Magistrate or Magistrate of the first class within the local limits of whose jurisdiction in Pakistan the witness resides.