

Ordinance shall go to the town council of the town within which such offence shall be committed.

Passed in Council this sixth day of June, in the year of our Lord one thousand eight hundred and fifty-one.

RICHARD D. CADIZ,

Clerk of Council.

The foregoing Ordinance was duly proclaimed in Port of Spain by me, this sixteenth day of June, in the year of our Lord one thousand eight hundred and fifty-one.

W. B. GOULD,

Marshal.

No. 16—1851.

1st August.

AN ORDINANCE for the establishing of Petty Civil Courts.

W. C. WARD,

Acting Governor, Lieut-Colonel, R. E.

WHEREAS divers Ordinances have been passed from time to time for the establishing of Courts having Jurisdiction in Petty Civil Actions: and whereas it is expedient that the said Ordinances should be repealed, and the provisions of the same should be amended and consolidated into this Ordinance: Be it enacted by His Excellency the Governor, by and with the advice and consent of the Council of Government, that from and after the commencement of this Ordinance the Ordinance passed in Council on the fourth day of December, in the year of our Lord one thousand eight hundred and thirty-eight, and entitled "An Ordinance for the more easy and speedy decision of Petty Civil Actions:" the Ordinance passed in Council on the thirteenth day of July, in the year of our Lord one thousand eight hundred and thirty-nine, and entitled "An Ordinance to explain and amend an Ordinance entitled an 'Ordinance for the more easy and speedy

Repeals
certain
ordinances.

decision of Petty Civil Actions, and to indemnify Police Magistrates, Justices, the Alcade or Keeper of the Royal Gaol, and other persons for committing to or receiving or detaining in the Royal Gaol defendants taken in execution under the provisions of the said Ordinance;” the Ordinance passed in Council on the twenty-sixth day of June, in the year of our Lord one thousand eight hundred and forty-one, and entitled “An Ordinance to vest in a Commissioner the powers and authorities heretofore exercised by the Police Magistrate of the Port of Spain Police District under the Ordinance entitled an ‘Ordinance for the more easy and speedy decision of Petty Civil Actions,’ ” and the Ordinance passed in Council on the first day of April, in the year of our Lord one thousand eight hundred and forty-two, and entitled “An Ordinance to amend an Ordinance entitled ‘an Ordinance to vest in a Commissioner the powers and authorities heretofore exercised by the Police Magistrate of the Port of Spain Police District under the Ordinance entitled an Ordinance for the more easy and speedy decision of Petty Civil Actions,’ ” shall be and the same are hereby repealed save only and except so far as regards all actions already commenced under the said Ordinances or any of the same, and now pending all which actions may be continued under this Ordinance, and save also and except so far as regards all existing appointments of Commissioner of the Petty Civil Court and of Clerk of such Court made under or by virtue of any of the said Ordinances, or any of the same and all judgments, executions, warrants, and other matters and things made or done under or by virtue of the said Ordinances or any of the same, all which appointments, judgments, executions, warrants, and other matters and things shall be in force and stand good to all intents and purposes in the same manner as if this Ordinance had not been passed.

Governor to
appoint Com-
missioner.

2. And be it enacted, That it shall be lawful for the Governor from time to time, and whenever any vacancy shall occur in the office of such Commissioner to nominate and appoint by warrant under his hand some fit and proper person, being a Barrister or an Advocate practising in the Supreme Civil Court of the Island, to

be the Commissioner of the Petty Civil Court of the Port of Spain.

3. And be it enacted, That whenever any vacancy shall occur in the office of Clerk of the Petty Civil Court in the Town of Port of Spain, it shall be lawful for the present Commissioner, should such vacancy occur during his tenure of office, and for any Commissioner to be appointed under this Ordinance during whose tenure of office any such vacancy shall occur, to appoint some fit and proper person or persons to be clerk or clerks to such Commissioner, and such person or persons from time to time to remove as he shall see fit, and every such Commissioner shall be directly and personally responsible for all acts and defaults of such clerk or clerks.

4. And be it enacted, That to every Commissioner for the time being there shall be paid from and out of the Colonial Treasury, by way of salary, a sum not exceeding the rate of two hundred pounds sterling per annum, and there shall be paid to and amongst such clerk or clerks, for the time being, such sum or sums of money not exceeding in the whole in any one year two hundred pounds sterling, as the Governor shall see fit to direct and appoint to be paid.

5. And be it enacted, That every Commissioner to be appointed as aforesaid, shall on his appointment take the following oath before the Governor:—

“I, A.B., do swear that I will faithfully, impartially, and honestly, according to the best of my abilities, execute all the powers and duties of Commissioner under and by virtue of an Ordinance entitled “An Ordinance for the establishing of Petty Civil Courts.”

6. And be it enacted, That the Commissioner of the Petty Civil Court within the Town of Port of Spain, and the suburbs thereof, as defined by an Ordinance passed in Council on the third day of July, in the year of our Lord one thousand eight hundred and forty-nine, and entitled an Ordinance to consolidate and amend the Laws relative to the Police and the several Stipendiary Justices of the Peace, within their respective districts, save and except within the Town of Port of Spain and suburbs as aforesaid, shall have jurisdiction in all

pleas of personal actions, arising within their respective jurisdictions, where the debt or damage claimed is not more than ten pounds, whether on balance of account or otherwise; and all such personal actions shall be heard and determined in a summary manner; Provided always that no such Commissioner or Stipendiary Justice shall have cognizance of any action of replevin or ejectment, or in which the title to any corporeal or incorporeal hereditaments, or to any toll or franchise shall be in question, or in which the validity of any devise, bequest or limitation under any will or settlement, may be disputed, or of any action for trover, or for any malicious prosecution, or false imprisonment, or for assault or battery, or for any libel or slander, or for criminal conversation, or for seduction or breach of promise of marriage, or of any action in which the validity of any act done in the execution or discharge of any public office or employment, or any liability or supposed liability implied in or inferred from the holding of any such office or employment, or arising therefrom, shall be in dispute.

Suits to be by
plaint.

7. And be it enacted, That on the application of any person desirous to bring an action under this Ordinance, the Clerk of the Petty Civil Court, and the Clerks of the Peace within their several districts, shall enter in a book to be kept for this purpose, at the office of the Commissioner of the Petty Civil Court, and at the several Police offices of the district a plaint in writing, stating the names and the last known places of abode of the parties, and the substance of the action intended to be brought, every one of which plaints shall be numbered in every year, according to the order in which it shall be entered, and thereupon a summons, stating the substance of the action, and bearing the number of the plaint on the margin thereof, shall be issued under the signature of such clerk according to the form in the Schedule A annexed to this Ordinance, and such summons shall be served on the defendant by any police constable three clear days at the least previous to and exclusive of the day named in such summons for the hearing of such plaint, and the delivery of such summons to the defendant in person, or by leaving the same at the residence of such defendant, with some

person actually residing thereat, shall be deemed good service, and no misnomer or inaccurate description of any person or place in any such plaint or summons shall vitiate the same, so that the person or place be therein described so as to be commonly known.

8. And be it enacted, That such summons may issue in any district in which the defendant or one of the defendants shall dwell or carry on his business at the time of the action brought; or, by leave of the Commissioner or Stipendiary Justice of the district in which the defendant or one of the defendants shall have dwelt or carried on his business at some time within three calendar months next before the time of the action brought or in which the cause of action arose, such summons may issue in either of such last mentioned districts.

Summons may issue though cause of action may not arise in the district.

9. And be it enacted, That service of any summons or other process issuing under the authority of this Ordinance, which shall require to be served out of the district from which the same shall issue, may be proved by affidavit purporting to be sworn before any Stipendiary Justice of the Peace or before any commissioner of affidavits authorised by law to take affidavits, and the fee payable to such commissioner of affidavits for taking such affidavit shall not be more than one shilling, and shall be costs in the cause, and in every case of the unavoidable absence of the police constable by whom any summons or other process shall have been served the service of such summons or other process may be proved, if the Commissioner or Stipendiary Justice shall think fit, in the same manner as a summons served out of the district from which it issued but without additional charge to either of the parties to the suit.

Proof of service of process out of the district or in the absence of the constable.

10. And be it enacted, That it shall not be lawful for any plaintiff to divide any cause of action for the purpose of bringing two or more suits, but any plaintiff having a cause of action for more than ten pounds for which a plaint might be entered under this Ordinance if not for more than ten pounds may abandon the excess, and thereupon the plaintiff shall on proving his case recover to an amount not exceeding ten pounds, and the judgment of the Commissioner or Stipendiary Justice upon such plaint shall be in full discharge of all demands

Demands not to be divided for the purpose of bringing two or more suits.

in respect of such cause of action, and entry of the judgment shall be made accordingly.

Minors may
sue for wages.

11. And be it enacted, That it shall be lawful for any person under the age of twenty-one years to prosecute any action under this Ordinance for any sum of money not greater than ten pounds which may be due to him for wages or piece work or for work as a servant in the same manner as if he were of full age.

Minors may
be sued for
necessaries.

12. And be it enacted, That any debt not exceeding the sum of ten pounds contracted by any infant above the age of fourteen and under the age of twenty-one years for necessaries shall be recoverable under this Ordinance in the same manner as if such infant at the time of contracting such debt had been of full age; and in case any defendant sued under this Ordinance shall set up as a defence that the person contracting such debt was at the time of contracting the same under the age of fourteen years, then the burthen of establishing such defence shall be on the defendant setting up the same.

Cases of part-
nership and
intestacy.

13. And be it enacted, That the jurisdiction of the Commissioner of the Petty Civil Court, and of the Stipendiary Justices under this Ordinance shall extend to the recovery of any demand not exceeding the sum of ten pounds which is the whole or part of the unliquidated balance of a partnership account or the amount or part of the amount of a distributive share under an intestacy or of any legacy under a will.

Executors
may sue and
be sued.

14. And be it enacted, That it shall be lawful for any executor or administrator to sue and be sued under this Ordinance in like manner as if he were a party in his own right, and judgment and execution shall be such as in the like case would be given or issued in the Supreme Civil Court.

One or several
persons liable
may be sued.

15. And be it enacted, That where any plaintiff shall have any demand recoverable under this Ordinance against two or more persons jointly answerable, it shall be sufficient if any of such persons be served with process, and judgment may be obtained and execution issued against the person or persons so served notwithstanding that others jointly liable may not have been served or sued or may not be within the jurisdiction of the Court, and every such person against whom judgment shall have

been obtained under this Ordinance, and who shall have satisfied such judgment, shall be entitled to demand and recover under this Ordinance contribution from any other person jointly liable with him.

16. And be it enacted, That where any plaintiff shall have any demand recoverable under this Ordinance against two or more persons jointly liable as co-partners in trade, it shall be sufficient if any of such co-partners be served with process, and judgment may be obtained and execution issued against all the persons liable as such co-partners. One co-partner alone need be sued.

17. And be it enacted, That on the day in that behalf named in the summons the plaintiff shall appear at the place named in such summons, and thereupon the defendant shall be required to appear to answer such plaint, and on the appearance of the defendant or defendants or any one of such defendants if more than one the Commissioner or Stipendiary Justice shall proceed in a summary way to try the cause and give judgment and shall award such reasonable costs as to such Commissioner or Stipendiary Justice shall seem most agreeable to equity and good conscience. Proceedings on hearing the plaint.

18. And be it enacted, That no evidence shall be given by the plaintiff on the trial of any such cause as aforesaid of any demand or cause of action except such as shall be stated in the summons hereby directed to be issued. No evidence to be given that is not in summons.

19. And be it enacted, That if upon the day mentioned in any such summons for the appearance of the defendant or defendants or at any continuation or adjournment of the cause for which the said summons shall have been issued the plaintiff shall not appear the cause shall be struck out, and if he shall appear but shall not make proof of his demand to the satisfaction of the Court, it shall be lawful for the Commissioner or Stipendiary Justice to dismiss the cause or to give judgment for the defendant, and in either case where the defendant shall appear and shall not admit the demand to award to the defendant by way of costs and satisfaction for his trouble and attendance, such sum as the Commissioner or Stipendiary Justice in his discretion shall think fit, and such sum shall be recoverable from the plaintiff by such Proceedings if plaintiff does not appear or prove his case.

ways and means as any debt or damage ordered to be paid by the Commissioner of the Petty Civil Court or by any Stipendiary Justice under this Ordinance can be recovered: Provided always that if the plaintiff shall not appear when called upon, and the defendant or some one duly authorised on his behalf shall appear and admit the cause of action to the full amount claimed the Commissioner or Stipendiary Justice, if he shall think fit, may proceed to give judgment as if the plaintiff had appeared.

Proceedings if defendant does not appear.

20. And be it enacted, That if on the day so named in the summons for the appearance of the defendant or defendants or at any continuation or adjournment of the cause in which the summons was issued the defendant shall not appear or sufficiently excuse his absence or shall neglect to answer when called, the Commissioner or Stipendiary Justice, upon proof made to his satisfaction of service of the summons, may proceed to the hearing or trial of the cause on the part of the plaintiff only, and the judgment thereupon shall be as valid as if both parties had attended.

Judgment may be entered up immediately upon an order being made.

21. And be it enacted, That whenever the Commissioner or Stipendiary Justice shall have made any order in any proceeding pending before him the person in whose favour such order shall be made shall be entitled thereupon to enter up judgment immediately without any notice or summons to the other party.

Commissioner may grant time.

22. And be it enacted, That the Commissioner or Stipendiary Justice may in any case make order for granting time to the plaintiff or defendant to proceed in the prosecution or defence of the suit, and also may from time to time adjourn the hearing or further hearing of any cause in such manner as to the Commissioner or Stipendiary Justice may seem fit.

Parties and others may be examined.

23. And be it enacted, That on the hearing or trial of any action or on any other proceeding under this Ordinance the parties thereto, their wives and all other persons may be examined either on behalf of the plaintiff or defendant upon oath or solemn affirmation in those cases in which persons are by law allowed to make affirmation instead of taking an oath to be administered by the Commissioner or Stipendiary Justice.

24. And be it enacted, That every person who in any examination upon oath or solemn affirmation before the Commissioner or before any Stipendiary Justice acting under this Ordinance shall wilfully and corruptly give false evidence shall be deemed guilty of perjury.

Persons giving false evidence guilty of perjury.

25. And be it enacted, That either of the parties to any suit or other proceeding under this Ordinance may obtain from the Commissioner or Stipendiary Justice or from the clerk of the Petty Civil Court, or the Clerk of the Peace of the district summonses to witnesses to be served by any police constable with or without a clause requiring the production of books, deeds, papers and writings in their possession or control, and in any such summons any number of names may be inserted.

Summonses to witnesses.

26. And be it enacted, That every person on whom any such summons shall have been served either personally or by leaving the same at his place of abode with some person actually residing thereat, and who shall refuse or neglect without sufficient cause to appear or to produce any books, papers or writings required by such summons to be produced, and also every person present in Court who shall be required to give evidence and who shall refuse to be sworn and give evidence shall forfeit and pay such fine not exceeding five pounds as the Commissioner or Stipendiary Justice shall set on him, and the whole or any part of such fine in the discretion of the Commissioner or Stipendiary Justice after deducting the costs shall be applicable toward indemnifying the party injured by such refusal or neglect, and the remainder thereof, if any, shall be paid over by the Commissioner or Stipendiary Justice to the Colonial Treasurer for the use of the colony.

Penalty on witnesses neglecting summons.

27. And be it enacted, That payment of any fine imposed by any Commissioner or Stipendiary Justice under the authority of this Ordinance may be enforced upon the order of the Commissioner or Stipendiary Justice in like manner as payment of any debt adjudged by such Commissioner or Stipendiary Justice, and shall be accounted for as hereinbefore provided.

Fine how to be enforced and accounted for.

28. And be it enacted, That every order and judgment of any Commissioner or Stipendiary Justice of the Peace made under any of the provisions of this Ordinance shall be final and conclusive between the

Judgment how far final.

parties, but the Commissioner or Stipendiary Justice shall have power to nonsuit the plaintiff in every case in which satisfactory proof shall not be given to him entitling either the plaintiff or the defendant to the judgment of the Commissioner or Stipendiary Justice.

No action to be removed into any superior court.

29. And be it enacted, That no plaint entered before the Commissioner or Stipendiary Justice under this Ordinance shall be removed or removable into any superior court of record by any writ or process.

Practising solicitors alone to be entitled to appear for any party before the court.

30. And be it enacted, That no person shall be entitled to appear for any other party to any proceedings pending before the Commissioner or Stipendiary Justice under the authority of this Ordinance unless he be a solicitor actually practising in the Supreme Civil Court, but no solicitor except by leave of the Commissioner or Stipendiary Justice shall be entitled to be heard to argue any question for any other person in any such proceeding, and no solicitor shall be entitled to take or have therefore any sum of money unless the debt or damage claimed should be more than twenty shillings, or to take or have more than five shillings for his fees and costs unless the debt or damage claimed shall be more than two pounds ten shillings, or to take or have more than seven shillings and sixpence for his fees and costs unless the debt or damage claimed shall be more than five pounds, or to take or have more than ten shillings in any case within the summary jurisdiction given by this Ordinance, and the expense of employing a solicitor either by plaintiff or defendant shall not be allowed as costs in the cause unless by order of the Commissioner or Stipendiary Justice, and in case any person not being a solicitor as aforesaid shall appear before such Commissioner or Stipendiary Justice, for or on behalf of any other person being a party to any such proceeding or speak in any cause, action or matter in which such person is not himself a party or witness, then, and in every such case, such person so offending shall for every such offence and on being convicted thereof before any Justice of the Peace having jurisdiction within the place where the offender shall reside or be, or the offence shall be committed either by the confession of the party offending or by the oath of any credible

Fees to Solicitors.

witness, forfeit and pay any sum not exceeding five pounds, such fine to be levied with the costs attending the summons and conviction by distress and sale of the goods and chattels of the party offending by warrant under the hand of any such Justice, and the overplus (if any) after such forfeiture and fine and the charges of such distress and sale are deducted shall be returned upon demand unto the owner of such goods and chattels.

Penalty for any other than a solicitor appearing.

31. And be it enacted, That the Commissioner or Stipendiary Justice may make order concerning the time or times at which and by what instalments any debt, or damages, or costs for which judgment shall be obtained shall be paid, and all such moneys shall be paid to such Commissioner or Stipendiary Justice unless he shall otherwise direct: *Provided always that such instalments shall in all cases be made payable weekly, and shall in no case extend over a greater space of time than three calendar months,** and provided also that no execution shall issue upon such order except in case of default made in payment of any such instalments in which case the plaintiff shall be at liberty on making oath or solemn affirmation of the whole amount due to him on such judgment to sue out execution for the whole of such amount without notice to the defendant.

Commissioner may make orders for payment by instalments.

32. And be it enacted, That whenever the Commissioner or Stipendiary Justice shall have made an order for the payment of money not payable by instalments, the plaintiff, in case of default or failure of payment thereof forthwith, may sue out his writ of execution for the amount so ordered to be paid without any notice to the defendant.

Execution when to issue.

33. And be it enacted, That, if there shall be cross judgments between the parties, execution shall be taken out by that party only who shall have obtained judgment for the larger sum and for so much only as shall remain after deducting the smaller sum, and satisfaction for the remainder shall be entered as well as satisfaction on the judgment for the smaller sum, and if both sums shall be equal satisfaction shall be entered upon both judgments.

Cross judgments.

* The words in italics are repealed by Ord. 7 of 1866, s. 6.

Writs of
execution—
number of—
how to be en-
forced.

34. And be it enacted, That, save and except the cases hereinafter provided, there shall be but one form of writ of execution issued under the authority of this Ordinance which shall be according to the form in the schedule B to this Ordinance annexed, and such writ, if issued under the hand of the Commissioner, shall be directed to the Marshal of the said island, and if issued under the hand of the Stipendiary Justice shall be directed to any police constable, and such Marshal or police constable shall under and by virtue of such writ of execution levy or cause to be levied such sum of money as shall be mentioned therein in the manner hereinafter provided, by distress and sale of the goods and chattels of the party against whom such writ shall be issued wherever the same may be found, and if there be no such goods or no sufficient goods then such Marshal or police constable shall levy upon the lands, tenements or hereditaments of such party wherever the same may be found, or a sufficient portion thereof, but if there be no such goods and no such lands, then, and in any such case, the Marshal or police constable shall by virtue of such writ of execution arrest the body of such person wherever he may be and take such person to the Royal Gaol, there to remain imprisoned until such person shall have paid the amount mentioned in such writ of execution or until discharged in the manner hereinafter provided for.

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Sec. 35, 36, & 37 are repealed by Ordinance 7 of 1866.

Power to com-
missioner to
suspend
execution in
certain cases.

38. And be it enacted, That if it shall at any time appear to the satisfaction of the Commissioner or Stipendiary Justice by the oath or affirmation of any person or otherwise that the defendant is unable from sickness or other sufficient cause to pay and discharge the debt or damages recovered against him, or any instalment thereof ordered to be paid as aforesaid it shall be lawful for the Commissioner or Stipendiary Justice in his discretion to suspend or stay any judgment, order or execution given, made or issued in such action, for such time and on such terms as the Commissioner or Stipendiary Justice shall think fit, and so from time to time until

it shall appear by the like proof as aforesaid that such temporary cause or disability has ceased.

39. And be it enacted, That no sale of any goods which shall be taken in execution under the authority of this Ordinance shall be until after the end of five days at the least next after the day on which such goods shall have been taken, and no sale of any lands, tenements or hereditaments which shall be levied upon under the authority of this Ordinance shall be until after the end of forty days at the least next after the day on which such lands, tenements and hereditaments shall have been levied upon, and such goods, lands, tenements and hereditaments shall be sold by public auction at the office of the Commissioner or at the police office where the cause shall have been heard, and three days notice at the least of the intended sale of such goods and thirty days notice at the least of the intended sale of such lands, tenements and hereditaments shall be given by affixing such notice in some conspicuous place in such office, and by also affixing such notice in some conspicuous place upon the lands to be sold, and all such sales shall be made for cash only.

Regulating
the sale of
goods and
lands taken in
execution.

40. And be it enacted, That the Commissioner or Stipendiary Justices on the application of the purchaser of any such lands, tenements or hereditaments sold by the order of such Commissioner or Stipendiary Justice shall grant a conveyance according to the form in the Schedule D to this Ordinance annexed of the lands, tenements and hereditaments so sold, and such conveyance shall be signed by the Commissioner or Stipendiary Justice as the case may be in the presence of three or more witnesses, and such conveyance shall be and be deemed and taken to be a deed to all intents and purposes whatsoever, and when enregistered shall vest in such purchaser all the estate and interest whatsoever which the person or persons against whom the writ of execution by virtue whereof the levy was made was issued, was or were at the time of the said levy possessed of or entitled to in to and out of such lands, tenements and hereditaments absolutely freed and discharged from all estates, charges and incumbrances whatsoever created or accruing subsequently to such levy; and it shall not be necessary to acknowledge the execution of any such deed, for the purpose of enregistering the same.

Commissioner
to grant a
conveyance of
land to the
purchaser.

No execution shall be stayed by writ of error.

41. And be it enacted, That no judgment or execution shall be stayed, delayed, or reversed upon or by any writ of error, or supersedeas thereon, to be sued out for the reversing of any judgment given under the provisions of this Ordinance.

Execution to be superseded on payment of debt and costs.

42. And be it enacted, That in any writ of execution issued against any person whomsoever the clerk shall cause to be inserted the sum of money and costs adjudged with the sums allowed by this Ordinance as increased costs for the execution of such writ, and if the party against whom such execution shall be issued shall before an actual sale of the goods and chattels or of the lands, tenements and hereditaments, or before he is arrested, pay or cause to be paid or tendered unto the Marshal or police constable holding the writ, or if such party shall after he is imprisoned pay or caused to be paid to the keeper of the gaol such sum of money and cost as aforesaid or such part thereof as the party entitled thereto shall agree to accept in full of his debt or damages and costs together with the fees herein directed to be paid, the writ of execution shall be superseded and the goods and chattels, lands, tenements or hereditaments and the body of the said party shall be discharged and set at liberty, and the Marshal or police constable holding the execution or the keeper of the gaol, as the case may be, shall immediately transmit such sum of money to the clerk of the peace or to the clerk of the Petty Civil Court, as the case may be, in whose district the writ of execution was sued out.

Writs of execution to be returned within a reasonable time.

43. And be it enacted, That no writ of execution issued by the Commissioner or Stipendiary Justice under and by virtue of this Ordinance shall be made returnable within any limited or particular time, but the Marshal or police constable having the execution of any such writ shall be bound to return such writ within a reasonable time unless such Marshal or police constable shall receive instructions in writing from the plaintiff or his agent to suspend the execution and return of such writ for any limited or particular time in which case the Marshal or police constable shall suspend the execution and return of such writ for such time as he may have been directed by such plaintiff or his agent so to do.

44. And be it enacted, That the Commissioner at such place in the Town of Port of Spain as the Governor shall from time to time appoint, and the Stipendiary Justice at the police office of the district shall sit for the hearing of such actions and suits on the Saturday in each week during the year; and that the office of the clerk shall be opened daily except Sunday, Good-Friday, Christmas day and New Year's day, from the hour of ten of the clock in the morning until four of the clock in the afternoon for the granting summonses, citations and writs of execution and for other purposes relative to the business of the said Courts.

Days of holding sittings.

45. And be it enacted, That all summonses and subpoenas issued by the Commissioner or Stipendiary Justices, and all writs of execution issued by the Stipendiary Justices shall be served and executed by the police constables of the Island, and all writs of execution issued by the Commissioner shall be executed by the Marshal of the Island.

Summons, &c. by whom to be served.

46. And be it enacted, That the several fees hereinafter limited and expressed in the schedule E hereunto annexed shall be and are hereby authorised and directed to be taken and received by the Commissioner or Stipendiary Justice or Justices, and such Commissioner and Stipendiary Justice or Justices shall keep an exact account of such fees and of all penalties and forfeitures received by them under this Ordinance and shall make a true return thereof to the Colonial Treasurer on the thirty-first day of March, thirtieth day of June, thirtieth day of September and the thirty-first day of December in each and every year, and shall on such days respectively pay into the Colonial Treasury for the use of the colony the amount of all such fees, penalties and forfeitures so received by them.

Commissioner to keep an account of fees received and to make a return thereof.

47. And be it enacted, That the Marshal shall be entitled to receive for every writ of execution to be executed by him the fees mentioned in the Schedule E hereunto annexed.

Marshal's fees.

48. And be it enacted, That the Clerk for every Court holden under this Ordinance shall cause a note of all complaints and summonses, and of all orders, and of all judgments and executions and returns thereto, and of

Minutes of proceedings to be kept.

all fines, and of all other proceedings of the Court, to be fairly entered from time to time in a book belonging to the Court, which shall be kept at the office of the Court; and such entries in the said book, or a copy thereof purporting to be signed and certified as a true copy by the Clerk, shall at all times be admitted in all courts and places whatsoever as evidence of such entries and of the proceedings referred to by such entry or entries and of the regularity of such proceeding without any further proof.

Commissioner
to keep a cash
deposit book.

49. And be it enacted, That the Commissioner and every Stipendiary Justice shall keep a book to be called "the Cash Deposit Book" of his Court, in which shall be entered day by day all moneys paid in by any party to any action for the use or benefit of any other party, and such entries shall specify in the order following the date of each payment, the title of the cause in which the payment is made, the name of the party paying and the amount of the payment, and there shall be three additional columns, in two of which shall be entered upon the monies being paid out, the date of the money being so paid out, and the name of the party receiving the same, and in the last of such columns the party so receiving such money shall sign his name in acknowledgment of such receipt, and such cash deposit book shall remain exposed at all times in the room or office in which such Commissioner or Stipendiary Justice usually holds his Court, and shall at all times be open to the inspection of any and every person asking for the same, and every person shall have the right to inspect the same and take any note or extract of any entry therein without the payment of any fee or reward.

Suitors' money
unclaimed for
four years to
go to general
funds of
colony.

50. And be it enacted, That the Commissioner or Stipendiary Justice shall in the months of January, April, July and October in each year make out a correct list of all sums of money belonging to suitors in the court which shall have been paid into court, and which shall have remained unclaimed for three months, before the first day of the said months of January, April, July and October respectively, specifying the names of the parties for whom or on whose account the same were so paid into court; and a copy of such list shall be put up and

remain during business hours in some conspicuous part of the office of the Commissioner or of the police station and at all times in the Clerk's office, and all sums of money which shall have been paid into any such Court, to the use of any suitor or suitors thereof, and which shall have remained unclaimed for the period of six months before the passing of this Ordinance and which are now in the hands of any Commissioner or Stipendiary Justice, or officer of such Court, or otherwise held in trust for such suitors, and all further sums of money which shall hereafter be paid into any such Court to the use of any suitor or suitors thereof, and which shall remain unclaimed for the period of six months after the same shall have been so paid into Court shall be paid into the Colonial Treasury by the Commissioner or Stipendiary Justice for the use of the suitor or suitors, of any of such court distinguishing the names of such suitors, and every such sum of money so paid into the Colonial Treasury by the Commissioner or Stipendiary Justice shall if unclaimed for the period of four years after the same shall have been so paid into the Colonial Treasury be applicable as part of the general funds of the Colony and shall be carried to the account of such funds and no person shall be entitled to claim any sum which shall have remained unclaimed for four years.

51. And be it enacted, That if any person shall wilfully insult the Commissioner or Stipendiary Justice or any Clerk or officer of the said Court for the time being during his sitting or attendance in Court or in going to or returning from the Court or shall wilfully interrupt the proceedings of the Court or otherwise misbehave in Court, it shall be lawful for any bailiff or officer of the Court with or without the assistance of any other person by the order of the Commissioner or Stipendiary Justice to take such offender into custody and detain him until the rising of the Court; and the Commissioner or Stipendiary Justice shall be empowered, if he shall think fit, by a warrant under his hand, to commit any such offender to any prison to which he has power to commit offenders under this Ordinance for any time not exceeding seven days, or to impose upon any such offender a fine not exceeding five pounds for every such offence, and in default of payment thereof to commit

Power of com-
mital for con-
tempt.

the offender to any such prison as aforesaid for any time not exceeding seven days unless the said fine be sooner paid.

Penalty for assaulting bailiff or rescuing goods taken in execution.

52. And be it enacted, That if any officer or bailiff of any Court holden under this Ordinance shall be assaulted while in the execution of his duty, or if any rescue shall be made or attempted to be made of any goods levied under process of the Court, the person so offending shall be liable to a fine not exceeding five pounds to be recovered by order of the Court or before a Justice of the Peace as hereinafter provided; and it shall be lawful for the bailiff of the Court or any peace officer in any such case to take the offender into custody (with or without warrant) and bring him before such Court or Justice accordingly.

Remedies against and penalties on marshal and other officers for misconduct.

53. And be it enacted, That if the marshal or any clerk, police constable or other officer of the Court, acting under colour or pretence of the process of the said Court, shall be charged with extortion or misconduct, or with any neglect of duty, or with not duly paying or accounting for any money levied by him under the authority of this Ordinance, it shall be lawful for the Commissioner or Stipendiary Justice to inquire into such matter in a summary way, and for that purpose to summon and enforce the attendance of all necessary parties in like manner as the attendance of witnesses in any case may be enforced, and to make such order thereupon for the repayment of any money extorted or for the due payment of any money so levied as aforesaid, and for the payment of such damages and costs as he shall think just, and also, if he shall think fit, to impose such fines upon such marshal, clerk, police constable or other officer, not exceeding five pounds for each offence, as he shall deem adequate, and in default of payment of any money so ordered to be paid, payment of the same may be enforced by such ways and means as are herein provided for enforcing a judgment recovered before the Commissioner or Stipendiary Justice.

Claims as to goods taken in execution to be adjudicated in petty civil court.

54. And be it enacted, That if any claim shall be made to or in respect of any goods or chattels taken in execution, under the process of any Court holden under

this Ordinance, or in respect of the proceeds or value thereof, by any landlord for rent, or by any person not being the party against whom such process has issued, it shall be lawful for the Commissioner or Stipendiary Justice, as the case may be, upon application of the officer charged with the execution of such process, as well before as after any action brought against such officer, to issue a summons calling before the Commissioner or Stipendiary Justice as well the party issuing such process as the party making such claim, and thereupon any action which shall have been brought in any other Court whether of record or otherwise in respect of such claim shall be stayed, and the Court in which such action shall have been brought or any Judge thereof, on proof of the issue of such summons, and that the goods and chattels were so taken in execution, may order the party bringing such action to pay the costs of all proceedings had upon such action after the issue of such summons by the Commissioner or Stipendiary Justice, and the Commissioner or Stipendiary Justice shall adjudicate upon such claim, and make such order between the parties in respect thereof, and of the costs of the proceedings, as to him shall seem fit, and such order shall be enforced in like manner as any order made in any suit brought before such Commissioner or Stipendiary Justice under this Ordinance.

55. And be it enacted, That if any action shall be commenced after the passing of this Ordinance in the Supreme Civil Court for any cause for which a plaintiff might have been entered in any Court holden under this Ordinance the said plaintiff shall have judgment to recover such sum only and no costs; and if a verdict shall not be found for the plaintiff the defendant shall be entitled to his costs as between solicitor and client unless in either case the Judge before whom the cause was tried shall certify on the back of the record that the action was fit to be brought in such Supreme Civil Court.

As to actions brought for small debts in Supreme Civil Court.

56. And be it enacted, That all penalties, fines and forfeitures by this Ordinance inflicted or authorised to be imposed (the manner of recovering and applying whereof is not hereby otherwise particularly directed)

Penalties and costs to be recovered before a justice of the peace and levied by distress.

shall, upon proof before any Justice of the Peace having jurisdiction within the district or place where the offender shall reside or be, or the offence shall be committed, either by the confession of the party offending or by the oath of any credible witness, be levied with the costs attending the summons and conviction by distress and sale of the goods and chattels of the party offending by warrant under the hand of any such Justice, and the overplus (if any), after such penalties, fines and forfeitures and the charges of such distress and sale are deducted, shall be returned upon demand unto the owner of such goods and chattels.

In default of security offender may be detained until return of warrant of distress.

57. And be it enacted, That if any such penalties, fines and forfeitures respectively shall not be paid forthwith upon conviction, it shall be lawful for such Justice to order the offender so convicted to be detained in safe custody until return can be conveniently made to such warrant of distress, unless such offender shall give sufficient security to the satisfaction of such Justice for his appearance before him on such day as shall be appointed for the return of such warrant of distress, such day not being more than eight days from the time of taking any such security, which security such Justice shall be empowered to take by way of recognizance or otherwise as to him shall seem fit.

In default of distress offender may be committed.

58. And be it enacted, That if upon return of such warrant it shall appear that no sufficient distress can be had thereupon, or in case it shall appear to the satisfaction of such Justice, either by confession of the offender or otherwise, that he hath not within the jurisdiction of such Justice sufficient goods and chattels whereon to levy all such penalties, forfeitures, costs and charges, such Justice may at his discretion, without issuing any warrant of distress, commit the offender to the royal gaol for any time not exceeding one calendar month, unless such penalties, forfeitures and fines, and all reasonable charges attending the recovery thereof shall be sooner paid and satisfied.

Penalties not otherwise applied to be paid into Colonial Treasury.

59. And be it enacted, That the moneys arising from any such penalties, forfeitures and fines as aforesaid when paid shall (if not by this Ordinance directed to be otherwise applied), be from time to time paid to the

Commissioner or Stipendiary Justice as the case may be, and shall be by them respectively paid into the Colonial Treasury for the use of the Colony in aid of the general funds thereof.

60. And be it enacted, That no order, verdict or judgment, or other proceeding made concerning any of the matters aforesaid shall be quashed or vacated for want of form. Proceedings not invalid for want of form.

61. And be it enacted, That where any distress shall be made for any sum of money to be levied by virtue of this Ordinance the distress itself shall not be deemed unlawful, nor the party making the same be deemed a trespasser on account of any defect or want of form in the information, summons, conviction, warrant of distress or other proceeding relating thereto, nor shall the party distraining be deemed a trespasser from the beginning on account of any irregularity which shall afterwards be committed by the party so distraining, but the person aggrieved by such irregularity may recover full satisfaction for the special damage in any court of competent jurisdiction. Distress not unlawful for want of form.

62. And for the protection of persons acting in the execution of this Ordinance be it enacted, That all actions and prosecutions to be commenced against any person for anything done in pursuance of this Ordinance shall be commenced within four calendar months after the fact committed, and not afterwards or otherwise; and notice in writing of such action and of the cause thereof shall be given to the defendant one calendar month at least before the commencement of the action, and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if after action brought a sufficient sum of money shall have been paid into Court with costs by or on behalf of the defendant. Limitation of actions.

63. And be it enacted, That if any person shall bring any suit in any of her Majesty's Superior Courts of Record in respect of any grievance committed by any marshal, clerk, bailiff, or officer of any court holden under this Ordinance under colour or pretence of the process of the said Court, and the Jury upon the trial of the action shall not find greater damages for the plaintiff than the sum of five pounds, no costs shall be Protection of officers of the court.

awarded to the plaintiff in such action unless the Judge shall certify in Court upon the back of the record that the action was fit to be brought in such superior court.

Interpretation
of Ordinance.

64. And be it enacted, That in construing this Ordinance the word "person" shall be understood to mean a body politic or corporate as well as an individual, and every word importing the singular number shall be understood to mean several persons or things as well as one person or thing, and every word importing the masculine gender shall be understood to mean a female as well as a male.

65. And be it enacted, That this Ordinance shall take effect and be in force upon and from and after the First day of September, in the present Year of our Lord one thousand eight hundred and fifty-one.

Passed in Council this First day of August, in the Year of our Lord One thousand eight hundred and fifty-one.

RICHARD D. CADIZ,

Clerk of Council.

The foregoing Ordinance was duly proclaimed in Port of Spain, by me, this Twelfth day of August, One thousand eight hundred and fifty-one.

EDWARD MURRAY,

Marshal.

FORM OF PLAINT.

Petty Civil Court of

No.
37.

George Thompson

185 .

of village of St. John, in the ward of
Tailor, demands of Ellen Jones of the ward of
Arima, Spinster, the sum of _____ pounds
shillings for goods sold and delivered to her
(or for work and labor performed for her, as the case may be), be-
tween the 15th day of January, 1850, and the 10th day of May,
1851, as stated in bill rendered, or in bill now left with the Clerk
of the Court (as the case may be) or for his wages as house servant
from the 10th day of August to the 10th day of November, 1851,
(as the case may be.)

SCHEDULE A.

*Form of Summons to appear to Plaintiff.*No. of Plaintiff.
37 of 1852.

Petty Civil Court of

18

To Thomas Ellis
Port of Spain

You are hereby summoned to appear at the Petty Civil Court at the Police Station in the town of St. Joseph on Saturday the Twenty-fourth day of January instant, at the hour of _____ in the _____ noon to answer Ellen Jones of the ward of Arima in an Action for work and labour performed for you between the day of _____ and the _____ day of _____

Amount of claim, £3 3s.

Costs _____ 2s.

A. B.,

 £3 5s.

Clerk of the Court.

SCHEDULE B.

Ordinary Execution.

TRINIDAD.

Petty Civil Court of

No. of Plaintiff.
37 of 1852.

Ellen Jones vs. Thomas Ellis.

To the Marshal of the said Island, or to G. H., or any other Police Constable.

These are to require you forthwith to cause execution to be made and levied, according to Law, on the moveable, and in default thereof, on the immoveable property of the said Thomas Ellis, of Port of Spain, and in default of either moveable or immoveable property, on the body of the said Thomas Ellis to the amount of £3 14s.

	£	s.	d.
Debt.....	3	3	0
Interest	0	2	6
Costs	0	2	6
Execution fee.	0	6	0

 £3 14 0

Given at

this

day of

A. D. 185

By the Court,

A. B.,

Clerk of the Court.

SCHEDULE C.

Limited Execution.

TRINIDAD.

Petty Civil Court of

No. of Plaintiff,
37 of 1852.

Ellen Jones vs. Thomas Ellis.

To the Marshal of the said Island, or to G. H., or any other
Police Constable.These are to require you forthwith to cause Execution to be
made and levied, according to Law, on the moveable, and in
default thereof, on the immoveable property of the said Thomas
Ellis to the amount of £3 3s.

	£	s.	d.
Debt.....	2	12	0
Interest 	0	4	0
Cost 	0	3	0
Marshal 	0	4	0
	<hr/>		
	£3	3	0
	<hr/>		

Given at the Police Office, in the town of St. Joseph, this
tenth day of May, A. D., 18

By the Court,

A. B.,
Clerk of the Court.

SCHEDULE D.

Conveyance.

Know all Men by these Presents, That I, A. B. [Commissioner
or Stipendiary Justice of, &c., as the case may be] by virtue of
the proceedings had before me in a suit wherein Ellen Jones was
plaintiff, and Thomas Ellis was defendant, have sold and adjudicated
unto Robert Smart, of the ward of Couva, master carpenter,
a certain parcel of land of the said Thomas Ellis, situate in
, together with the dwelling-house and other buildings
thereon, for the sum of , which sum has been
well and truly paid to me by the said Robert Smart. And therefore
I do by these presents in pursuance of the Ordinance in
that behalf, and by virtue of the powers thereby given to me,
convey and transfer unto the said Robert Smart and his heirs,
all that said parcel of land situate in
containing by admeasurement (or estimation)
and abutting; &c. (set out abutments), together with the
dwelling belonging, To Have and to Hold the same unto the
said Robert Smart, his heirs and assigns, for ever. In Witness

