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No. 5.—1868.

7th April.

AN ORDINANCE respecting the Summary Administration of Justice.

(L.S.) ARTHUR GORDON.

BE it enacted by His Excellency the Governor with the advice and consent of the Legislative Council as follows:—

Interpretation.

Interpretation of terms.

1. The following words and expressions in this Ordinance shall have the meaning hereby assigned to them unless there be something in the subject or context repugnant to such construction; that is to say:—

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number;

Words importing the masculine gender shall include females;

The word "person" shall include a corporation whether aggregate or sole;

The words "justice" and "justice or justices" shall mean any stipendiary or other justice and justices of the peace having jurisdiction;

The word "complainant" shall mean the person who shall have laid the information or complaint;

The word "defendant" shall mean the person against whom the information shall have been laid or the complaint made;

The word "vessel" shall include all schooners, droghers, flats, rafts, punts, scows, boats, canoes, corials or other craft;

The word "month" shall mean calendar month;

The word "prison" shall include the royal gaol, or any lock-up house, police cell, or other duly authorised place of detention;

The word "keeper" shall mean the keeper or other officer having the charge of any such prison,

And the word "oath" shall include affirmation in the case of Quakers and any solemn affirmation which by law may be made instead of an oath.

PART I.

APPOINTMENT AND FUNCTIONS OF STIPENDIARY AND OTHER JUSTICES, CLERKS AND ASSISTANT CLERKS OF THE PEACE.

Mode of Appointment, &c.

2. It shall be lawful for Her Majesty from time to time by warrant under the hand of the Governor and the Seal of the Colony to appoint Stipendiary Justices of the Peace, and in case of the death, retirement, removal from office, or absence on leave, of any such Stipendiary Justice to appoint some other person to be a Stipendiary Justice in his place, and every such Stipendiary Justice shall hold office during Her Majesty's pleasure.

Stipendiary justices to be appointed.

3. It shall be lawful for the Governor from time to time to assign to each of such Stipendiary Justices a district, and to appoint places and times for their attendance for the hearing of all cases which they are competent to hear and determine; but every such Stipendiary Justice shall have jurisdiction throughout the colony.

Districts to be assigned.

4. It shall be lawful for Her Majesty from time to time by warrant under the hand of the Governor to appoint any number of persons, being residents within

Appointment of justices of the peace.

any town or county, to be Justices of the Peace for such town or county.

Appointment
of clerks of
the peace.

5. It shall be lawful for the Governor from time to time to appoint Clerks of the Peace and Assistant Clerks of the Peace, and such clerks and assistant clerks shall act for such districts, and shall attend at such places and times, as the Governor shall from time to time appoint.

Salaries.

6. There shall be paid to the Stipendiary Justices, Clerks, and Assistant Clerks of the Peace, such salaries as the Governor, with the consent of the Legislative Council, may from time to time determine.

Offences to be
heard.

7. Every Stipendiary Justice may hear and determine in a summary manner all offences which by any Ordinance now in force or hereafter to be in force may be heard and determined before one or more Justices of the Peace.

Complaints
to be heard at
police office.

8. It shall not be lawful for any Stipendiary or other Justice of the Peace to hear and determine any case or complaint except at some public police office, but any affidavit or information may be taken and sworn, and any summons or warrant or other preliminary process may be issued by any Justice, at any place.

Fees, &c.

Penalty for
improper
receipt of
fees, &c.

9. Any Stipendiary or other Justice, Clerk, or Assistant Clerk of the Peace who shall, directly or indirectly, ask or receive upon any pretence whatever, any fee, reward, gratuity or recompense beyond the fees specified in the schedule hereto annexed, marked A, for any act done or to be done by him in the execution of his office or in any wise relating to any complaint, matter, or proceeding before any Justice of the Peace, shall forfeit for every such offence the sum of one hundred pounds, to be applied one-half to the use of the colony, and the other half, with full costs of suit, to the person who shall sue for such penalty in any competent Court.

Fees to be
taken.

10. In every proceeding had before any Justice of the Peace except such as are hereinafter specified, the fees set forth in the schedule hereto annexed, marked A,

shall be allowed and taken; and in some conspicuous part of every police office there shall be affixed a table of such fees.*

11. No fees shall be taken on any information, complaint or other proceeding before any Justice of the Peace for any of the following offences, that is to say: larceny or attempt to commit larceny, or any offence punishable as larceny; embezzlement or obtaining on any false pretence any chattel, money, or valuable security; or maliciously destroying or damaging any property; or on any information by any officer of police for any offence punishable on summary conviction.

No fees to be taken on certain proceedings.

12. All fees received, and all penalties and forfeitures, and shares of penalties and forfeitures, recovered before any Justice of the Peace, and payable for the use of Her Majesty or the Colony, shall be paid to the Stipendiary Justice of the District.

Appropriation of fees, penalties, &c.

13. If any Justice of the Peace other than a Stipendiary Justice, or if any Clerk, or Assistant Clerk of the Peace, or Officer, non-commissioned Officer or Constable of Police having received any such fee, or having levied or recovered any penalty or forfeiture, or part of any penalty or forfeiture, shall neglect to pay the same forthwith to the Stipendiary Justice of the district, it shall be lawful for such Stipendiary Justice to sue for and recover the same with costs of suit in any competent Court, by action or plaint of debt as for money had and received to the use of such Stipendiary Justice for the purposes of this Ordinance.

Fees not accounted for to be recovered.

14. Every Stipendiary Justice shall, in books of account to which the public shall at all times between the hours of eleven in the forenoon and three in the afternoon, except on Sundays and holidays, have access, keep a true account of all fees, penalties, and forfeitures, and parts of penalties, and forfeitures, taken, recovered, levied, or received by him; and shall on the first day of the months of January, April, July, and October in every year, or within ten days thereafter, transmit to the Auditor-General a transcript of such account.

Stipendiary Justice to keep account of fees, and public to have access to such account.

15. Every Stipendiary Justice shall on the first day of the months of January, April, July, and October, in every year, or within ten days thereafter, pay the

Fees, penalties, &c., to be paid into Treasury.

* As to fees, vid. Ord. 18 of 1879.

amount of all such fees, penalties, and forfeitures, or parts of penalties and forfeitures, to the Receiver-General or to the Sub-Receiver, as the Governor may from time to time direct, for the use of the Colony; and if he shall neglect so to do, the same shall be recovered with costs of suit as between solicitor and client, by information by the Attorney-General in the name of and on the behalf of Her Majesty the Queen.

Miscellaneous.

Exemption
from service
on jury.

16. Every Stipendiary Justice of the Peace, or Clerk, or Assistant Clerk of the Peace, so long as he shall hold such office, shall be exempted from serving as a juror in any Court of Justice.

Register to
be kept.

17. At every police office shall be kept a register of all informations, complaints and charges brought, distinguishing the nature thereof, and the names and residences of the parties thereto, and the mode in which, and the name of the Justice or Justices by whom the same shall have been disposed of.

As to offences
committed in
vessels.

18. Where any offence punishable on summary conviction shall be committed in or upon any vessel within any of the waters of this Island, the same shall be dealt with and determined by the Stipendiary Justice for the district in which any place at which such vessel shall then be, or shall first arrive after the commission of such offence, is situated.

Assaulting
justice or
clerk or
interrupting
proceedings,
to be punished
by fine or
imprisonment.

19. If any person shall assault or threaten any Justice of the Peace, or any Clerk or Assistant Clerk of the Peace, during his sitting or attendance in the police office, or shall wantonly interrupt any proceeding before any Justice of the Peace, it shall be lawful for any constable on the verbal order of such Justice, to take such offender into custody, and such Justice may, if he think fit, by warrant under his hand, commit such offender to prison for any term not exceeding fourteen days, or impose upon him a fine not exceeding ten pounds, and in default of payment thereof commit the offender to prison for any term not exceeding fourteen days.

Property to be
restored to
owner.

20. It shall be lawful for any Justice of the Peace to order restitution to the owner thereof, or to the

representative of such owner, of any property in respect of which any offence which may be tried by such Justice shall have been committed.

21. It shall be lawful for any Justice of the Peace to summon or by warrant to cause to be apprehended any person whom he shall have reasonable cause to suspect of sending or carrying a challenge, or intending to commit any breach of the peace, and to require every such person to enter into his recognizance with one or more sufficient surety or sureties to be of good conduct and to keep the peace towards all Her Majesty's subjects within the Colony for any time not exceeding one year then next ensuing; and if such person shall fail to enter into such recognizance it shall be lawful for such justice to commit such person to prison there to remain until he shall enter into such recognizance before any Justice of the Peace or until the end of the next session of the Supreme Criminal Court, and the Justice of the Peace shall forward the depositions and proceedings had before him to the Registrar of the said Court before the next session, and such Court on perusal thereof and hearing the person so committed, and any other person on whose complaint such person may have been committed, may order the person so committed to be recommitted for a certain time unless he shall in the meantime find such security as the Court may direct, or to be discharged without security.

Justices to require persons provoking breach of the peace to enter into recognizances.

22. In all cases of bodily injury, it shall be lawful for any Justice of the Peace to issue his summons for the attendance of any medical practitioner, for the purpose of examining the person so injured.

Justice may summon medical practitioner.

23. Every Clerk or Assistant Clerk of the Peace shall attend at all sittings of the Stipendiary Justice of the District for which he shall act, and shall, if required to do so, make out the charge against any person accused and shall take notes in writing of the evidence which may be given on the hearing of any case, and make correct minutes of the proceedings, and shall make out all summonses, warrants, informations, bail bonds, affidavits, recognizances, convictions and commitments, and shall file and preserve all documents relating to each case; and make all entries in books of office or of account.

Duties of clerks of the peace.

Interpreters

24. The Clerks of the Peace shall, if competent, act as interpreters; and in all other cases the Stipendiary Justice shall be authorized to appoint and swear interpreters when they shall be required.

PART II.

MODE OF PROCEDURE IN CASES PUNISHABLE ON SUMMARY CONVICTION.

Preliminary Proceedings.

On information, summons to be issued.

25. It shall be lawful for any Justice before whom an information may be laid that an offence punishable on summary conviction has (or is suspected to have) been committed within his jurisdiction, or before whom a complaint may be made upon which he has authority to make any order to issue a summons to the defendant stating briefly the complaint against him, and requiring him to appear at a time and place therein mentioned before such Justice as shall then be there, to answer such information or complaint, and be dealt with according to law.

Warrant may be issued.

26. If such information or complaint be substantiated by the oath of the complainant or some witness on his behalf, the Justice may, if he think fit, at once issue a warrant for the apprehension of the defendant.

Information to be in writing,

and for one matter only.

27. Every information or complaint shall be in writing, and signed by the complainant.

28. Every information or complaint shall be for one offence or matter only, and may be made and prosecuted by the complainant in person or by his counsel or solicitor.

Summons on *ex parte* application.

29. No Justice shall be obliged to issue a summons where the application for an order is by law to be made *ex parte*.

No objection to be allowed on account of defect, but hearing may be adjourned.

30. No objection shall be allowed to any information, complaint, summons or warrant for any alleged defect therein in substance or in form, or for any variance whatever between it and the evidence given in support of it; but if any such variance shall appear to

the Justice to have deceived or misled the defendant, such Justice may, at the defendant's request, adjourn the hearing and meanwhile remand the defendant or allow him to be at large without recognizance or on his recognizance with or without surety or sureties in manner hereinafter provided.

31. If the defendant shall not appear in obedience to the summons, the Justice present, on proof of the proper service of the summons a reasonable time before, may hear the case *ex parte*, and his adjudication shall be as good as if the defendant had been present; or any Justice present may issue a warrant for the arrest of the defendant, and adjourn the hearing.

When defendant does not obey summons.

32. Every warrant shall be under the hand of the Justice issuing the same and shall be directed to all constables within the Colony, and shall name or otherwise describe the defendant and briefly state the complaint, and order his arrest and production before one or more Justice or Justices (as the case may require) to be dealt with according to law.

Form of warrants.

33. Any defendant arrested under a warrant, may require the constable arresting him to take him before a Justice of the Peace having jurisdiction in the place of his arrest, and the constable shall be bound so to do, and such Justice may take his recognizance with a surety or sureties conditioned for his appearance at a time and place to be therein mentioned before the Justice who issued the warrant, or any other Justice or Justices who may then be there.

Defendant arrested under warrant to be taken before Justice of the Peace, and recognizance may be taken.

34. Any summons issued under this Ordinance shall be served by a constable of police or other person to whom it may be delivered, upon the person to whom it is directed, either personally or by its being left for him with some person at his usual or last known place of abode, and such service may be proved by the affidavit of the constable or other person who shall have served the same, and such affidavit may be sworn before any Justice.

How summons to be served.

Attendance of Witnesses.

35. If oath be made before a Justice that material evidence can be given by any person who will not voluntarily attend to do so, it shall be lawful for such

Witnesses to be summoned.

Justice to issue a summons to such person requiring his attendance.

Warrant may issue for arrest of witness.

36. If such Justice is satisfied that such person will not attend unless compelled to do so, he may at once issue a warrant under his hand for the arrest and production of the witness at a time and place to be therein specified.

Witness not obeying summons to be arrested on warrant.

37. If without sufficient excuse the witness does not appear in obedience to the summons, any Justice present, on proof of the proper service of the summons a reasonable time before, may issue a warrant under his hand to bring him at a time and place to be therein mentioned before such Justice or Justices as shall then be there.

Witness refusing to be examined to be liable to fine or imprisonment.

38. If a witness on his appearance shall refuse to be examined on oath or having taken such oath shall refuse without just excuse to answer any question put to him, he shall forfeit any sum not exceeding twenty pounds and in default of immediate payment be imprisoned for any term not exceeding three months, but payment of such fine or imprisonment in default thereof shall not exempt such witness from being again summoned or arrested as hereinbefore provided.

Description of Ownership of Property in Information, &c.

Description of ownership, where there is more than one owner.

39. In any information or complaint or the proceedings thereon in which it shall be necessary for any purpose whatever, to state the ownership of property belonging to or in the possession of several persons, it shall be sufficient to name one of such persons.

Description of ownership of public property.

40. Whenever in any information or complaint, or the proceedings thereon, it shall be necessary to describe the ownership of any building made, maintained or repaired, in whole or in part, at the expense of the Colonial Government, or of a ward or of a road union or the ownership of materials or tools used for the same, they may be therein respectively described as the property of Her Majesty the Queen.

Description of ownership of ecclesiastical buildings.

41. Whenever in any information or complaint or other proceedings therein, it shall be necessary to describe the ownership of any church chapel or other building set apart for the purposes of religious worship, or the

ownership of any chattel therein, they may be therein respectively described as the property of the clergyman or other person officiating in such church, chapel or other building or of the wardens of such church or chapel or of the person in whose custody such chattel may have been at the time of the commission of the offence in respect thereof without naming such clergyman, warden or other persons.

Authority to stay Proceedings, and refer the Case to the Supreme Criminal Court.

42. If on the hearing of any matter it shall appear to the Justice hearing it that it ought to be tried before the Supreme Criminal Court, it shall be lawful for him or them to order all further proceedings to be stayed, and the offence shall be inquired into as if this Ordinance had not been passed.

Case may be referred to Supreme Court.

Limitation.

43. No information or complaint shall be commenced after the expiry of six months from the time when the matter thereof arose, except where a longer time is allowed therefor.

Limitation of time.

Number of Justices to hear Information, &c.

44. In all cases not otherwise provided for any information or complaint may be heard and determined by one Justice.

One Justice may hear cases.

Right of Complainant and Defendant to conduct Case.

45. The complainant shall be at liberty to conduct his case, and have the witnesses examined or cross-examined by himself or his counsel or solicitor.

Complainant may conduct his case.

46. The defendant shall be admitted to make his defence, and have the witnesses examined or cross-examined by himself or his counsel or solicitor.

Defendant may conduct his case.

When Defendant brought up on Warrant.

Defendant brought up on warrant may be imprisoned.

47. When any defendant shall be brought up by virtue of any warrant any Justice who may be present, may commit the defendant to prison or other place of security, by warrant under his hand, or verbally to the custody of the constable who shall have arrested him, and shall order him to be brought up at a certain time and place before such Justice or Justices as shall then be there, of which order the complainant shall have due notice.

When Defendant appears but Complainant is absent.

If complainant be not present at the hearing the case may be dismissed, or adjourned ;

48. If at the time and place appointed as aforesaid the defendant is present, either in obedience to a summons, or by virtue of a warrant, and the complainant having been duly notified, does not attend in person or by his counsel or solicitor, the case shall be dismissed unless the Justice or Justices shall adjourn it upon such terms as he or they may think proper.

and if it be adjourned the defendant may be imprisoned or discharged on bail.

49. In case of such adjournment any Justice then present may by warrant under his hand commit the defendant to prison or other place of security or verbally to the custody of any constable, or may discharge him on his entering into a recognizance with or without a surety or sureties conditioned for his appearance at the adjourned hearing.

When both parties appear.

When both parties present the case to proceed.

50. If both parties appear, either in person or by their respective counsel or solicitor, the Justice or Justices shall proceed to hear the case.

Proceedings at hearing.

Defendant to be required to plead.

51. If the defendant is present the substance of the information or complaint shall be stated to him, and he shall be asked whether he pleads guilty or not guilty, and if the defendant shall plead not guilty the Justice shall proceed to hear and determine the case, but if the

defendant shall refuse to plead the Justice shall order a plea of not guilty to be entered for him.

52. If the defendant pleads guilty the Justice shall convict or make an order against him unless he can show sufficient cause to the contrary. If he pleads guilty, to be convicted.

53. At the trial or hearing the Justice shall first hear the complainant and his witnesses and receive such other evidence as he may adduce, then the defendant and his witnesses and such other evidence as he may adduce, and afterwards such witnesses as the complainant may call in reply if the defendant shall have called any evidence. Order in which evidence to be heard.

54. The complainant shall be at liberty to make any observations upon the defendant's evidence, and the defendant shall be at liberty to make any observations upon any evidence which the complainant may have given in reply. Parties may make observations on evidence.

55. The Justice having heard both parties and their witnesses and evidence shall convict the defendant or make an order against him, or shall dismiss the case. Both parties having been heard, decision to be made.

56. A minute of the conviction or order or order of dismissal shall be made, of which a copy shall be given to the defendant at his request. Minute of decision to be given to defendant.

Conviction or Order to be afterwards drawn up.

57. The conviction or order may, if required, be afterwards drawn up in proper form, and signed by the Justice or Justices. Conviction may be drawn up.

Dismissal to be a Bar to further Proceedings against Defendant.

58. Production of a copy of the order of dismissal, certified by the Clerk of the Peace shall, without other proof, be a bar to any subsequent information or complaint for the same matter against the same defendant. Dismissal to bar further proceeding.

Complainant not to prove Exemption, &c.

59. If the information or complaint shall negative any exemption, exception, proviso or condition in the Defendant to prove exemption.

law on which it is framed, the complainant need not prove such negative, but the defendant shall prove the affirmative thereof if he would have advantage of it.

Examination to be under Oath.

Witness to be examined on oath.

60. Every witness shall be examined on oath which oath the Justice or Justices are authorised to administer.

Power to adjourn before and during Hearing.

Case may be adjourned and defendant may be imprisoned or suffered to go at large.

61. Before or during the hearing the Justice may adjourn the case to a time and place to be fixed in the presence and hearing of the party or parties or their respective counsel or solicitors. And in the meantime the defendant may be allowed to go at large, or any Justice may by warrant under his hand commit him to prison or other place of security or verbally to the custody of any constable or discharge him on his entering into a recognizance with or without a surety or sureties conditioned for his appearance at the adjourned hearing.

If either or both of the Parties absent at adjourned Hearing.

Adjourned case to proceed notwithstanding absence of one party.

62. If at such adjourned hearing, either of the parties shall not appear personally or by his counsel or solicitor, the case may be proceeded with as if he were present.

Dismissal if Prosecutor does not appear.

If prosecutor does not appear case may be dismissed.

63. If the complainant does not appear the case may be dismissed.

Forfeiture of Recognizance when Defendant does not appear.

Bail to be forfeited if defendant does not appear.

64. Whenever a defendant shall not appear at the time and place mentioned in any recognizance entered into by him, any Justice then and there present may by

order indorsed on such recognizance declare the same to be forfeited.

Recovery of Recognizance.

65. On forfeiture of any recognizance any Justice may issue his warrant for the imprisonment of the defendant and his surety or sureties for any term not exceeding six months, unless the amount mentioned in such recognizance be sooner paid.

Defendant and his surety may be imprisoned unless recognizance be discharged.

Form of Conviction or Order.

66. All informations, summonses, warrants, convictions and orders may be drawn up in the forms given in the Schedule hereto annexed and marked B or to the like effect, except where a particular form is given by the law authorising such conviction or order.

Forms.

Costs.

67. In all cases of summary conviction or orders made under this Ordinance the Justice may order the defendant to pay to the complainant his reasonable costs to be allowed by such Justice.

Costs may be allowed to complainant.

68. Where the case is dismissed the Justice may order the complainant to pay to the defendant his reasonable costs to be allowed by such Justice.

Costs may be allowed to defendant.

Compensation to Defendant where Case is frivolous or vexatious.

69. If on the dismissal of any case the Justice shall be of opinion that the charge was frivolous or vexatious, such Justice may order the complainant to pay to the defendant a reasonable sum as compensation for the trouble and expense to which such defendant may have been put by reason of such charge, in addition to his costs.

Compensation may be allowed to defendant.

Where Costs and Compensation not paid.

70. In case of the non-payment to the defendant of the costs and the compensation if any awarded to him,

Complainant may be imprisoned for

non-payment of costs. the complainant shall be imprisoned for any period not exceeding three months as the Justice may direct.

Amount of costs to be stated in conviction.

71. Whenever any costs shall be awarded to the complainant, the amount thereof shall be stated in the conviction or order and in any warrant of commitment to enforce the payment thereof.

Where Penalty, &c. not paid, Defendant to be imprisoned.

Defendant to be imprisoned for non-payment of penalty, &c.

72. Whenever the conviction adjudges payment of a pecuniary penalty or compensation, or the order directs payment of a sum of money, and by the law in that behalf no mode of enforcing payment thereof is provided, in default of payment thereof the defendant shall be imprisoned (with or without hard labour as the Justice may direct) for not more than three calendar months.

Justice to issue warrant for commitment of defendant for non-payment of penalty, &c.

73. Wherever the law directs that if the penalty, compensation or sum of money to be paid is not paid forthwith or within a certain time the defendant shall be imprisoned, it shall be lawful for the Justice or either of the Justices making the conviction or order, or any other Justice in default of payment to issue a warrant of commitment.

Form of commitment.

74. Every commitment shall be signed by the Justice who issues it, and shall require the constable to whom it may be directed to convey the person named therein to prison, and there deliver him to the keeper, and it shall require the keeper to imprison him (with or without hard labour as the case may be) for the time directed by the law authorizing the conviction or order unless the sum or sums mentioned in such conviction or order together with the costs and charges of the commitment and conveying of the defendant to prison if such Justice shall think fit so to order (the amount thereof being ascertained and stated in such commitment) shall be sooner paid.

Where Imprisonment adjudged.

Justice to issue warrant for imprisonment.

75. Where the conviction adjudges the defendant to be imprisoned, or the order is for the doing of some act,

in default of doing which the defendant is to be imprisoned, it shall be lawful for the Justice or either of the Justices making the conviction or order, or for any other Justice to issue a warrant of commitment.

Cumulative Term of Imprisonment.

76. Where the defendant is adjudged to be imprisoned, and he shall at the time be under commitment upon another conviction or order or other convictions or orders, it shall be lawful for the Justice to direct the imprisonment for the subsequent offence to commence at the expiration of the previous term or terms.

When imprisonment for subsequent offence to commence.

Information may be received by one Justice, &c.

77. In all cases of summary proceedings one Justice may receive the information or complaint and grant all summonses and warrants, and do all other necessary acts preliminary to the hearing, and all warrants of distress or of commitment may in all cases be under the hand of one Justice although such Justice shall not hear or have heard the case.

One Justice may receive information, &c., and another hear the case.

Conviction, &c., not removable by Certiorari.

78. No conviction or order shall be removed by certiorari.

Conviction not to be removed by certiorari.

Defect therein not to invalidate Commitment, &c.

79. No warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain it.

Defect not to invalidate commitment.

Warrants to have effect throughout the Colony.

80. All warrants for the arrest or commitment of any person shall run throughout the Colony and shall remain in force till executed.

Warrants to have effect everywhere.

Commitment to be endorsed with date of arrest.

Date of arrest
to be endorsed
on commit-
ment.

81. Where any person shall be brought by any constable to a prison to be imprisoned by virtue of a commitment, the constable shall endorse on such commitment the day on which such person shall have been arrested by virtue thereof, and the imprisonment shall be computed from such day and inclusive thereof.

Aiders and Abettors.

Aiders, &c.,
to be liable to
same punish-
ment as
principal.

82. Any person who shall aid, abet, counsel, or procure the commission of any offence punishable on summary conviction shall be liable to the same punishment as the principal offender, and may be proceeded against either with such principal offender, or before or after his conviction, and either in the district in which such principal offender may be convicted, or that in which the offence of aiding, abetting, counselling, or procuring may have been committed.

Aiders, &c.,
to be tried.

83. Any person so aiding, abetting, counselling or procuring may be tried before any Justice having cognizance of the principal offence.

PART III.

PROTECTION OF JUSTICES OF THE PEACE FROM VEXATIOUS
ACTIONS FOR ACTS DONE BY THEM IN EXECUTION OF
THEIR OFFICE.

Action for
acts done
within juris-
diction.

84. Every action to be brought against any Justice of the Peace for any act done by him in the execution of his office with respect to any matter within his jurisdiction, shall be an action on the case as for a tort.

If plaintiff
fail to prove
malice he
shall
be nonsuited.

85. The declaration in every such action shall allege that such act was done maliciously, and without reasonable and probable cause; and if the plaintiff shall fail at the trial, upon the general issue pleaded, to prove

such allegation, he shall be nonsuited or a verdict shall be given for the defendant.

86. Any person injured by any act done by a Justice of the Peace in a matter not within his jurisdiction, or in which he has exceeded it, or by any act done in any such matter under any conviction or order made or warrant issued by him, may maintain an action against such Justice without alleging in his declaration that the act complained of was done maliciously and without reasonable and probable cause, but no such action shall be brought for anything done under such conviction or order, or for anything done under any warrant which shall have been issued by such Justice to procure the appearance of such party, and which shall have been followed by a conviction or order in the same matter, until after the conviction or order shall have been quashed.

Where act is done without jurisdiction malice need not be alleged, but no action shall be brought until conviction is quashed.

87. No action shall be brought against any Justice for anything done under any warrant, if it shall not have been followed by a conviction or order, or if, being a warrant upon an information for an alleged indictable offence, a summons was issued previously thereto, and served upon such person personally, or by its being left for him with some person at his usual or last known place of abode, and he shall not have appeared in obedience thereto.

No action to be brought unless there has been a conviction, or if there has been a summons:

88. Where a conviction or order shall be made by one or more Justice or Justices, and a warrant of distress or of commitment shall be granted thereon by some other Justice bonâ fide and without collusion, no action shall be brought against such last mentioned Justice by reason of any defect in such conviction or order, or for any want of jurisdiction in the Justice or Justices who made the same, but the action may be brought against the Justice or Justices who made such conviction or order.

Nor against a Justice for warrant made by him upon the conviction of another Justice:

89. No action shall be brought against any Justice who shall have granted a warrant of distress against any person for enforcing the payment of any rate made allowed and published by reason of any irregularity or defect in such rate, or of such person not being liable to be rated thereto.

Nor for granting warrant for enforcing rate:

Nor for exercise of discretionary power.

90. No action shall be brought against any Justice for the manner in which he shall have exercised any discretionary power given to him by law.

Remedy where Justice shall refuse to do his duty.

91. Where any Justice shall refuse to do any act relating to his duties as a Justice, the party requiring such act to be done may apply to the Supreme Civil Court, upon an affidavit of the facts, for a rule calling upon such Justice, and also the party to be affected by such act, to show cause why such act should not be done; and if after due service of such rule, good cause shall not be shown against it, the Court may make it absolute, with or without costs, and such Justice, upon being served with such rule absolute, shall obey it, and do the act required, and no action or proceeding whatsoever shall be brought against him for having obeyed such rule, and done such act so required.

No action shall be brought in respect of a conviction affirmed upon appeal.

92. Where a warrant of distress or of commitment shall be granted by a Justice upon a conviction or order, which either before or after the granting of the warrant shall have been or shall be affirmed upon appeal, no action shall be brought against him for anything which may have been done under it, by reason of any defect in such conviction or order.

If actions herein prohibited be brought they may be set aside.

93. Where any action herein prohibited from being brought under particular circumstances, shall be brought it shall be lawful for the Supreme Civil Court or any Judge thereof, upon application of the defendant, and affidavit of the facts, to set aside the proceedings, with or without costs.

Actions to be brought in Supreme Court and within six months—and notice to be given.

94. No action against any Justice for any thing done by him in the execution of his office, shall be brought except in the Supreme Civil Court, and unless it be commenced within six months after the commission of the act complained of, and not less than one month after notice in writing of the intended action shall have been delivered to him, or left for him at his usual or last known place of abode, by the party intending to bring such action, or by his solicitor.

Form of notice.

95. The cause of action shall be clearly stated in the notice, and at the end or upon the back thereof shall be stated the name and place of abode of the party intending to bring the action, and also the name and place

of business of the solicitor, if the notice shall have been given by such solicitor.

96. In any such action the defendant shall be allowed to plead the general issue, and to give any special matter of defence, excuse or justification, in evidence under such plea, at the trial. Defendant may plead general issue.

97. After notice of action shall be given, and before its commencement, the Justice receiving such notice may tender to the party complaining, or to his solicitor, such sum of money as he may consider just as amends for the injury complained of. Compensation may be tendered.

98. After the commencement of the action, and at any time before issue joined therein, the defendant, if he has not made such tender, or in addition to any tender made, may pay into Court such sum of money as he may consider just, and such tender and payment into Court, or either of them may afterwards be given in evidence at the trial under the general issue, and if the jury shall be of opinion that the plaintiff is not entitled to damages beyond the sum tendered or paid into Court, or beyond the sums tendered and paid into Court, they shall give a verdict for the defendant, and the plaintiff shall not be at liberty to elect to be nonsuit; and any sum of money paid into Court, or as much of it as shall be sufficient to pay the defendant's costs, shall be paid out of Court to him, and any residue shall be paid to the plaintiff. Amount tendered as compensation may be paid into Court.

99. If the plaintiff shall elect to accept the money paid into Court in satisfaction of his damages, he may obtain from one of the Judges an order for its payment to him, and for the payment to him of his costs to be taxed; and thereupon and on payment of such costs the action shall be determined, and such order shall be a bar to any other action for the same cause. Such amount may be paid to plaintiff.

100. If at the trial the plaintiff shall not prove that the action was brought within the time hereinbefore limited, or that such notice as aforesaid was given one month before the action was commenced, or shall not prove the cause of action stated in the notice, he shall be nonsuited, or the jury shall give a verdict for the defendant. In what cases nonsuit or verdict for defendant.

In what cases
plaintiff shall
not recover
substantial
damages.

101. Where the plaintiff in any such action shall be entitled to recover, and he shall prove the levying or payment of any penalty or sum of money under any conviction or order as parcel of the damages he seeks to recover, or if he prove that he was imprisoned under such conviction or order, and shall seek to recover damages for such imprisonment, he shall not be entitled to recover the amount of such penalty or sum so levied or paid, or any sum beyond two pence as damages for such imprisonment, or any cost of suit whatsoever, if it shall be proved that he was guilty of the offence of which he was convicted, or that he was liable by law to pay the sum he was so ordered to pay, and that he had undergone no longer imprisonment than that assigned by law for the offence of which he was convicted, or for non-payment of the sum he was ordered to pay.

In what cases
plaintiff may
recover.

102. If the plaintiff in any such action shall recover a verdict, or the defendant shall allow judgment to pass against him by default, the plaintiff shall be entitled to costs in such manner as if this Ordinance had not been passed; but if the declaration alleges that the act complained of was done maliciously and without reasonable and probable cause, and the plaintiff shall recover a verdict, or the defendant allow a judgment to pass against him by default, the plaintiff shall be entitled to his full costs of suit, as between solicitor and client.

Costs.

103. In any action against a Justice for anything done by him in the execution of his office, if he obtains a judgment upon verdict or otherwise, he shall be entitled to his full costs, as between solicitor and client.

Passed in Council this seventh day of April, in the year of our Lord one thousand eight hundred and sixty-eight.

R. LECHMERE GUPPY,

Clerk of the Council.

bring him before one or more of the Justices for the district, to be dealt with according to law.

Signature of Justice.

4. *Warrant in the First Instance.*

TRINIDAD.

County of

186

To all constables within the said Island.

Arrest and bring before one or more of the Justices of the district C. D. of F. to be dealt with according to law on the sworn information of A. B. for that he did (*here state the offence*).

Signature of Justice.

5. *Deposition that a person is a material Witness.*

TRINIDAD.

County of

A. B. of C.

deposes that G. H. of K.

can give material evidence for him touching the matter of the annexed information; and he believes that the said G. H. will not voluntarily appear at the hearing unless compelled to do so.

Sworn before me this day of

Signature of Justice.

Signature of Deponent.

6. *Summons to a Witness.*

TRINIDAD.

County of

186

To G. H. of K.

I require you to appear at o'clock a.m. the day of
at the Police Office, to give evidence on behalf
of A. B. on his information against D. E. for that he did (*here state the offence*).

Signature of Justice.

7. *Warrant where Witness has not obeyed Summons.*

TRINIDAD.

County of

186

To all constables within the said Island.

G. H. of K. not having appeared in obedience to a summons requiring his attendance on the day of at the Police Office to give evidence on behalf of A. B. of C. on his information against D. E. of F. I command you to arrest and bring him the said G. H. before one or more of the Justices present at o'clock a.m. of the day of at the Police Office.

Signature of Justice.

8. *Warrant for a Witness in the first Instance.*

TRINIDAD.

County of

186

To all constables within the said Island.

A. B. of C. having deposed to me that G. H. of K. a material witness on his behalf on his information against D. E. is not likely to attend at the hearing unless compelled to do so; I command you to arrest and bring him the said G. H. before the Justices present at o'clock a.m. of the day of at the Police Office to give evidence.

*Signature of Justice.*9. *Commitment of a Witness for refusing to be sworn (or to give evidence.)*

TRINIDAD.

County of

186

To all constables and to the keeper of

J. K. of M. having refused to-day at the Police Office without just excuse to be examined on oath, as a witness at the hearing of the information of A. B. against C. D. (or J. K. of M. being duly sworn to-day at the Police Office as a witness on the information of A. B. against D. E. having refused without just excuse to answer certain questions concerning the premises) was adjudged for his offence to be fined and in default of payment imprisoned for unless the fine and the costs and charges of his commitment and conveyance to prison should be sooner paid: I therefore command you the said constable, as the fine remains unpaid, to convey him to and deliver him to the keeper, whom I direct to imprison the said for unless the fine and the costs and charges of his commitment and of his conveyance to prison amounting to shall be sooner paid.

*Signature of Justice.*10. *Information against Aider, &c.*

TRINIDAD.

County of

A. Z. of Y. informs the undersigned Justice that E. J. of S. on the day of at did (*here state the offence*) And that B. C. of N. was present aiding (*or abetting*) the said to commit the said offence.

Taken and sworn this day of

*Signature of Justice.**Signature of Informant.*11. *Recognizance for appearance of Defendant.*

TRINIDAD.

On the day of D. E. of F. and L. M. of S. severally

acknowledge themselves to owe to Her Majesty the Queen as follows, that is the said D. E. pounds, and the said L. M. pounds to be paid by them the said D. E. and L. M. if the said D. E. shall fail in the condition hereinunder written.

The condition is that if the said D. E. shall personally appear on the day of at ten o'clock a.m. at the Police Office, before the Justices present to answer the information of and shall not depart therefrom without leave the Recognizance will be void.

Acknowledged before me at

N.B.—In default of Payment of the above sum the surety or sureties may be imprisoned for any period not exceeding six months.

12. *Certificate of non-appearance to be endorsed on Defendant's Recognizance.*

The within recognizance is forfeited, the said D. E. not having appeared at the time and place in the condition mentioned.

Signature of Justice.

13. *Warrant of Committal for safe custody on adjournment of the hearing.*

TRINIDAD.

County of

186

To all constables, and to the keeper of the

The hearing of the information of A. B. against D. E. being adjourned to the day of at a.m., at the Police Office, I command that the body of D. E. be conveyed to and delivered to the keeper whom I direct to safely keep him until the day of and then have him at the said time and place before the Justices present.

Signature of Justice.

14. *Warrant to remand Defendant when arrested.*

TRINIDAD.

County of

186

To all constables, and to the keeper of

D. E. having been brought before me by virtue of a warrant upon the information of A. B. against him for that he the said D. E. did *(here state the offence as in summons)* I command that the body of D. E. be conveyed to and delivered to the keeper whom I direct to safely keep him until the day of and then have him at the Police Office at o'clock before the Justices present.

Signature of the Justice.

15. *Order of Dismissal of an Information (or Complaint).*

TRINIDAD.

County of

186

On the day of information was laid before me for that D. E. on the day of did (*here state the offence as in the summons*) and this day both parties appeared before me that I should hear and determine the said information (*or the said A. B. appears and the said D. E. doth not appear*) whereupon having duly considered the said information I dismiss the same, and I adjudge the complainant to pay the defendant for costs (and for compensation); and in default of payment by complainant I adjudge him to be imprisoned (with hard labour *if so ordered*) for unless the said sum (or sums) amounting to and the charges of his commitment and conveyance to prison amounting to shall be sooner paid.

*Signature of Justice.*16. *Certificate of Dismissal.*

TRINIDAD.

County of

186

I hereby certify that an information preferred by A. B. against D. E. for that was this day considered by me and was by me dismissed.

Dated the day of

*Signature of Justice.*17. *Order for payment of Money, and in default of payment, imprisonment.*

TRINIDAD.

County of

186

On this day of at the Police Office, information was laid before me for that D. E. on the day of did (*here state the offence*), and having heard the complaint, I adjudge the defendant to pay forthwith to the complainant for compensation and for costs, and in default of payment to be imprisoned, (with hard labour *if so ordered*) for unless the said sums and the charges of the defendant's commitment and conveyance to prison amounting to shall be sooner paid.

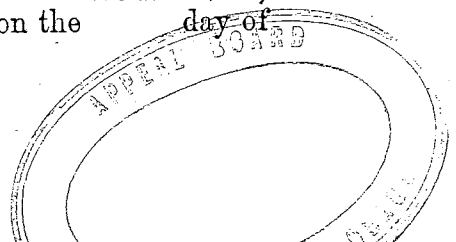
*Signature of Justice.*18. *Order for any other Matter the disobeying of which is punishable with imprisonment.*

TRINIDAD.

County of

186

For On this day of at the Police Office, information was laid before me for that D. E. on the day of



did (*here state the offence*), and having heard the complaint, I adjudge the defendant to (*here state the matter ordered*), and if he neglect or refuse to obey the same I adjudge him to be imprisoned (with hard labour *if so ordered*) for : And I also adjudge the defendant to pay to the complainant for costs, and in default of payment to be imprisoned (with hard labour *if so ordered*) for

Signature of Justice.

19. *Commitment on an Order in the first Instance.*

TRINIDAD.

County of

186

To all constables and to the keeper of

On the day of at the Police Office, having heard the complaint of A. B. against D. E. for that he did (*here state the offence*) I adjudged the said D. E. to pay to the said A. B. and for costs, and in default of payment forthwith to be imprisoned (with hard labour *if so ordered*) for : default having been made in the payment of the said sums, I therefore command you the said constables to convey the said D. E. to and deliver him to the keeper, whom I direct to imprison him (with hard labour *if so ordered*) for unless the said sums, and the charges of his commitment and conveyance to prison amounting to shall be sooner paid.

Signature of Justice.

20. *Commitment on an Order for any other matter, the disobeying of which is punishable by imprisonment.*

TRINIDAD.

County of

186

To all constables and to the keeper of the Royal gaol (*or as the case may be*).

On the day of at the Police Office, having heard the complaint of A. B. against R. S. for that he did (*here state the offence*) I adjudged the defendant to (*here state the matter ordered*) and if he shall neglect or refuse to obey the same to be imprisoned (with hard labour *if so ordered*) for : the said R. S. having refused (*or neglected*) to obey the same I command that his body be conveyed to the Royal gaol, and delivered to the keeper, whom I direct to imprison him (with hard labour *if so ordered*) for

Signature of Justice.

21. *Conviction for a Fine.*

TRINIDAD.

County of

186

On this day of at the Police Office
R. S. of T. is convicted before me for that

he did : And I adjudge him to be fined and to pay to the said A. B. (*state the penalty and compensation if any*) for costs, and in default of payment of the said sums forthwith to be imprisoned (with hard labour *if so ordered*) for

Signature of Justice.

22. *Conviction where punishment by imprisonment.*

TRINIDAD.

County of

186

On this day of at the Police Office, D. E. of F. is convicted before me for that he did : And I adjudge him to be imprisoned (with hard labour *if so ordered*) for and to pay to the said A. B. for costs, and in default of payment to be imprisoned (with hard labour *if so ordered*) for the further term of

Signature of Justice.

23. *Commitment upon a conviction for a penalty in the first instance.*

TRINIDAD.

County of

186

To all Constables, and to the Keeper of R. S. late of T. having been this day at the Police Office convicted for (*here state the offence*) and adjudged for his offence to be fined and to pay to the said A. B. for costs, and in default of payment to be imprisoned (with hard labour *if so ordered*) for unless the said sums should be sooner paid, the said sums remaining unpaid, I command that the body of R. S. be conveyed to the and delivered to the keeper, to be by him safely kept and imprisoned (with hard labour *if so ordered*) for unless the said sums and the charges of his commitment and conveyance to prison, amounting to shall be sooner paid.

Signature of Justice.

24. *Commitment on a conviction where punishment by imprisonment.*

TRINIDAD.

County of

186

To all Constables and to the Keeper of D. E. late of F. having been this day at the Police Office, convicted for that he did (*here state the offence*) and adjudged for his offence to be imprisoned (with hard labour *if so ordered*) for I command you the said constables to convey him to the and deliver him to the keeper, whom I direct to imprison him (with hard labour *if so ordered*) for

Signature of Justice.

25. *Commitment of Defendant for a consecutive period where convicted on same day of two or more offences.*

TRINIDAD.

County of

186

To all Constables, and to the Keeper of

S. T. late of U. having been this day at the Police Office convicted for that he did (*here state the offence*) and adjudged for his offence to forfeit the sum of (*here state the Penalty and compensation if any*) for costs, and in default to be imprisoned (with hard labour *if so ordered*) [or and adjudged for his offence to be imprisoned (with hard labour *if so ordered*) for] to commence after the expiration of another term of imprisonment for an offence of which he is this day convicted, and now stands committed under another warrant signed by me, and dated this day, I command that (the said sums remaining unpaid) the body of R. S. be conveyed to and delivered to the Keeper to be safely kept and imprisoned (with hard labour *if so ordered*) for to commence after the expiration of the other term of imprisonment (unless the said sums and the charges of his commitment and conveyance to prison amounting to shall be sooner paid.)

Signature of Justice.

26. *Notice to Prosecutor on laying Information (or Complaint.)*

TRINIDAD.

No.

A. B. vs. D. E.

Police Office,

186

The above Information will be heard on the
day of at a.m.

Signature of Clerk of the Peace.

27. *Notice where Defendant has been arrested.*

TRINIDAD.

Police Office,

186

D. E. against whom a warrant was issued on your information, has been arrested and ordered by a Justice to be brought up on the day of at a.m. at this Office, when you are required to attend.

To

Signature of Clerk of the Peace.

SUMMARY CONVICTIONS ORDINANCE, 1868.

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No. 6.—1868.*7th April.*

AN ORDINANCE for rendering certain Offences punishable on Summary Conviction.

(L. S.) ARTHUR GORDON.

BE it enacted by His Excellency the Governor, with the advice and consent of the Legislative Council, as follows:

Interpretation.

Interpretation
of terms.

1. The following words and expressions in this Ordinance shall have the meaning hereby assigned to them