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CHAPTER 4. No. 3.

CRIMINAL PROCEDURE.

Ordinances
Ch. 4. No. 3-
1940.
No. 11-1941.

AN ORDINANCE TO REGULATE THE PROCEDURE IN
CRIMINAL CASES TRIABLE ON INDICTMENT.

Commence-
ment.

[2nd June, 1925.]

Short title.

1. This Ordinance may be cited as the Criminal Procedure Ordinance.

Interpre-
tation.

2. In this Ordinance—

“ Court ” means the Supreme Court, or any Judge thereof;

Ord. 11-1941
s. 2.

“ Registrar,” “ Deputy Registrar ” and “ Sub-Registrar ” mean respectively the Registrar, Deputy Registrar and Sub-Registrars appointed as such in accordance with the provisions of the Judicature Ordinance: Provided that any duty imposed on the Registrar by sections 18 (1), 19, 28, 30, 32, 46, 50, 54, 75 and 81 of this Ordinance may be performed by the Deputy Registrar or by a Sub-Registrar of the Court concerned.

Place, time and mode of trial.

Trials in
Port-of-
Spain.

3. (1) All persons committed within the Counties of St. George, St. David, Caroni and St. Andrew for trial for any offence shall be tried at Port-of-Spain.

Trials in San
Fernando.

(2) All persons committed within the Counties of Victoria, St. Patrick, Nariva and Mayaro for trial for any offence shall be tried at San Fernando.

Trials in
Tobago.

(3) All persons committed within the Ward of Tobago for trial for any offence shall be tried in Tobago.

Handwritten note: Aff by 12-62, GR (1940) (368)

(4) Notwithstanding the provisions of subsections (2) and (3) hereof, a Judge may in any case either before the trial or on the arraignment of any person so committed, if satisfied that a fair trial cannot be had at San Fernando or in Tobago, order that the trial of such person shall take place at Port-of-Spain.

Transfer of case from San Fernando or Tobago to Port-of-Spain.

(5) Notwithstanding the provisions of subsections (1) and (2) hereof, the Attorney General, whenever he considers that the ends of justice so require, may in any case—

Attorney General's power to transfer cases.

(a) enter for trial at San Fernando any criminal case which but for this section would be triable at Port-of-Spain;

(b) enter for trial at Port-of-Spain any criminal case which but for this section would be triable at San Fernando;

(c) transfer the trial of any case entered for trial at Port-of-Spain to San Fernando; and

(d) transfer the trial of any case entered for trial at San Fernando to Port-of-Spain.

(6) A transfer under subsection (5) shall be effected by delivering to the Registrar, ten clear days at least before the day of trial, a warrant for such transfer signed by the Attorney General; and it shall be the duty of the Registrar by himself or his assistants, six clear days at least before the trial, to serve on the accused a copy of such warrant by delivering the same to him personally, or leaving the same at the place appointed for that purpose in the recognisance entered into by the accused.

Procedure for transfer of cases. Ord. 11-1941, s. 3.

(7) Where any criminal case shall be entered for trial or transferred under this section, such case shall be tried and determined at the place to which it has been so entered for trial or to which it has been transferred; and all recognisances, subpoenas, and proceedings in or relating to the case shall thereupon be deemed to be returnable at such place; and all witnesses who are bound by recognisance or summoned to attend the trial shall attend at such place.

Trial of cases transferred.

4. At every Criminal Sessions of the Court for the trial of criminal cases at Port-of-Spain, two of the Judges shall hold separate Courts, and each of such Judges shall try all offences which shall be brought before him for trial:

Two Courts to be held in Port-of-Spain.

Provided that the Chief Justice may direct that one Court only shall be held at such Sessions.

When person
committed
is to be tried.

5. (1) Subject to the provisions of this Ordinance, if any person committed for trial is not brought to trial before the close of the second ordinary Criminal Sessions held next after his commitment at the place to which such person has been committed for trial, he shall be discharged from his imprisonment for the offence for which he was committed for trial if the said offence be in its nature bailable, or if such offence be not bailable he shall nevertheless be admitted to bail, or discharged on his own recognisance, at the discretion of the Court: Provided that nothing in this Ordinance shall abrogate or derogate from the power of the Court to order the postponement of any trial.

When new
prosecution
may be had.

(2) No person who shall have been once discharged from prison under the provisions of this section shall be liable to be recommitted to prison, either for examination or for trial, for the same offence; and no person who shall have been admitted to bail under the provisions of this section shall be obliged to find further bail, or shall be liable to be committed to prison, either for examination or for trial, for the same offence in respect of which he was formerly admitted to bail; but no such discharge, nor the expiration of the time mentioned in the recognisance, shall be any bar to prevent any person from being brought to trial for any offence for which he was formerly committed to prison, or admitted to bail, or discharged.

Mode of trial.

6. Every person committed for trial shall be tried on an indictment, and, subject to the provisions of this Ordinance, every such trial shall be had by and before a Judge and jury.

Issues of law.

7. Whenever any issue of law shall be joined between the Crown and any person indicted for any treason, felony, or misdemeanor, such issue shall be tried and determined by the Court according to the law of England for the time being in force.

Issues of
fact.

8. Whenever any issue of fact shall be joined between the Crown and any person indicted for any treason, felony,

or misdemeanor, such issue shall, subject to the provisions of this Ordinance, be tried and determined as nearly as may be according to the practice for the time being observed in criminal trials in England.

Proceedings preliminary to trial.

9. The Attorney General shall have the power to order the liberation of any person committed to prison for further examination or for trial, and to discharge from prosecution any person admitted to bail; for which liberation or discharge, a writing subscribed by the Attorney General setting forth that he sees no grounds for prosecuting such person shall be a sufficient warrant.

Attorney
General may
discharge
prisoner.

10. When any party injured or complaining shall desire to prosecute any one for whose liberation from prison a warrant may have been issued by the Attorney General under the last preceding section, it shall be competent for such party, upon entering into such recognisance as is required under the provisions of this Ordinance, to apply to the Court, or, in case the same shall not then be in session, to any Judge, for a warrant for the further detention in prison of such person, or, in case of his being already liberated, for his recommittal for trial, and such Court or Judge shall thereupon make such order therein as to such Court or Judge shall seem fit.

Private
prosecution.

11. In case any person charged with any offence triable on indictment shall be committed to prison or admitted to bail in respect of such offence, it shall be lawful for the Attorney General, at any time before the trial, to file in the Court the preliminary examinations upon which such prisoner was so committed for trial or admitted to bail, and to put in a declaration in writing, signed by the Attorney General, to the effect that considering the evidence adduced against such person in the preliminary examinations to be insufficient, he the said Attorney General will not upon such evidence further prosecute such person in respect of such offence, a copy of which said declaration, certified by the Registrar, shall be served by the Registrar by himself or his assistants by delivering the same to the person so committed for trial or admitted to bail, or leaving

Right of
Attorney
General to
enter *nolle
prosequi*.

the same at his usual place of abode or at the place specified in the recognisance for the receiving of any indictment against such person in respect of such offence; and in such case the person so committed for trial, if in custody, shall be forthwith discharged, or if admitted to bail, the recognisance of bail shall be discharged or cancelled; but such discharge shall not operate as a bar to any subsequent proceedings against such person on the same facts.

Indictments.

Rules as to
indictments.
1st Schedule.

12. The rules contained in the First Schedule hereto with respect to indictments shall have effect as if enacted in this Ordinance, but those rules may be added to, varied, or annulled by further rules made by the Rule Committee under this Ordinance.

General pro-
visions as to
indictments.

13. (1) Every indictment shall contain, and shall be sufficient if it contains, a statement of the specific offence or offences with which the accused person is charged, together with such particulars as may be necessary for giving reasonable information as to the nature of the charge.

Form of
indictments.

(2) Notwithstanding any rule of law or practice, an indictment shall, subject to the provisions of this Ordinance, not be open to objection in respect of its form or contents if it is framed in accordance with the rules under this Ordinance.

Joinder of
charges in
the same
indictment.

(3) Subject to the provisions of the rules under this Ordinance, charges for more than one felony or for more than one misdemeanor, and charges for both felonies and misdemeanors, may be joined in the same indictment.

Orders for
amendment
of indict-
ment,
separate
trial, and
postpone-
ment of trial.

14. (1) Where, before trial, or at any stage of a trial, it appears to the Court that the indictment is defective, the Court shall make such order for the amendment of the indictment as the Court thinks necessary to meet the circumstances of the case, unless, having regard to the merits of the case, the required amendments cannot be made without injustice.

(2) Where an indictment is so amended, a note of the order for amendment shall be endorsed on the indictment, and the indictment shall be treated for the purposes of the

trial and for the purposes of all proceedings in connection therewith as if it had been originally presented in the amended form.

(3) Where, before trial, or at any stage of a trial, the Court is of opinion that a person accused may be prejudiced or embarrassed in his defence by reason of being charged with more than one offence in the same indictment, or that for any other reason it is desirable to direct that the person should be tried separately for any one or more offences charged in an indictment, the Court may order a separate trial of any count or counts of such indictment.

(4) Where, before trial, or at any stage of a trial, the Court is of opinion that the postponement of the trial of a person accused is expedient as a consequence of the exercise of any power of the Court under this Ordinance to amend an indictment or to order a separate trial of a count, the Court shall make such order as to the postponement of the trial as appears necessary;

(5) Where an order of the Court is made under this section for a separate trial or for the postponement of a trial—

(a) if such an order is made during a trial, the Court may order that the jury are to be discharged from giving a verdict on the count or counts the trial of which is postponed or on the indictment, as the case may be; and

(b) the procedure on the separate trial of a count shall be the same in all respects as if the count had been presented in a separate indictment, and the procedure on the postponed trial shall be the same in all respects (if the jury has been discharged) as if the trial had not commenced; and

(c) the Court may make such order as to admitting the accused person to bail, and as to the enlargement of recognisances, and otherwise, as the Court thinks fit.

(6) Any power of the Court under this section shall be in addition to and not in derogation of any other power of the Court for the same or similar purposes.

Savings.

15. (1) Nothing in sections 12, 13 and 14 of this Ordinance or the rules thereunder shall affect the law or practice relating to the jurisdiction of a Court or the place where an accused person can be tried, nor prejudice or diminish in any respect the obligation to establish by evidence according to law any acts, omissions, or intentions which are legally necessary to constitute the offence with which the person accused is charged, nor otherwise affect the laws of evidence in criminal cases.

Application to criminal informations, etc.

(2) The provisions of sections 12, 13 and 14 relating to indictments shall apply to criminal informations in the Court, and inquisitions, and also to any plea, replication, or other criminal pleading, with such modifications as may be made by rules under this Ordinance.

Attendance of witnesses.

Attendance of witness bound by recognisance to attend.

16. Every person who is bound by recognisance to attend at any Criminal Sessions as a witness, whether for the prosecution or for the defence, in any case to be tried at such Sessions, shall be bound to attend the Court, whether or not he has received any subpoena or notice, on the day appointed for the trial of such case, and on subsequent days of the Sessions, until the case has been disposed of, or until he has been discharged by the Court from further attendance.

Writs of subpoena.

17. (1) Every person whose attendance as a witness, whether for the prosecution or for the defence, is required in any case, and who has not been bound by recognisance to attend as a witness at the Criminal Sessions at which such case is to be tried, shall be summoned by a writ of subpoena.

(2) Every such subpoena shall issue in the name of the King, and shall be tested in the name of the Chief Justice.

Duty to prepare subpoenas. Ord. 11-1941, s. 5.

18. (1) Subject to the provisions of subsection (2) of this section, it shall be the duty of the Registrar, on being furnished with the names and places of abode of any witnesses on behalf of the prosecution or defence whose attendance is required to be secured by subpoena, to prepare for service a writ or writs of subpoena directed to such

witnesses, together with as many copies thereof, as there may be witnesses named in such writ or writs.

(2) Notwithstanding the provisions of subsection (1) of this section, it shall be lawful for the Registrar, before a subpoena directed to any witness whose attendance is required on behalf of the defence is prepared, to require to be satisfied by evidence on oath or otherwise that that witness is likely to be able to give material evidence, and it shall be lawful for the Deputy Registrar to exercise the like powers in relation to any application for any such subpoena directed to the Registrar: Provided that nothing in this subsection shall be deemed to prejudice any right or power of the Court at the trial to call, or permit to be called, any witness.

(3) When application shall be made to postpone any trial by reason of the absence of any witness, it shall be taken as *prima facie* evidence, liable nevertheless to be rebutted, that the party applying for such postponement has not exercised all due and necessary diligence to secure the attendance of such witness if it shall appear that no subpoena to such witness was requested four clear days at the least before the first day of the Criminal Sessions.

19. The Registrar, by himself or his assistants, shall with all diligence, serve, or attempt to serve, a copy of the writ of subpoena upon each witness to be served, and shall note every such service or attempted service with the time thereof upon the original writ of subpoena, and shall endorse and subscribe thereon a certificate of the service or non-service thereof, as the circumstances of the case may require; any such certificate shall be *prima facie* evidence of the facts stated therein.

Service of
subpoenas.
Ord.11-1941,
s. 6.

20. If any person who has been bound by recognisance to attend as a witness, whether for the prosecution or for the defence, at the trial of any case does not attend the Court on the day appointed for the trial of such case, and no reasonable excuse is offered for such non-attendance, the Court may issue a warrant to apprehend such person, and to bring him, at a time to be mentioned in the warrant,

Warrant for
apprehension
of witness
not attend-
ing on
recognisance.

before the Court in order to give evidence on behalf of the prosecution or of the defence, as the case may be.

Warrant for apprehension of witness disobeying summons.

21. If any person to whom any writ of subpoena is directed does not attend the Court at the time and place mentioned therein, and no reasonable excuse is offered for such non-attendance, then, after proof upon oath, to the satisfaction of the Court, that the writ was duly served, or that the person to whom the writ is directed willfully avoids service, the Court, being satisfied, by proof upon oath, that he is likely to give material evidence, may issue a warrant to apprehend such person, and to bring him, at a time to be mentioned in the warrant, before the Court in order to give evidence on behalf of the prosecution or of the defence, as the case may be.

Fine for non-attendance of witness.

22. Every person who makes default in attending as a witness in either of the cases mentioned in the two last preceding sections shall be liable, on the summary order of the Court, to a fine of ninety-six dollars, and in default of payment, to imprisonment for two months.

Warrant for apprehension of witness in first instance.

23. (1) If a Judge is satisfied, by proof upon oath, that any person likely to give material evidence either for the prosecution or for the defence, on the trial of any case, will not attend to give evidence without being compelled to do so, he may order that, instead of a subpoena being issued, a warrant shall be issued in the first instance for the apprehension of such person.

(2) Every person arrested under any such warrant shall, if the trial of the case for which his evidence is required is appointed for a time which is more than twenty-four hours after the arrest, be taken before a Judge, and the Judge may, on his furnishing security by recognisance, to the satisfaction of the Judge, for his appearance at such trial, order him to be released from custody, or shall, on his failing to furnish such security, order him to be detained for production at such trial.

Mode of dealing with witness refusing to be sworn, etc.

24. (1) If any person attending the Court as a witness, either on his recognisance, or in obedience to a subpoena, or by virtue of a warrant, or being present in Court and being

verbally required by the Court to give evidence in any case—

(a) refuses to be sworn as a witness, or

(b) having been so sworn, refuses to answer any question put to him by or with the sanction of the Court, or

(c) refuses or neglects to produce any document which he is required by the Court to produce,

without in any such case offering any sufficient excuse for such refusal or neglect, the Court may, if it thinks fit, adjourn or postpone the trial of the case for any period not exceeding eight days, and may in the meantime, by warrant, commit such person to prison.

(2) If such person, upon being brought before the Court at or before such adjourned or postponed trial, again refuses to do what is so required of him, the Court may, if it thinks fit, again adjourn or postpone the trial of the case, and commit him in like manner, and so again from time to time until such person consents to do what is so required of him.

(3) Every such person who is guilty of such refusal or neglect shall also be liable, on the summary order of the Court, either in addition to or in lieu of such punishment, to a fine of ninety-six dollars, and in default of payment, to imprisonment for two months.

(4) Nothing herein contained shall affect the liability of any such person to any other punishment or proceeding for refusing or neglecting to do what is so required of him; or shall prevent the Court from disposing of the case in the meantime, according to any other sufficient evidence produced before it.

25. Every witness who is present when the trial or further trial of a case is adjourned, or who has been duly notified of the time to which such trial or further trial is so adjourned, shall be bound to attend at such time, and in default of so doing, may be dealt with in the same manner as if he had failed to attend before the Court in obedience to a subpoena to attend and give evidence.

Non-
attendant
of witness
adjourned
trial.

Expenses of witnesses.

Expenses of witnesses for the prosecution.

26. Where any person appears before the Court on recognisance, or subpoena, or by virtue of a warrant, to give evidence against any person accused of felony or misdemeanor, the Court may order payment of the costs and expenses of such witness together with compensation for his trouble and loss of time.

Expenses of witnesses for accused.

27. The Court is hereby authorised, in its discretion, at the request of any person who appears before such Court on recognisance, or subpoena, or by virtue of a warrant, to give evidence on behalf of an accused person, to order payment to such witness of such sum of money as to the Court seems reasonable and sufficient to compensate him for the expenses, trouble, and loss of time which he incurred or sustained in attending before the examining Magistrate and the Court.

Ascertainment of witness's expenses.

28. (1) The amount of the expenses and compensation payable to any witness attending before the Court shall be ascertained by the Registrar and certified under his hand, and, on being allowed by a Judge under his hand, shall be paid to the witness by the Accountant General.

(2) The amount of the expenses and compensation payable to any witness attending before a Magistrate shall be ascertained by the certificate of such Magistrate granted before the attendance of the witness in the Court, and, on being allowed by a Judge under his hand, shall be paid to the witness by the Accountant General.

Proceedings at trial and subsequent proceedings.

Bench warrant where accused person does not appear.

29. Where any person against whom an indictment has been duly preferred, and who is then at large, does not appear to plead to such indictment, whether he is under recognisance to appear or not, the Court may issue a warrant for his apprehension.

Arraignment of accused person.

30. Every person accused shall be arraigned in such manner and form as is usual in criminal trials in England; and if any person being arraigned shall stand mute of malice, or will not answer directly to the indictment, it shall be lawful for the Court, if it shall see fit, to order the

Registrar or officer deputising as such to enter a plea of "not guilty" on behalf of such person, and the plea so entered shall have the same force and effect as if such person had actually pleaded the same.

31. Every accused person shall, on being called upon to plead, be entitled to have the indictment on which he is to be tried read over to him. *Indictment*

32. The accused on being arraigned on any indictment may plead the general issue *ave tenus*, or he may in writing demur or plead any matter of law or fact which he would be permitted to plead according to the law of England for the time being in force, upon which demurrer or plea in writing the Registrar, on behalf of the Crown, may instanter join in demurrer, or demur, or reply. *Plea of demurrer by accused*

33. In any plea of *autrefois convict* or *autrefois acquit* it shall be sufficient for any defendant to state that he has been lawfully convicted or acquitted (as the case may be) of the offence charged in the indictment. *Plea of autrefois convict or autrefois acquit*

34. Where a prisoner is arraigned on an indictment for any offence, and can lawfully be convicted on such indictment of some other offence not charged in such indictment, he may plead not guilty of the offence charged in the indictment, but guilty of such other offence. *Alternative plea*

35. No person prosecuted shall be entitled to traverse or postpone the trial of any indictment: Provided that if the Court, upon the application of the person indicted or otherwise, shall be of opinion that he ought to be allowed a further time, either to prepare for his defence or otherwise, the Court may adjourn the trial of such person to the next subsequent Criminal Sessions held at the place at which he is indicted, upon such terms as to bail or otherwise as to the Court shall seem meet, and may respite the recognisances 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 Criminal Sessions without entering into any fresh recognisance for that purpose. *Provision as to traversing indictment*

Accused may
require post-
ponement.

36. Any accused person, on arraignment, may, if committed for trial less than six clear days before the day of his arraignment, require that his trial be postponed to the next Criminal Sessions held at the place at which he is arraigned, and the Court shall make order accordingly.

Effect on
recognisance
postpone-
ment of

37. In any case where the trial of an accused person is postponed, it shall be lawful for the Court to respite the recognisance of the accused person and his surety or sureties, if any, accordingly, and in such case the accused person shall be bound to appear to be tried at the time and place to which such trial may be postponed, without entering into any fresh recognisance for that purpose, in such and the same manner as if he was originally bound by his recognisance to appear and be tried at the time and place to which such trial has been so postponed.

Effect of plea
of not guilty.

38. If the accused person pleads not guilty, he shall, by such plea, without any further form, be deemed to have put himself upon the country for trial, and the Court shall order a jury for the trial of the accused person accordingly.

Counsel and
solicitor for
accused.

39. An accused person shall in all cases be allowed to be heard and defended by counsel upon his trial, or at any stage of the proceedings before the Court; and in all cases of treason or capital felony it shall be the duty of the officer delivering to the accused on behalf of the Registrar a copy of the indictment, to call upon him to select his counsel if he has the means of employing one, and in default thereof the Chief Justice shall assign counsel and a solicitor to the accused. Such fees shall be allowed to such barristers and solicitors as are specified in the Second Schedule hereto.

Second Schedule.

Case for the
prosecution.

40. After the accused person has been given in charge to the jury, or when the jury have been sworn, the counsel for the prosecution may open the case against the accused person, and adduce evidence in support of the charge.

Case for the
defence.

41. The accused person or his counsel shall be allowed, if he thinks fit, to open his case, and, after the conclusion of such opening, the accused person or his counsel shall be

entitled to adduce evidence in support of the defence, and, when all the evidence is concluded, to sum up the evidence.

- 42.** The counsel for the prosecution shall in all cases have the right of reply. Right of reply.
- 43.** The Court shall have full power and authority, during any part of the trial, or after the case on both sides has been closed, to call up and examine any witness, whether such witness has been produced before the Court in the course of the trial or not. Calling of witnesses by Judge.
- 44.** When the case on both sides is closed, the Judge shall, if necessary, sum up the law and evidence in the case. Summing up.
- 45.** After the Judge's summing up, or, if there is no summing up, on the conclusion of the case on both sides, the jury shall consider their verdict. Consideration of verdict.
- 46.** The verdict, when returned by the jury and accepted by the Court, shall be entered by the Registrar or officer deputising as such, on the back of the indictment or on a sheet of paper annexed thereto, before the jury are discharged. Recording of verdict.
- 47.** If the jury find the accused person not guilty, he shall be immediately discharged from custody on that indictment. Verdict of not guilty.
- 48.** If, upon the trial of any person charged with any felony or misdemeanor, it shall appear to the jury upon the evidence that such person did not complete the offence charged, but that he was guilty only of an attempt to commit the same, 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 he is not guilty of the felony or misdemeanor charged, but is guilty of an attempt to commit the same, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for attempting to commit the particular felony or misdemeanor charged in the said indictment; and On indictment for felony or misdemeanor, verdict of guilty of an attempt to commit the same may be returned.

no person so tried as herein lastly mentioned shall be liable to be afterwards prosecuted for an attempt to commit the felony or misdemeanor for which he was so tried.

Person tried for misdemeanor not to be acquitted if felony proved, unless Court so direct.

49. If, upon the trial of any person for any misdemeanor, it shall appear that the facts given in evidence amount in law to a felony, such person shall not by reason thereof be entitled to be acquitted of such misdemeanor; and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for felony on the same facts, unless the Court before which such trial may be had shall think fit, in its discretion, to discharge the jury from giving any verdict upon such trial and to direct such person to be indicted for felony, in which case such person may be dealt with in all respects as if he had not been put upon his trial for such misdemeanor.

Sentence after conviction.

50. Whenever any person shall be convicted by the verdict of the jury, or on his own confession, the Registrar or officer deputising as such before the Court shall pass judgment, shall enquire and ask if such offender has anything to offer why judgment should not be awarded against him, and in case such offender shall not allege any matter or thing sufficient in law to arrest such judgment, the Court shall, immediately after conviction, or at any time during the same or the next succeeding Criminal Sessions, pronounce judgment, and sentence the prisoner to undergo such punishment as the Court shall see fit:

Provided that where any defendant shall be brought up for judgment on any indictment for misdemeanor, affidavits may be read and counsel may be heard in support of the prosecution and on behalf of the defendant; and it shall be lawful for the Court, if it shall see fit, to postpone its judgment, and to order the defendant to be discharged on entering into security by recognisance to appear and receive judgment whenever he shall be ordered to be brought up for that purpose:

Provided also, that nothing herein contained shall extend or be construed to prevent the Court from reserving the consideration of any question of law arising upon any criminal trial.

51. Whenever sentence shall be passed for any offence on any person already under sentence of imprisonment for another offence, it shall be lawful for the Court to award imprisonment, with or without hard labour, for the subsequent offence, to commence at the expiration of the imprisonment to which such person shall have been previously sentenced.

Consecutive periods of imprisonment.

52. If any person is convicted of felony, not punishable with death, committed after a previous conviction for felony, such person shall, on subsequent conviction, be liable to be imprisoned, with or without hard labour, for life or for any term of years, and, subject to the provisions of the Corporal Punishment Ordinance, to undergo corporal punishment.

Conviction for felony after previous conviction for felony.

53. The proceedings upon any indictment for committing any offence after a previous conviction or convictions shall be as follows; that is to say, the offender shall, in the first instance, be arraigned upon so much only of the indictment as charges the subsequent offence, and if he plead not guilty, or if the Court order a plea of not guilty to be entered on his behalf, the jury shall be charged, in the first instance, to enquire concerning such subsequent offence only; and if they find him guilty, or if on arraignment he plead guilty, he shall then, and not before, be asked whether he has been previously convicted as alleged in the indictment, and if he answer that he has been so previously convicted, the Court may proceed to sentence him accordingly, but if he deny that he has been so previously convicted, or stand mute of malice, or will not answer directly to such question, the jury shall then be charged to enquire concerning such previous conviction or convictions, and in such case it shall not be necessary to swear the jury again, but the oath already taken by them shall for all purposes be deemed to extend to such last mentioned enquiry:

Procedure in case of previous convictions.

Provided that if, upon the trial of any person for any such subsequent offence, such person shall give evidence of his good character, it shall be lawful for the counsel for the prosecution, in answer thereto, to give evidence of the conviction of such person for the previous offence or offences before such verdict of guilty is returned, and the jury shall

enquire concerning such previous conviction or convictions at the same time that they enquire concerning such subsequent offence.

Proof of
previous
conviction.

54. (1) A previous conviction may be proved in any legal proceeding by producing a record or extract of such conviction, and by giving proof of the identity of the person against whom the conviction is sought to be proved with the person appearing in the record or extract of conviction to have been convicted.

(2) A record or extract of a conviction, where the conviction was on indictment, shall consist of a certificate containing the substance and effect only (omitting the formal part) of the indictment and conviction, and purporting to be signed by the Registrar or other officer having the custody of the records of the court by which such conviction was made; and in the case of a summary conviction shall consist of a copy of such conviction purporting to be signed by any Magistrate or Justice having jurisdiction over the offence in respect of which such conviction was made, or by the Clerk of the Peace or other proper officer of the court by which such conviction was made.

(3) A record or extract of any conviction made in pursuance of this section shall be admissible in evidence without proof of the signature or official character of the person appearing to have signed the same.

(4) The mode of proving a previous conviction authorised by this section shall be in addition to and not in exclusion of any other authorised mode of proving such conviction.

Persons con-
victed may
be con-
demned in
costs.

55. It shall be lawful for the Court, when pronouncing judgment upon the conviction of any person for any offence, in addition to such sentence as may otherwise by law be passed, to condemn such person to the payment of the whole or any part of the costs or expenses incurred in or about the prosecution and conviction for the offence of which he is convicted, if to such Court it shall seem fit so to do; and the payment of such costs and expenses, or any part thereof, may be ordered by the Court to be made out

of any moneys taken from such person on his apprehension, or may be enforced at the instance of the Attorney General or of any person liable to pay or who may have paid such costs and expenses, in the same manner (subject to the provisions of this Ordinance) as the payment of any costs ordered to be paid by the judgment or order of the Court in civil cases may be enforced:

Provided that in the meantime and until the recovery of such costs and expenses from the person so convicted as aforesaid, or from his estate, the same shall be paid and provided for in the same manner as if this section were not in force; and any money which may be recovered in respect thereof from the person so convicted, or from his estate, shall be applicable to the reimbursement of any person or fund by whom or out of which such costs and expenses may have been paid or defrayed.

56. It shall be lawful for the Court, if it shall think fit, upon the application of any person aggrieved, and immediately after the conviction of any person for any offence, to award any sum of money, not exceeding four hundred and eighty dollars, by way of satisfaction or compensation for any loss or injury suffered by the applicant through or by means of the said offence, and the amount awarded for such satisfaction or compensation shall be deemed a judgment debt due to the person entitled to receive the same from the person so convicted, and the order for payment of such amount may be enforced in the same manner as in the case of any costs ordered by the Court to be paid under the last preceding section.

Compensation to persons defrauded or injured.

57. The Court may, in any case where a person prosecuted at the instance of a private party is acquitted, adjudge the prosecutor to pay to the party prosecuted the whole or any part of the costs and expenses which may have been occasioned to him by the prosecution.

Costs of private prosecution.

58. If any person shall be convicted on indictment of any offence for which imprisonment may be awarded, it shall be lawful for the Court to sentence the offender to be imprisoned, or to be imprisoned and kept to hard labour, in the Royal Gaol, and also to direct that the offender shall be kept in solitary confinement for any portion or portions of such

Place of imprisonment.

Solitary confinement.

imprisonment or imprisonment with hard labour, not exceeding one month at any one time, and not exceeding three months in any one year, as to the Court in its discretion may seem meet:

Notwithstanding the term of imprisonment that may be prescribed for an offence, it shall be in the discretion of the Court to order the offender to be imprisoned for any term not exceeding the term prescribed.

Warrant of execution.

59. Every warrant for the execution of any prisoner under sentence of death shall be under the Public Seal of the Colony and the hand of the Governor, and shall be directed to the Marshal, and shall be carried into execution by such Marshal or his assistant at such time and place as shall be mentioned in such warrant; and such warrant shall be in the form A in the Third Schedule hereto, and there shall issue in every such case a warrant for the delivery of such prisoner by the Keeper of the Royal Gaol to the said Marshal for the purpose of such execution, and such last mentioned warrant shall be under the Public Seal of the Colony and the hand of the Governor, and shall be in the form B in the Third Schedule:

3rd Schedule.
Form A.

Form B.

Provided that it shall be lawful for the Governor, by warrant under his hand and the Public Seal of the Colony directed to the Marshal, to respite any such execution, and, by the same or any subsequent warrant, so sealed and signed, to order such execution to be carried into effect at such time and place as shall be appointed and specified in such warrant, in which case the execution shall be done at such time and place as shall be so appointed.

Procedure on committal of accused for sentence.

Accused to be brought before a Judge to be dealt with.

60. (1) As soon as conveniently may be after the filing of an indictment against an accused person committed for sentence, as provided by the Indictable Offences (Preliminary Enquiry) Ordinance, the Registrar shall issue a summons to the accused person to appear, and if he is in custody an order to the gaoler to bring the prisoner, before a Judge of the Supreme Court at a time to be fixed by the Judge, and the Registrar shall notify the Attorney General accordingly.

Plea by accused committed for sentence.

(2) The accused person shall be called upon to plead to the indictment in the same manner as if he had been committed for trial, and he may plead, either, that he is

guilty of the offence charged in the indictment, or with the consent of the prosecutor, of any other offence of which he might be convicted on the indictment.

(3) If the accused person pleads in the Court that he is not guilty, or if although he pleads that he is guilty it appears to the Court, upon the examination of the depositions of the witnesses, that he has not in fact committed the offence charged in the indictment, or any other offence of which he might be convicted on the indictment, the plea of not guilty shall be entered, and the trial is to proceed as in other cases when that plea is entered, and the Judge shall postpone the case for trial by a jury at the regular Criminal Sessions of the Court, and may remand the accused to prison or admit him to bail in the meantime.

Proceedings on plea of not guilty or if indictment is not sustainable.

(4) A person who has been committed for sentence may plead *autrefois acquit*, *autrefois convict*, pardon, or such special plea as he would be permitted to plead according to the law of England for the time being in force, and in such case unless the accused and the prosecutor and the Judge consent to the issue being tried by the Judge without a jury, the Judge shall postpone the case for trial by a jury as in the preceding subsection provided.

Special pleas competent to person committed for sentence.

61. (1) A person may at any time before he is brought up for sentence give notice in writing to the Registrar that he desires to withdraw his consent to be committed for sentence, and in such case the prisoner shall not be taken before the Court for sentence but shall be brought up for trial at the regular Criminal Sessions of the Court.

Withdrawal by accused of consent to his committal for sentence.

(2) The notice shall be filed of record in the Registrar's Office, and the Registrar shall notify the Attorney General of the withdrawal of the consent to committal for sentence; and such notice may be put in evidence at the trial or mention may be made at the trial of the fact that such notice was given.

Filing of notice of withdrawal.

Evidence thereof.

(3) In the event of the accused person withdrawing his plea of guilty or pleading not guilty, the Attorney General may refer back the case to the Magistrate in the manner and for the purposes stated in section 25 of the Indictable Offences (Preliminary Enquiry) Ordinance.

Case may be referred back to the Magistrate.

Powers of Court and Judge when dealing with committals for sentence.

62. (1) A judge of the Court when sitting to deal with persons committed for sentence shall, subject to these provisions, possess all the powers, authorities and jurisdiction vested in the Court, with respect to the trial of criminal cases in the exercise of the ordinary criminal jurisdiction of the Court.

Attendance of officials, and records in such cases.

(2) The Registrar or other proper officer shall attend before a Judge in any proceedings respecting persons committed for sentence, and keep a record thereof in like manner as in other proceedings in the Court.

Notice by person committed for trial of intention to plead guilty.

63. (1) A person committed for trial, whether he is in custody or not, may, if he wishes to plead guilty and be sentenced prior to the regular Criminal Sessions of the Court, file with the Registrar a notice in writing to that effect; the notice shall be filed of record in the Registrar's Office.

Subsequent proceedings as for committal for sentence.

(2) In such case the Registrar shall notify the Judge and the Attorney General, or other prosecutor, of such notice and the subsequent proceedings shall be as in the case of a person committed for sentence and the provisions of sections 60, 61, and 62 shall *mutatis mutandis* apply.

Sentence to be passed on an expectant mother guilty of a capital offence.

Sentence of death not to be passed on pregnant woman.

64. (1) Where a woman convicted of an offence punishable with death is found in accordance with the provisions of this section to be pregnant, the sentence to be passed on her shall be a sentence of imprisonment for life with or without hard labour instead of sentence of death.

Procedure where woman convicted of capital offence alleges she is pregnant.

(2) Where a woman convicted of an offence punishable with death alleges that she is pregnant, or where the Court before whom a woman is so convicted thinks fit so to order, the question whether or not the woman is pregnant shall, before sentence is passed on her, be determined by a jury.

Constitution of the jury.

(3) Subject to the provisions of this subsection, the said jury shall be the trial jury, that is to say the jury to whom she was given in charge to be tried for the offence,

and the members of the jury need not be resworn: Provided that—

(a) if any member of the trial jury, either before or after the conviction, dies or is discharged by the Court as being through illness incapable of continuing to act or for any other cause, the inquiry as to whether or not the woman is pregnant shall proceed without him; and

(b) where there is no trial jury, or where a jury have disagreed as to whether the woman is or is not pregnant, or have been discharged by the Court without giving a verdict on that question, the jury shall be constituted as if to try whether or not she was fit to plead, and shall be sworn in such manner as the Court may direct.

(4) The question whether the woman is pregnant or not shall be determined by the jury on such evidence as may be laid before them either on the part of the woman or on the part of the Crown, and the jury shall find that the woman is not pregnant unless it is proved affirmatively to their satisfaction that she is pregnant. Evidence and proof.

(5) Where on proceedings under this section the jury find that the woman in question is not pregnant, the woman may appeal under the Criminal Appeal Ordinance to the Court of Criminal Appeal, and that Court, if satisfied that for any reason the finding should be set aside, shall quash the sentence passed on her and instead thereof pass on her a sentence of imprisonment for life with or without hard labour. Appeal.

(6) The rights conferred by this section on a woman convicted of an offence punishable with death shall be in substitution for the right of such a woman to allege in stay of execution that she is quick with child, and the last mentioned right shall cease. Right to allege pregnancy in stay of execution abolished.

Trial and verdict in cases of infanticide.

65. (1) Where a woman by any wilful act or omission causes the death of her child, being a child under the age of twelve months, but at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, then, notwithstanding that the Offence of infanticide.

circumstances were such that but for this section the offence would have amounted to murder, she shall be guilty of felony, to wit of infanticide, and may for such offence be dealt with and punished as if she had been guilty of the offence of manslaughter of the child.

(2) Where upon the trial of a woman for the murder of her child, being a child under the age of twelve months, the jury are of opinion that she by any wilful act or omission caused its death, but that at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, then the jury may, notwithstanding that the circumstances were such that but for the provisions of this section they might have returned a verdict of murder, return in lieu thereof a verdict of infanticide.

(3) Nothing in this section shall affect the power of the jury upon an indictment for the murder of a child to return a verdict of manslaughter, or a verdict of guilty but insane, or a verdict of concealment of birth, in pursuance of section 59 of the Offences against the Person Ordinance.

Arraignment and trial of insane persons.

Procedure
where person
indicted
appears on
arraignment
to be insane.

66. If any accused person appears, on arraignment, to be insane, the Court may order a jury to be empanelled to try the sanity of such person, and the jury shall thereupon, after hearing evidence for that purpose, find whether such person is or is not insane and unfit to take his trial.

Procedure
where person
indicted
appears
during trial
to be insane.

67. If, during the trial of any accused person, such person appears, after the hearing of evidence to that effect or otherwise, to the jury before whom he is tried, to be insane, the Court shall in such case direct the jury to abstain from finding a verdict upon the indictment, and, in lieu thereof, to return a verdict that such person is insane: Provided that a verdict under this section shall not affect the trial of any person so found to be insane for the offence for which he was indicted, in case he subsequently becomes of sound mind.

68. Where, in an indictment, any act or omission is charged against any person as an offence, and it is given in evidence on the trial of such person for that offence that he was insane, so as not to be responsible according to law for his actions at the time when the act was done or the omission made, then, if it appears to the jury before whom such person is tried that he did the act or made the omission charged, but was insane as aforesaid at the time when he did or made the same, the jury shall return a special verdict to the effect that the accused person was guilty of the act or omission charged against him, but was insane as aforesaid at the time when he did the act or made the omission.

Special verdict where accused person found guilty, but insane at date of act or omission charged.

69. Where any person is found to be insane under the provisions of section 66 or section 67, or has a special verdict found against him under the provisions of the last preceding section, the Court shall direct the finding of the jury to be recorded, and thereupon the Court may order such person to be detained in safe custody, in such place and manner as the Court thinks fit, until His Majesty's pleasure shall be known.

Provision for custody of accused person found insane.

70. The Court shall immediately report the finding of the jury and the detention of such person to the Governor, who shall order such person to be dealt with as a criminal lunatic under the laws of the Colony for the time being in force for the care and custody of criminal lunatics, or otherwise as he may think proper.

Judge to report finding to the Governor.

Reserving questions of law.

71. Where any person is convicted on indictment of any offence, the Judge before whom the case is tried may, in his discretion, reserve any question of law arising on the trial for the consideration of the Court of Criminal Appeal; and thereupon, if he think fit, may respite execution of the judgment on such conviction, or postpone the judgment until such question has been considered and determined, and either commit the person convicted to prison or take a recognisance of bail with one or more sufficient sureties and in such sum as to him seems fit, conditioned that the person convicted do appear, at such times and places as are from time to time appointed by such Judge or by

Power to reserve questions of law on a criminal trial.

the Court of Criminal Appeal, and receive judgment or render himself in execution, as the case may be.

Statement of
question
reserved.

72. The Judge by whom, upon any trial on indictment, a question of law is reserved shall state the question with the special circumstances upon which the same has arisen, and shall direct such statement to be specially entered upon the record.

Estreating
recog-
nizances.

73. Where, upon any trial on indictment, a question of law is reserved and thereupon a recognisance is entered into, the same proceedings may be had upon such recognisance as are mentioned in section 81.

Pardons and commutation of sentences.

Free or
conditio
pardon.

74. Where the Governor, in the name and on behalf of His Majesty, shall grant to any offender either a free or a conditional pardon, the discharge of such offender out of custody in the case of a free pardon, and the performance of the condition in the case of a conditional pardon, shall have the effect of a pardon under the Great Seal of the United Kingdom for such offender as to the offence for which such pardon shall be so granted: Provided always, that no free pardon, nor any such discharge in consequence thereof, nor any conditional pardon, nor the performance of the condition thereof, in any of the cases aforesaid, shall prevent or mitigate the punishment to which the offender might otherwise be lawfully sentenced on a subsequent conviction for any offence committed after the granting of any such pardon.

Commuta-
tion of
punishment.

75. When any person shall be convicted of any crime punishable by death, if the Governor, in the name and on behalf of His Majesty, shall be pleased to extend mercy to any such offender upon condition of imprisonment, or of imprisonment with hard labour, and such intention of mercy shall be signified by the Governor to the Court during the Criminal Sessions at which such offender was convicted, such Court shall allow to such offender the benefit of a conditional pardon, and make an order for imprisonment, with or without hard labour, as the case may be, of such offender; and in case such intention of

mercy shall be so signified to the Court at any time when such Court is not in session, the Chief Justice shall allow to such offender the benefit of a conditional pardon, and make an order for the imprisonment of such offender, in the same manner as if such intention of mercy had been signified to the Court during the Criminal Sessions at which such offender was convicted; and such allowance and order shall be considered as an allowance and order made by the Court, and shall be entered on the records of the Court by the Registrar, and shall be as effectual to all intents and purposes as if such allowance had been made by the Court during the continuance of the same Criminal Sessions, and every such order shall subject the offender to be so imprisoned.

Evidence.

76. It shall not be necessary for the conviction of any person charged with any treason, felony, or misdemeanor, that such treason, felony, or misdemeanor be proved by the direct or positive testimony of any witness, but the evidence which shall have been given on the trial (although the same shall be circumstantial only) shall be left by the Court to the consideration of the jury, and the jury may bring in a verdict of guilty upon such evidence, if they shall be satisfied with the same as sufficient to establish the guilt of the person charged.

Circumstantial evidence.

77. All questions which shall arise touching the form, sufficiency, or effect of any indictment or subsequent pleading, or touching the admissibility of any defence, or of any witness called to give evidence, or of any evidence, or of any question put to any witness, or of any document, paper, matter, or thing tendered in evidence, or upon any matter or cause alleged for setting aside any verdict or staying or reversing any judgment, shall be decided by the Court as nearly as may be according to the law of England for the time being in force.

Admissibility of evidence.

78. (1) In every indictment in which it shall be necessary to make any averment as to any money or any note of any bank, it shall be sufficient to describe such money or bank note simply as money, without specifying any particular coin or bank note; and such allegation, so far as regards

Description of coin and bank notes.

the description of the property, shall be sustained by proof of any amount of coin, or of any bank note, although the particular species of coin, of which such amount was composed, or the particular nature of the bank note, shall not be proved, and in cases of embezzlement and obtaining money or bank notes by false pretences, by proof that the offender embezzled or obtained any piece of coin or any bank note, or any portion of the value thereof, although such piece of coin or bank note 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, and such part shall have been returned accordingly.

“ Bank note.”

(2) For the purposes of this section, the expression “ bank note ” shall be deemed to include a Government currency note, and a currency note as defined by the Currency Ordinance.

Miscellaneous provisions.

Marshal to attend all sittings of Court.

79. It shall be the duty of the Marshal, by himself or some sufficient deputy or assistant, to be in attendance in Court at all times whilst the same shall be sitting, and to bring the prisoner before the Court, and during the continuance of the trial to have him under his charge and custody, and from time to time to remand him to prison by permission or order of the Court during the progress of the trial or any adjournment thereof.

Gaol delivery.

80. The Court at the close of every Criminal Sessions held in Port-of-Spain shall discharge all such prisoners as by law shall be entitled to be discharged; and the Keeper of the Royal Gaol shall, on the last day of each such Sessions, deliver or cause to be delivered to the Court a list of all persons committed for trial before the Court confined within such Gaol who have not then been tried or upon whom sentence has not then been passed, together with the date and cause of commitment in each case and the name of the committing authority.

Procedure for enforcing recognisance.

81. (1) In every case where an accused person bound by recognisance to appear at any Criminal Sessions or for whose appearance any other person shall be so bound, shall fail to appear, the Registrar shall prepare a return in writing, in respect of such non-appearance.

(2) Such return shall distinguish the principal from the sureties and shall contain—

(a) the name of every such person so making default;

(b) the nature of the offence in respect of which every such person or surety was so bound;

(c) the residence of every such person or surety;

(d) the trade, calling, or profession of every such person or surety;

(e) the statement of the cause, if known, why each such person has not appeared.

(3) On the last day of each Criminal Sessions the Registrar shall lay such return before the Court, and the Court shall examine such return, and, on the application of the Attorney General, make such order touching the enforcing of any such recognisance as shall appear to the Court to be just.

(4) Thereupon the Registrar shall copy on a roll all forfeitures and sums of money to be paid in lieu or satisfaction of them, or any of them, forfeited at such Criminal Sessions, and shall, within three days after the last day of such Criminal Sessions, send a copy of such roll, with a writ, according to the form C in the Third Schedule hereto, to the Marshal.

3rd Schedule.
Form C.

(5) Such writ shall be the authority to the Marshal for proceeding to the immediate levying and recovering of such forfeitures or sums of money to be paid in lieu or satisfaction of them, or any of them, on the goods and chattels of such several persons, or for taking into custody the bodies of such persons in case sufficient goods and chattels shall not be found whereon levy can be made for recovery thereof.

(6) Every such person so taken shall be lodged in the Royal Gaol until the next Criminal Sessions, there to abide the judgment of the Court, unless in the meantime such forfeiture or sum of money shall be paid.

82. A Judge shall have such and the same power to bail in all cases whatsoever as the Court of King's Bench, or any Judge thereof in vacation, has by the law of England. Bail.

Powers of
Rule
Committee.

83. (1) There shall be established for the purposes of this Ordinance a Rule Committee consisting of the Chief Justice, the First Puisne Judge, and the Attorney General.

(2) The Rule Committee shall have power to make rules as they shall see fit for the better carrying into effect the objects of this Ordinance and in particular to make rules varying or annulling the rules contained in the First Schedule hereto, and to make further rules with respect to the matters dealt with in those rules, and those rules shall have effect subject to any modifications or additions so made.

(3) (a) Any rules made by the Rule Committee shall not have any force or effect until they have been approved by the Legislative Council, and when so approved shall have the same force and effect as if they were contained in an Ordinance, and may be disallowed by His Majesty in the same manner and with the same consequences as in the case of an Ordinance.

(b) Any such rules approved as aforesaid shall be published in the *Royal Gazette* and shall, subject to disallowance by His Majesty, come into operation on the day appointed in such rules in that behalf, or, if no day is so appointed, then on the day of their publication.

(c) Disallowance by His Majesty shall take effect upon and from the day on which the proclamation notifying the same is published in the *Royal Gazette*, but shall not affect any proceedings taken before such publication.

SCHEDULES.

FIRST SCHEDULE.

Rules relating to Indictments.

1. (1) An indictment may be either written or printed, or partly written and partly printed.

(2) Figures and abbreviations may be used in an indictment for expressing anything which is commonly expressed thereby.

(Section 12.)

Material,
etc., for in-
dictments.

2. (1) The commencement of the indictment shall be in the following form:—

Commencement of the indictment.

THE KING v. A. B.

In the Supreme Court of Trinidad and Tobago.

Port-of-Spain [or San Fernando or Scarborough, as the case may be].

INDICTMENT BY THE ATTORNEY GENERAL

[or INDICTMENT BY C. D. ADMITTED TO PROSECUTE PRIVATELY].

A. B. is charged with the following offence [offences]:—

(2) In the case of a criminal information the words "Criminal Information by the Attorney General" shall be substituted for the words "Indictment by the Attorney General."

3. Charges for any offences, whether felonies or misdemeanors, may be joined in the same indictment if those charges are founded on the same facts, or form or are a part of a series of offences of the same or a similar character.

Joining of charges in one indictment.

4. (1) A description of the offence charged in an indictment, or, where more than one offence is charged in an indictment, of each offence so charged, shall be set out in the indictment in a separate paragraph called a count.

Mode in which offences are to be charged.

(2) A count of an indictment shall commence with a statement of the offence charged, called the statement of offence.

(3) The statement of offence shall describe the offence shortly in ordinary language, avoiding as far as possible the use of technical terms, and without necessarily stating all the essential elements of the offence, and, if the offence charged is one created by Ordinance or Statute of the Imperial Parliament, shall contain a reference to the section of the Ordinance or Statute creating the offence.

(4) After the statement of the offence, particulars of such offence shall be set out in ordinary language, in which the use of technical terms shall not be necessary: Provided that where any rule of law or any Ordinance or Statute limits the particulars of an offence which are required to be given in an indictment, nothing in this rule shall require any more particulars to be given than those so required.

(5) The forms set out in the Appendix to these rules, or forms conforming thereto as nearly as may be, shall be used in cases to which they are applicable, and in other cases forms to the like effect or conforming thereto as nearly as may be shall be used, the statement of offence and the particulars of offence being varied according to the circumstances in each case.

(6) Where an indictment contains more than one count, the counts shall be numbered consecutively.

5. (1) Where an enactment constituting an offence states the offence to be the doing or the omission to do any one of any different acts in the alternative, or the doing or the omission to do any act in any one of any different capacities, or with any one of any different intentions, or states any part of the offence in the alternative, the acts, omissions, capacities,

Provisions as to statutory offences.

or intentions, or other matters stated in the alternative in the enactment, may be stated in the alternative in the count charging the offence.

(2) It shall not be necessary, in any count charging a statutory offence, to negative any exception or exemption from or qualification to the operation of the Ordinance or Statute creating the offence.

Description
of property.

6. (1) The description of property in a count in an indictment shall be in ordinary language and such as to indicate with reasonable clearness the property referred to, and if the property is so described it shall not be necessary (except when required for the purpose of describing an offence depending on any special ownership of property or special value of property) to name the person to whom the property belongs or the value of the property.

(2) Where property is vested in more than one person, and the owners of the property are referred to in an indictment, it shall be sufficient to describe the property as owned by one of those persons by name with others, and if the persons owning the property are a body of persons with a collective name, such as "Inhabitants," "Trustees," "Commissioners," or "Club" or other such name, it shall be sufficient to use the collective name without naming any individual.

Description
of persons.

7. The description or designation in an indictment of the accused person, or of any other person to whom reference is made therein, shall be such as is reasonably sufficient to identify him, without necessarily stating his correct name, or his abode, style, degree, or occupation; and if, owing to the name of the person not being known, or for any other reason, it is impracticable to give such a description or designation, such description or designation shall be given as is reasonably practicable in the circumstances, or such person may be described as "a person unknown."

Description
of document.

8. Where it is necessary to refer to any document or instrument in an indictment, it shall be sufficient to describe it by any name or designation by which it is usually known, or by the purport thereof, without setting out any copy thereof.

General rule
as to
description.

9. Subject to any other provisions of these rules, it shall be sufficient to describe any place, time, thing, matter, act, or omission whatsoever to which it is necessary to refer in any indictment, in ordinary language in such a manner as to indicate with reasonable clearness the place, time, thing, matter, act, or omission referred to.

Statement of
intent.

10. It shall not be necessary in stating any intent to defraud, deceive, or injure to state an intent to defraud, deceive, or injure any particular person where the enactment creating the offence does not make an intent to defraud, deceive, or injure a particular person an essential ingredient of the offence.

Charge of
previous
convictions,
etc.

11. Any charge of a previous conviction of an offence shall be charged at the end of the indictment by means of a statement that the person accused has been previously convicted of that offence at a certain time and place without stating the particulars of the offence.

Signing
indictments.

12. (1) All indictments shall, subject to the provisions hereinafter appearing, be signed by the Attorney General.

(2) In cases in which, under any existing Ordinance, any party injured or complaining is admitted to prosecute privately, the indictment shall be signed by such party and not by the Attorney General.

(3) The Registrar shall not receive an indictment from any private prosecutor unless the indictment has thereon endorsed a certificate by the Attorney General to the effect that he has seen such indictment and declines to prosecute at the public instance for the offence therein set forth, and unless such prosecutor has entered into a recognisance in the sum of two hundred and forty dollars, together with one surety to be approved by the Registrar in the like sum, to prosecute the said indictment to conclusion at the time at which the accused shall be required to appear, and pay such costs as may be ordered by the Court.

13. Every indictment shall be filed in Court.

14. (1) A copy of the indictment shall be served upon every accused person named therein four clear days at least before such person is required to plead thereto.

(2) Where the accused person has been admitted to bail, it shall be the duty of the Registrar to serve such copy by delivering the same at the place named in such person's recognisance of bail for the acceptance of such service, either to the accused person personally, or, if he is not there, to any person willing to accept such service on behalf of such accused person, or, if no such person can be found, by leaving the same between the hours of nine o'clock in the morning and four o'clock in the afternoon at the place aforesaid.

(3) Where the accused person is a prisoner in the Royal Gaol, it shall be the duty of the Registrar to serve such copy by delivering the same to the Keeper of the Royal Gaol, who shall thereupon cause the same to be delivered to such prisoner.

(4) If, upon the arraignment of any accused person, it appears to the Court that such copy was not served according to this Ordinance, such accused person shall, on application by himself or on his behalf, be entitled as of right to have the trial of the indictment postponed to the next Criminal Session held in the place in which he is arraigned.

15. Except as in these rules otherwise provided, these rules shall apply to criminal informations in the Court and also to any plea, replication, or other pleading relating thereto.

16. The Interpretation Ordinance applies for the interpretation of these rules as it applies for the interpretation of an Ordinance.

17. These rules may be cited as the Indictment Rules, and these rules, together with any rules made under section 12 of this Ordinance, may be cited together by such collective title as may be prescribed by the last mentioned rules.

Indictments
to be filed in
Court.

Copy of
indictment.

G.N. 26—
1948, r. 2.

Application
to informa-
tions, and
other
pleading.

Interpre-
tation
Ordinance.

Short title.

APPENDIX TO THE INDICTMENT RULES.

FORMS OF INDICTMENT.

1.

STATEMENT OF OFFENCE.

Uttering counterfeit coin, contrary to section 10 of the Coinage Offences Ordinance.

PARTICULARS OF OFFENCE.

A. B., on the _____ day of _____, 19____, at _____ in the County of _____ uttered a counterfeit half-crown, knowing the same to be counterfeit.

2.

STATEMENT OF OFFENCE.

Uttering counterfeit coin, contrary to section 13 of the Coinage Offences Ordinance.

PARTICULARS OF OFFENCE.

A. B., on the _____ day of _____, 19____, at _____ in the County of _____ uttered a counterfeit sovereign, knowing the same to be counterfeit.

A. B. has been previously convicted of a misdemeanor under section 13 of the Coinage Offences Ordinance, on the _____ day of _____, 19____, at _____

3.

STATEMENT OF OFFENCE.

Murder.

PARTICULARS OF OFFENCE.

A. B., on the _____ day of _____, 19____, in the County of _____, murdered *J. S.*

4.

STATEMENT OF OFFENCE.

Accessory after the fact to murder.

PARTICULARS OF OFFENCE.

A. B., well knowing that *H. C.* had murdered *C. C.*, did on the _____ day of _____, 19____, and on other days thereafter, in the County of _____ receive, comfort, harbour, assist, and maintain the said *H. C.*

5.

STATEMENT OF OFFENCE.

Manslaughter.

PARTICULARS OF OFFENCE.

A. B., on the _____ day of _____, 19____, in the County of _____, unlawfully killed *J. S.*

6.

STATEMENT OF OFFENCE.

Rape.

PARTICULARS OF OFFENCE.

A. B., on the _____ day of _____, 19____, in the County of _____, had carnal knowledge of *E. F.* without her consent.

7.

First Count.

STATEMENT OF OFFENCE.

Wounding with intent, contrary to section 16 of the Offences against the Person Ordinance.

PARTICULARS OF OFFENCE.

A. B., on the day of , 19 , in the County of , wounded C. D., with intent to do him grievous bodily harm [or to maim, disfigure, or disable him, or to resist the lawful apprehension of him the said A. B.].

Second Count.

STATEMENT OF OFFENCE.

Wounding, contrary to section 18 of the Offences against the Person Ordinance.

PARTICULARS OF OFFENCE.

A. B., on the day of , 19 , in the County of , maliciously wounded C. D.

8.

STATEMENT OF OFFENCE.

Conspiracy to incite women to procure their own miscarriage.

PARTICULARS OF OFFENCE.

A. B. and C. D. on divers days between the day of and the day of , 19 , in the County of , conspired together and with other persons unknown to incite women being with child to administer to themselves noxious things with intent to procure their own miscarriage.

9.

STATEMENT OF OFFENCE.

Libel.

PARTICULARS OF OFFENCE.

A. B., on the day of , 19 , in the County of , published a defamatory libel concerning E. F., in the form of a letter [book, pamphlet, picture, or as the case may be].

[Innuendo should be stated where necessary.]

10.

First Count.

STATEMENT OF OFFENCE.

Publishing obscene libel.

PARTICULARS OF OFFENCE.

E. M., on the day of , 19 , in the County of , sold, uttered and published and caused or procured to be sold, uttered, and published an obscene libel the particulars of which are deposited with this indictment.

[Particulars to specify pages and lines complained of where necessary, as in a book.]

Second Count.

STATEMENT OF OFFENCE.

Procuring obscene libel [or thing] with intent to sell or publish.

PARTICULARS OF OFFENCE.

E. M., on the day of , 19 , in the County of , procured an obscene libel [or thing], the particulars of which are deposited with this indictment, with intent to sell, utter or publish such obscene libel [or thing].

11.

STATEMENT OF OFFENCE.

Libel.

PARTICULARS OF OFFENCE.

A. B., on the day of , 19 , in the County of , published a defamatory libel concerning *W. Y.*, in the form of a letter addressed to *J. B.*, which said letter contained the following defamatory matters concerning the said *W. Y.*:—

1. Do you know that about the year 19 , your friend *W. Y.* was in the employ of *L. and J.*, and that his accounts were found to be all wrong? (meaning thereby that *W. Y.* was guilty of acts of dishonesty and falsification of accounts whilst he was in the employ of *L. and J.*).

2. As soon as his defalcations were discovered and a warrant was applied for he fled to (meaning thereby that the said *W. Y.* was a fugitive from justice).

3. Sometime after this he appears to have returned to , for he was found to be keeping a disorderly house in the (meaning thereby that the said *W. Y.* had committed the criminal offence of keeping a disorderly house).

[See Form 12 for plea of justification to Form 11.]

12.

PLEA OF JUSTIFICATION OF *A. B.* IN ANSWER TO THE INDICTMENT AGAINST HIM FOR LIBEL.

[See Form 11.]

A. B. says he is not guilty, and for a further plea he says that all the defamatory matters alleged in the indictment are true.

PARTICULARS.

1. On the day of , 19 , *W. Y.* received the sum of \$ from *T. S.*, and on the day of , 19 , *W. Y.* received the sum of \$ from *C. F.*, and the sum of \$ from *W. D.* on behalf of his employers, *L. and J.*, which he fraudulently omitted to enter in their books or to account for in any way.

2. On the day of , 19 , soon after *W. Y.*'s defalcations were discovered and a warrant was applied for against him upon charges of embezzling his employers' money and falsifying their books, *W. Y.* left on a ship called the *Eagle* bound for .

3. On the 19th September and on other days in the year 19 , *W. Y.* kept a house at for the purpose of betting, contrary to .

A. B. says it was for the public benefit that the defamatory matters charged in the said indictment should be published by reason of the fact that *W. Y.* was at the time of the publication thereof a candidate for the public office of Councillor of the Borough of .

[For Replication to Form 12, see Form 13.]

13.

REPLICATION TO THE PLEA OF JUSTIFICATION OF *A. B.*

[See Form 12.]

H. S., Registrar of the Supreme Court, joins issue on behalf of our Lord the King.

14.

STATEMENT OF OFFENCE.

Larceny, contrary to section 18 of the Larceny Ordinance.

PARTICULARS OF OFFENCE.

A. B., on the day of , 19 , in the County of , being clerk or servant to *M. N.*, stole from the said *M. N.* ten yards of cloth.

15.

STATEMENT OF OFFENCE.

Robbery with violence, contrary to section 24 of the Larceny Ordinance.

PARTICULARS OF OFFENCE.

A. B., on the day of , 19 , in the County of , robbed *C. D.* of a watch, and at the time of or immediately before or immediately after such robbery did use personal violence to the said *C. D.*

16.

First Count.

STATEMENT OF OFFENCE.

Larceny.

PARTICULARS OF OFFENCE.

A. B., on the day of , 19 , in the County of , stole a bag, the property of *C. D.*

Second Count.

STATEMENT OF OFFENCE.

Receiving stolen goods, contrary to section 34 of the Larceny Ordinance.

PARTICULARS OF OFFENCE.

A. B., on the day of , 19 , in the County of , did receive a bag, the property of *C. D.*, knowing the same to have been stolen.

A. B. has been previously convicted of felony, to wit, burglary, on the day of , 19 , at .

17.

STATEMENT OF OFFENCE.

Breaking into dwelling-house and larceny, contrary to section 27 of the Larceny Ordinance.

PARTICULARS OF OFFENCE.

A. B., on the day of , 19 , in the County of , did break and enter the dwelling-house of *C. D.* with intent to steal therein, and did steal therein one watch, the property of *S. T.*

18.

STATEMENT OF OFFENCE.

Sending threatening letter, contrary to section 30 of the Larceny Ordinance.

PARTICULARS OF OFFENCE.

A. B., on the day of , 19 , in the County of , sent, delivered, or uttered to or caused to be received by *C. D.*, a letter accusing or threatening to accuse the said *C. D.*, of an infamous crime with intent to extort money from the said *C. D.*

19.

STATEMENT OF OFFENCE.

Obtaining goods by false pretences, contrary to section 33 of the Larceny Ordinance.

PARTICULARS OF OFFENCE.

A. B., on the _____ day of _____, 19____, in the County of _____, with intent to defraud, obtained from *S. P.* five yards of cloth by falsely pretending that he, the said *A. B.*, was a servant to *J. S.*, and that he, the said *A. B.*, had then been sent by the said *J. S.* to *S. P.* for the said cloth, and that he, the said *A. B.*, was then authorised by the said *J. S.* to receive the said cloth on behalf of the said *J. S.*

20.

STATEMENT OF OFFENCE.

Conspiracy to Defraud.

PARTICULARS OF OFFENCE.

A. B. and *C. D.* on divers days between the _____ day of _____ and the _____ day of _____, 19____, in the County of _____, conspired together and with other persons unknown to defraud such persons as should thereafter be induced to part with money to the said *A. B.* and *C. D.*, by false representations that *A. B.* and *C. D.* were then carrying on a genuine business as jewellers at _____, and that they were then willing and prepared to supply articles of jewellery to such persons.

21.

First Count.

STATEMENT OF OFFENCE.

Falsification of accounts, contrary to section 9 of the Criminal Offences Ordinance.

PARTICULARS OF OFFENCE.

A. B., on the _____ day of _____, 19____, in the County of _____, being clerk or servant to *C. D.*, with intent to defraud, made or concurred in making a false entry in a cash book belonging to the said *C. D.*, his employer, purporting to show that on the said day \$ _____ had been paid to *L. M.*

Second Count.

STATEMENT OF OFFENCE.

Same as first count.

PARTICULARS OF OFFENCE.

A. B., on the _____ day of _____, 19____, in the County of _____, being clerk or servant to *C. D.*, with intent to defraud omitted or concurred in omitting from or in a cash book belonging to the said *C. D.*, his employer, a material particular, that is to say, the receipt on the said day of \$ _____ from *H. S.*

22.

First Count.

STATEMENT OF OFFENCE.

Forgery, contrary to section 4 (1) of the Forgery Ordinance.

PARTICULARS OF OFFENCE.

A. B., on the _____ day of _____, 19____, in the County of _____, with intent to defraud, forged a certain will purporting to be the will of *C. D.*

Second Count.

STATEMENT OF OFFENCE.

Uttering forged document, contrary to section 9 of the Forgery Ordinance.

PARTICULARS OF OFFENCE.

A. B., on the day of , 19 , in the County of , uttered a certain forged will purporting to be the will of C. D., knowing the same to be forged and with intent to defraud.

23.

First Count.

STATEMENT OF OFFENCE.

Arson, contrary to section 4 of the Malicious Damage Ordinance.

PARTICULARS OF OFFENCE.

A. B., on the day of , 19 , in the County of , maliciously set fire to a dwelling-house, one F. G. being therein.

Second Count.

STATEMENT OF OFFENCE.

Arson, contrary to section 5 of the Malicious Damage Ordinance.

PARTICULARS OF OFFENCE.

A. B., on the day of , 19 , in the County of , maliciously set fire to a house with intent to injure or defraud.

24.

STATEMENT OF OFFENCES.

A. B., arson, contrary to section 5 of the Malicious Damage Ordinance.

C. D., accessory before the fact to same offence.

PARTICULARS OF OFFENCES.

A. B., on the day of , 19 , in the County of , maliciously set fire to a house with intent to injure or defraud.

C. D., on the same day, in the County of , did counsel, procure, and command the said A. B. to commit the said offence.

25.

STATEMENT OF OFFENCE.

Damaging trees, contrary to section 21 of the Malicious Damage Ordinance.

PARTICULARS OF OFFENCE.

A. B., on the day of , 19 , in the County of , maliciously damaged a tree there growing.

26.

First Count.

STATEMENT OF OFFENCE.

Offence under section 29 of the Malicious Damage Ordinance.

PARTICULARS OF OFFENCE.

A. B., on the day of , 19 , in the County of , displaced a sleeper belonging to the Trinidad Government Railway with intent to obstruct, upset, overthrow, injure, or destroy an engine, tender, carriage, or truck using the said railway.

Second Count.

STATEMENT OF OFFENCE.

Obstructing railway, contrary to section 29 of the Malicious Damage Ordinance.

PARTICULARS OF OFFENCE.

A. B., on the day of , 19 , in the County of , by unlawfully displacing a sleeper belonging to the Trinidad Government Railway did obstruct or cause to be obstructed an engine or carriage using the said railway.

27.

STATEMENT OF OFFENCE.

Perjury, contrary to section 4 (1) of the Perjury Ordinance.

PARTICULARS OF OFFENCE.

A. B., on the day of , 19 , in the County of , being a witness upon the trial of an action in the Court , in which one was plaintiff, and one was defendant, knowingly falsely swore that he saw one *M. N.*, in the street called Frederick Street, Port-of-Spain, on the day of , 19 .

28.

STATEMENT OF OFFENCE.

Obstructing Coroner in the execution of his Duty. (Common Law Misdemeanor.)

PARTICULARS OF OFFENCE.

A. B. and *G. C.*, on the day of , 19 , in the County of , intending to prevent the Coroner of from holding an inquest in the execution of his duty upon view of the dead body of *S. C.*, who died a violent or an unnatural death or a sudden death of which the cause was unknown, or intending to obstruct the said Coroner in the holding of such inquest, did bury the said dead body in a certain place, to wit

29.

First Count.

STATEMENT OF OFFENCE.

Bankruptcy Offence contrary to section 136 of the Bankruptcy Ordinance.

PARTICULARS OF OFFENCE.

A. B., has been adjudged bankrupt, and on the day of , 19 , in the County of , did not fully and truly discover to the trustee all his property, and how and to whom and for what consideration and when he had disposed of a piano, part thereof.

Second Count.

STATEMENT OF OFFENCE.

Bankruptcy Offence, contrary to section 136 of the Bankruptcy Ordinance.

PARTICULARS OF OFFENCE.

A. B., has been adjudged bankrupt, and on the _____ day of _____, 19____, in the County of _____, did not deliver up to the trustee a book called a ledger, relating to his property or affairs.

30.

STATEMENT OF OFFENCES.

A. B., undischarged bankrupt obtaining credit, contrary to section 137 of the Bankruptcy Ordinance.

C. D., being accessory to same offence.

PARTICULARS OF OFFENCES.

A. B., on the _____ day of _____, 19____, in the County of _____, being an undischarged bankrupt, obtained credit to the extent of _____ from *H. S.* without informing the said *H. S.* that he then was an undischarged bankrupt.

C. D. at the same time and place did aid, abet, counsel, and procure *A. B.* to commit the said offence.

SECOND SCHEDULE.

(Section 39.)

The fees and expenses to counsel and solicitor assigned to any prisoner under section 39 of this Ordinance shall be as follows:—

Expenses of counsel and solicitor assigned to a prisoner.

There shall be allowed to counsel a fee of \$35 and to the solicitor a fee of \$10: Provided that the presiding Judge after the conclusion of the trial, may, if he think fit, certify that the case was one of exceptional length or difficulty, and thereupon the fee may be increased to such sum as he may direct but not exceeding to counsel \$100 and to the solicitor \$35.

In addition to such fees counsel and solicitor may be allowed travelling expenses actually and necessarily incurred on the scale applicable to the travelling expenses of ordinary witnesses for a prosecution and also, subject to taxation thereof, any other out-of-pocket expenses actually and reasonably incurred.

THIRD SCHEDULE.

FORM A.

(Section 59.)

TRINIDAD AND TOBAGO.

GEORGE the Sixth by the Grace of God of Great Britain, Northern Ireland and the British Dominions beyond the Seas King, Defender of the Faith.

To the Marshal.

GREETING:

Whereas (*A. B.*), late of _____ has been indicted for felony and murder by him done and committed, and the said (*A. B.*) having been thereupon arraigned before the Supreme Court of this Colony at its Session held on the _____ day of _____ in the year of our Lord one thousand nine hundred and _____; and having upon such arraignment pleaded NOT GUILTY [or GUILTY, as the case may be], the said (*A. B.*) has before the said Court in its aforesaid Session been tried and in due form

of law convicted thereof: And whereas judgment has been given by the said Court, that the said (*A. B.*) be hanged by the neck until he be dead, the execution of which judgment yet remains to be done, I, _____ Governor of this Colony of Trinidad and Tobago, do by these presents require and strictly command you that upon the _____ day of _____ in the year of our Lord one thousand nine hundred and _____ between the hours of six in the forenoon and twelve at noon of the same day, him the said (*A. B.*) at the Royal Gaol in this Colony to you to be delivered, as by another writ to the Keeper of the said Royal Gaol is commanded, into your custody, you then and there receive, and him in your custody so being you forthwith convey to the usual place of execution and that you do then and there cause execution to be done upon the said (*A. B.*) in your custody so being in all things according to the said judgment: And this you are by no means to omit at your peril.

(Section 59.)

FORM B.

TRINIDAD AND TOBAGO.

GEORGE the Sixth by the Grace of God of Great Britain, Northern Ireland and the British Dominions beyond the Seas King, Defender of the Faith.

To the Keeper of the Royal Gaol.

GREETING:

Whereas (*A. B.*) late of _____ in the said Colony has been indicted for felony and murder by him done and committed; and the said (*A. B.*) having been thereupon arraigned before the Supreme Court of this Colony at its Session held on the _____ day of _____ in the year of our Lord one thousand nine hundred and _____ and having upon such arraignment pleaded NOT GUILTY [*or GUILTY, as the case may be*], the said (*A. B.*) has before the said Court in its aforesaid Session been tried, and in due form of law convicted thereof: And whereas judgment has been given by the said Court that the said (*A. B.*) be hanged by the neck until he be dead, the execution of which judgment yet remains to be done, I, _____ Governor of this Colony of Trinidad and Tobago, do therefore by these presents require and strictly command you that upon the _____ day of _____ in the year of our Lord one thousand nine hundred and _____ between the hours of six and eleven in the forenoon of the same day him the said (*A. B.*) at the Royal Gaol aforesaid to the Marshal of the said Colony you then deliver, which said Marshal, by another writ to him directed, is commanded then and there to receive the said (*A. B.*) that execution of the aforesaid judgment may be done in manner and form as to the said Marshal is by the said other writ commanded: And this you are by no means to omit at your peril.

(Section 81)

FORM C.

TRINIDAD AND TOBAGO.

GEORGE the Sixth by the Grace of God of Great Britain, Northern Ireland and the British Dominions beyond the Seas King, Defender of the Faith.

To the Marshal.

GREETING:

You are hereby required and commanded, as you regard yourself and all fines, That of the goods and chattels of all and singular the persons mentioned in the list to this writ annexed you cause to be levied, all and singular the debts and sums of money upon them severally imposed and charged and mentioned in the said list, so that the money may be ready for payment at the next Criminal Sessions of the Supreme Court, to be paid over in such manner as the said Court may direct; and if any of the said several debts and sums of money cannot be levied by reason of no goods or chattels being to be found belonging to the parties, then in all cases that you take the bodies of the parties refusing to pay the aforesaid debts and sums of money and lodge them in the Royal Gaol there to await the decision of the said Court at its next Session: And have you there then this writ.

Witness His Honour _____, Chief Justice of our said Colony at Port-of-Spain,
this _____ day of _____, 19 _____

Registrar.