

Now in Cap. 24

TRINIDAD AND TOBAGO.

No. 32—1925.

I ASSENT,

[L.S.]

H. A. BYATT,
Governor.

18th June, 1925.

AN ORDINANCE to amend the Summary Conviction
Offences (Procedure) Ordinance, 1918.

[18th June, 1925.]

BE it enacted by the Governor of Trinidad and Tobago
with the advice and consent of the Legislative Council
thereof as follows :—

1. This Ordinance may be cited as the Summary ^{Short title.} Conviction Offences (Procedure) (Amendment) Ordinance, 1925, and shall be read as one with the Summary ^{Construction.} Conviction Offences (Procedure) Ordinance, 1918, hereinafter (9-1918) called the Principal Ordinance.

2. Section 66 of the Principal Ordinance is hereby ^{Amendment of} amended by the insertion of the words "fifty pounds" ^{sec. 66 of} in lieu of the figures "£25" in the eighth line thereof. ^{Ord. 9-1918.}

[Price 3d.]

Payment and
allocation of
fines and fees.

3. The following shall be read as 66A of the Principal Ordinance :—

66A. The Court in fixing the amount of any fine to be imposed on an offender shall take into consideration, amongst other things, the means of the offender so far as they appear or are known to the Court; and where a fine is imposed, the payment of the Court fees and other fees payable in the case up to and including conviction shall not be taken into consideration in fixing the amount of the fine or be imposed in addition to the fine, but the amount of the fine, or of such part thereof as may be paid or recovered, shall be applied as follows :—

- (a) In the first place, in the repayment to the complainant of any Court or other fees paid by him ;
- (b) In the second place, in the payment of any Court or other fees not already paid by the complainant ;
- (c) The balance (if any) remaining after the aforesaid payments have been made shall be paid to the fund or person to which the fine is directed to be paid by the enactments relating to the offence in respect of which the fine was imposed, or, if there is no such fund or person, then to the fund into which the Court or other fees are paid.

Amendment of
sec. 67 of
Ord. 9-1918.

4. Section 67 of the Principal Ordinance is hereby amended by the insertion of the following after the word "imprisonment" in the first line thereof :—

"(whether peremptory or in default of payment of a penalty)."

Amendment of
sec. 71 of Ord.
9-1918.

5. Sub-sections (2) and (3) of section 71 of the Principal Ordinance are hereby repealed and in lieu thereof shall be read the following :—

- (2) Where larceny of any kind is charged, and the evidence establishes the commission of

embezzlement, or the fraudulent application or disposition of anything, or the receiving of any property knowing the same to have been stolen, the defendant shall not be entitled to have the complaint dismissed, but he may be convicted of such embezzlement or fraudulent application or disposition or receiving, and punished accordingly.

- (3) No person so convicted of larceny, embezzlement, fraudulent application or disposition, or receiving, as aforesaid, shall be liable to be afterwards prosecuted for larceny, embezzlement, fraudulent application or disposition, or receiving, upon the same facts.

6. The following words shall be inserted at the beginning of sub-section (3) of section 72 of the Principal Ordinance :—

Amendment of
sec. 72 of
Ord. 9-1918.

“Subject to the provisions of section 66A of this Ordinance.”

7. Section 74 of the Principal Ordinance is hereby repealed, and in lieu thereof shall be read the following :—

Mode of
payment
of money
adjudged to
be paid by
order.

74.—(1) The Court by whose conviction or order any sum of money is adjudged to be paid shall not issue forthwith a warrant committing a person to prison in respect of the non-payment of the sum adjudged to be paid by such conviction or order, but shall allow time for payment of the said sum or direct payment thereof to be made by instalments, unless the Court is satisfied that such person is possessed of sufficient means to enable him to pay the sum forthwith, or unless, upon being asked by the Court whether he desires that time should be allowed for payment, he does not express any such desire, or fails to satisfy the Court that he has a fixed abode within its jurisdiction, or unless the Court for some special reason directs that no time shall be allowed: Provided that where a person liable to pay such sum shall give, to the satisfaction of the Court, security, either with or without surety or sureties, for the payment

of the said sum or of any instalments thereof, the Court shall allow time for payment of the said sum or any instalment thereof.

(2) Where any such person desires to be allowed time for payment, the Court in deciding what time shall be allowed shall consider any representation made by him, but the time allowed shall not be less than seven clear days :

Provided that if, before the expiration of the time allowed, the person in respect of whom the warrant has been issued surrenders himself to any Court having jurisdiction to issue a warrant of commitment in respect of the non-payment of such sum as aforesaid, and states that he prefers immediate committal to awaiting the expiration of the time allowed, that Court may, if it thinks fit, forthwith issue a warrant committing him to prison.

(3) Where a person so allowed time for payment as aforesaid appears to the Court to be not less than sixteen nor more than twenty-one years of age, the Court may, if it thinks fit, and subject to any rules made under this Ordinance, order that he be placed under the supervision of such person as may be appointed by the Court until the sum adjudged to be paid is paid, and in such case before issuing a warrant in respect of non-payment of the sum the Court shall consider any report which may be made by the person so appointed as to the conduct and means of the person under his supervision.

(4) In all cases where time is not allowed for payment, the reasons of the Court for the immediate committal shall be stated in the warrant of commitment.

(5) Where a sum of money is directed to be paid by instalments and default is made in the payment of any one instalment, the same proceedings may be taken as if default had been made in the payment of all the instalments then remaining unpaid.

8. The following shall be inserted as section 74A of the Principal Ordinance :—

Allowance of further time and payment by instalments.

74A. Where time has been allowed for the payment of a sum adjudged to be paid by a conviction or order, further time may, subject to any rules made under this Ordinance, on an application by or on behalf of the person liable to pay such sum, be allowed by a Court having jurisdiction to issue a warrant of commitment in respect of the non-payment of such sum as aforesaid, or such Court may, subject as aforesaid, direct payment by instalments of the sum so adjudged to be paid.

9. The following shall be inserted as section 74B of the Principal Ordinance :—

Provisions for enforcement of payment of fines, &c

74B. Where a person has been adjudged to pay a sum by a conviction or order of a Summary Court, or in proceedings for enforcing an order in any matter of bastardy, or an order under which weekly sums are made payable towards the maintenance of a wife, the Court may order him to be searched, and any money found on him on apprehension, or when so searched, or which may be found on him when taken to prison in default of payment of the sum so adjudged to be paid, may, unless the Court otherwise directs, be applied towards the payment of the sum so adjudged to be paid, and the surplus, if any, shall be returned to him:

Provided that the money shall not be so applied if the Court is satisfied that the money does not belong to the person on whom it was found, or that the loss of the money will be more injurious to his family than his imprisonment.

10.—(1) The following shall be read as sub-section (2A) of section 76 of the Principal Ordinance :—

Amendment of sec. 76 of Ord. 9-1918.

(2A) Where a warrant of distress is issued by the Court, it shall authorize the person charged with the execution thereof to take any money as well as

any goods of the person against whom the distress is levied, and any money so taken shall be treated as if it were the proceeds of sale of goods taken under the warrant.

(2) Sub-section (3) of section 76 of the Principal Ordinance is hereby amended by the insertion of the words "money or" before the word "movable" in the fourth and fifth lines respectively.

Amendment of
sec. 78 of
Ord. 9-1918.

11. Section 78 of the Principal Ordinance is hereby amended by the insertion of the words "money or" after the word "sufficient" in the fourth line thereof.

12. Sub-section (1) of section 122 of the Principal Ordinance is hereby repealed, and in lieu thereof shall be read the following:—

Where
recognizance
forfeited.

(1) Where any recognizance is declared or adjudged to be forfeited, any Magistrate or Justice having jurisdiction over the matter of the complaint may, forthwith or at any time after such declaration, issue a warrant of commitment against any person liable, whether as principal or surety under such recognizance, for any term not exceeding the term prescribed in respect of a like sum in the scale of imprisonment set forth in section 65 of this Ordinance, with or without hard labour, unless the amount due under such recognizance and the costs of commitment and conveying such person to prison, if the Magistrate or Justice thinks fit so to order (the amount thereof being ascertained and stated in the warrant) are sooner paid.

Repeal.
(10-1921)

13. The Summary Jurisdiction (time for payment) Ordinance, 1921, is hereby repealed.

Passed in Council this twelfth day of June, in the year of Our Lord one thousand nine hundred and twenty-five.

E. F. AANENSEN,
Acting Clerk of the Council.

OBJECTS AND REASONS.

IN consequence of the enactment of the Summary Jurisdiction (time for payment) Ordinance, 1921, there appear in the Summary Conviction Offences (Procedure) Ordinance, 1918, a number of provisions which conflict with those of the subsequent Ordinance. The primary object of the present Bill is to remove that conflict by incorporating the Ordinance of 1921 in the Principal Ordinance of 1918. Clauses 3, 6, 7, 8, 9, 10 and 11 accordingly reproduce the provisions of the Time for Payment Ordinance, 1921, and make the necessary amendments in the Principal Ordinance.

Opportunity is also taken to make some other amendments in the Principal Ordinance, as follows :—

- (a) Clause 2 increases the amount of a fine which may be imposed in lieu of imprisonment from £25 to £50 so as to accord with the scale set out in section 65 (2) of the Ordinance.
- (b) Clause 4 provides for the insertion of certain words in section 67 of the Ordinance so as to remove any doubt which may exist as to the power of a Court to order consecutive terms of imprisonment where the imprisonment results from default in payment of a penalty.
- (c) Clause 5 amends section 71 of the Principal Ordinance by adding the offence of "receiving" to those offences of which a person may be convicted upon a charge of larceny.
- (d) Clause 11 amends section 122 of the Ordinance by altering the provision relating to the term of imprisonment which may be imposed on forfeiture of a recognizance so that the term of imprisonment may be governed by the scale set out in section 65 (2) of the Ordinance.