

TRINIDAD AND TOBAGO.

No. 7—1928.

*Su 36/1937* The Whole repealed with the  
exception of Section 17.

[L.S.]

I ASSENT,

*By 20/4/1936 S. 26*

*Sect-17. repealed by* H. A. BYATT *24/4/1936*  
Governor. S. 11 (c)

9th May, 1928.

AN ORDINANCE to amend the law with respect to the administration of criminal justice in the Colony and otherwise to amend the criminal law.

[9th May, 1928, except ss. 3 and 4.]

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

- Short title. 1. This Ordinance may be cited as the Criminal Justice Ordinance, 1928.
- Interpretation. 2. In this Ordinance, "Registrar" means the Registrar of the Supreme Court.

PART I.

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.

(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  
San Fernando

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

Trials in  
Tobago.

(4) Provided that 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.

4.—(1) Notwithstanding the provisions of sub-sections (1) and (2) of section 3 of this Ordinance, 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.

(2) A transfer under this section 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, 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 recognizance entered into by the accused.

(3) 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 recognizances, subpoenas, and proceedings in or relating

*Repealed by 199 of 1936*  
*S. 7.*

to the case shall thereupon be deemed to be returnable at such place ; and all witnesses who are bound by recognizance or summoned to attend the trial shall attend at such place.

Commence-  
ment of  
sections 3 and  
4 hereof.

Cap. 5.

5. Sections 3 and 4 of this Ordinance shall come into force on a date to be notified by the Governor by proclamation in the *Royal Gazette*, and as from the date of such proclamation sections 3, 4, 5 and 6 of the Criminal Procedure Ordinance shall be deemed to be repealed.

## PART II.

### JURISDICTION AND PROCEDURE.

#### Indictable Offences.

Amendment  
of section 17  
of Cap. 23.

6. Section 17 (1) of the Indictable Offences (Preliminary Enquiry) Ordinance shall have effect as if the words " and may be given in evidence upon your trial " were substituted for the words " and may be used against you at your trial," and as if the following sub-section were substituted for sub-section (2) thereof:—

Statement of  
accused.

(2) Whatever the accused person then says in answer thereto, whether on oath or not, shall be taken down in writing as nearly as possible in the accused person's own words, and shall be read over to him, and shall be signed by the accused person, if he will, and by the Magistrate, and kept with the depositions of the witnesses and dealt with as hereinafter mentioned. On the trial, the statement of the accused, whether on oath or not, taken down as aforesaid, and whether signed by him or not, may be given in evidence without further proof thereof, unless it is proved that the Magistrate purporting to sign the statement did not in fact sign it.

Binding over  
of witnesses  
conditionally

7.—(1) Where any person charged before a Magistrate with an indictable offence is committed for trial and it appears to the Magistrate, after taking into account anything which may be said with reference thereto by the accused or the prosecutor, that the attendance at the trial of any witness who has been examined before him is unnecessary by reason of anything contained in any

6. 7. 88 repealed  
of 21.9.1926. 59

statement by the accused, or of the accused having pleaded guilty to the charge, or of the evidence of the witness being merely of a formal nature, the Magistrate shall, if the witness has not already been bound over, bind him over to attend the trial conditionally upon notice given to him and not otherwise, or shall, if the witness has already been bound over, direct that he shall be treated as having been bound over to attend only conditionally as aforesaid, and shall transmit with the depositions a statement in writing of the names, addresses and occupations of the witnesses who are or who are to be treated as having been bound over to attend the trial conditionally. The Magistrate shall on committing the accused for trial inform him of his right to require the attendance at the trial of any such witness as aforesaid, and of the steps which he must take for the purpose of enforcing such attendance.

(2) The Attorney-General shall at least seven days before the day fixed for the trial inform the person committed for trial of the names, addresses and occupations of such witnesses, and the Attorney-General or the person committed for trial shall give notice to the Registrar at least four days before the day fixed for the trial that he desires any such witness to attend at the trial, and the Registrar on receipt of such notice shall forthwith notify the witness that he is required so to attend in pursuance of his recognizance.

8.—(1) Where any person has been committed for trial for any offence, the deposition of any person taken before a Magistrate may, if the conditions hereinafter set out are satisfied, without further proof be read as evidence on the trial of that person, whether for that offence or for any other offence arising out of the same transaction or set of circumstances, as that offence.

The conditions hereinbefore referred to are the following :—

- (a) The deposition must be the deposition either of a witness whose attendance at the trial is stated to be unnecessary in accordance with the provisions of section 7 of this Ordinance, or of a witness who is proved at the trial by the oath of a credible witness to be dead, or

Reading of  
depositions  
at trial.

so ill as not to be able to travel, although there may be a prospect of his recovery, or incapable, in consequence of his condition of mind, of giving evidence, or absent from the Colony, or kept out of the way by the prosecutor or the Crown or by the accused person or by some other person on his behalf ;

(b) It must be proved at the trial, either by a certificate purporting to be signed by the Magistrate before whom the deposition purports to have been taken or by the oath of a credible witness that the deposition was taken in the presence of the accused person or the prosecutor, as the case may be, and that he or his legal adviser had full opportunity of cross-examining the deponent ;

(c) The deposition must purport to be signed by the Magistrate before whom it purports to have been taken.

Cap. 23.

(2) In the case of a deposition taken under section 20 of the Indictable Offences (Preliminary Enquiry) Ordinance, the provisions of sub-section (1) hereof other than paragraph (b) thereof shall apply on its being proved at the trial either by a certificate purporting to be signed by the Magistrate before whom the deposition purports to have been taken or by the oath of a credible witness

- (i) that reasonable notice of the intention to take such deposition was served upon the person (whether accused or prosecutor) against whom it is proposed to be given in evidence ; and
- (ii) that such person or his legal adviser had, or might have had, if he had chosen to be present, a full opportunity of cross-examining the deponent.

Provided that the provisions of this section shall not have effect in any case in which it is proved—

- (i) that the deposition, or where the proof required by paragraph (b) of this section is given by means of a certificate, that the certificate was not in fact signed by the Magistrate by whom it purports to have been signed ; or

(ii) that where the deposition is the deposition of a witness whose attendance at the trial is stated to be unnecessary as provided by section 7 hereof, the witness has been duly notified that he is required to attend the trial.

9. Where in the course of a criminal trial any member of the jury dies or is discharged by the Court as being through illness incapable of continuing to act or for any other reason, the jury shall nevertheless, so long as the number of its members is not reduced by more than one, be considered as remaining for all the purposes of that trial properly constituted, and the trial shall proceed and a verdict may be given accordingly. Where one juror has died or has been discharged as aforesaid the verdict of eleven jurors in a trial for murder or treason or of eight jurors in a trial for any other offence shall be deemed to be an unanimous verdict of the jury, and a verdict of six jurors shall be deemed to be a majority verdict for the purposes of section 24 of the Jury Ordinance.

Continuance of trial where juror dies or becomes incapable.

Cap. 7

*Rpt. a  
re-enacted  
7-199-1936  
S. 3.*

10. Section 50 of the Criminal Procedure Ordinance is hereby amended by inserting the words "or the next succeeding" after the word "same" in the eighth line of the section.

Amendment of section 50 of Cap. 5.

*5-193  
7-193*

11.—(1) Where a person who is an adult is charged before a Court with any indictable offence specified in the First Schedule to this Ordinance, the Court, if it thinks it expedient so to do, having regard to any representation made in presence of the accused by or on behalf of the prosecutor, the character and antecedents of the accused, the nature of the offence, the absence of circumstances which would render the offence one of a grave or serious character and all the other circumstances of the case (including the adequacy of the punishment which the Court has power to inflict), and if the accused, when informed by the Court of his right to be tried by a jury, consents to be dealt with summarily, may, subject to the provisions of this section, deal summarily with the offence, and if the accused pleads guilty to, or is found guilty of, the

Summary trial of indictable offences.

16/19/21 offence charged, may sentence him to be imprisoned for any term not exceeding six months <sup>with or without hard labour</sup> or to a fine not exceeding fifty pounds.

(2) If a Court at any time during the hearing of a charge for such an indictable offence as aforesaid against a person who is an adult becomes satisfied that it is expedient to deal with the case summarily, the Court shall thereupon, for the purpose of proceedings under this section, cause the charge to be reduced into writing (if this has not been already done) and read to the accused, and shall then address to him a question to the following effect, "Do you desire to be tried by a jury, or do you consent to the case being dealt with summarily?" with a statement, if the Court thinks such a statement desirable for his information, of the meaning of the case being dealt with summarily, and of the sitting of the Supreme Court at which he will be tried if tried by a jury, and if the accused consents to be dealt with summarily, shall forthwith ask him the following question, "Do you plead guilty or not guilty?"

(3) Any enactments in force at the commencement of this Ordinance which relate to the summary trial of indictable offences or which refer to indictable offences which are triable summarily shall, subject to the provisions of this section, be construed, as the case may be, as applying to the summary trial of indictable offences under this section or as referring to all indictable offences which are triable summarily thereunder.

(4) In this section the expression "Court" has the meaning assigned to it in the Summary Conviction Offences (Procedure) Ordinance, and the expression "adult" means a person who is, in the opinion of the Court before which he is charged, of the age of 14 years or upwards.

Cap. 24.

<sup>16</sup> Summary Conviction Offences. Vide - No 119/31

Form of documents in criminal proceedings before Summary Court.

12.—(1) Every information, complaint, summons, warrant or other document laid, issued or made for the purpose of or in connection with any proceedings before a Court of summary jurisdiction for an offence shall be sufficient if it contains a statement of the specific offence 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.

(2) The statement of the 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 statute, shall contain a reference to the section of the statute creating the offence.

(3) After the statement of the offence, necessary particulars of the offence shall be set out in ordinary language, in which the use of technical terms shall not be required.

(4) Any information, complaint, summons, warrant or other document to which this section applies which is in such form as would have been sufficient in law if this Ordinance had not come into force shall notwithstanding anything in this section continue to be sufficient in law.

13. Section 120 of the Summary Conviction Offences (Procedure) Ordinance is hereby repealed, and the following section substituted therefor :—

Proof of  
previous  
convictions.  
Cap. 24.

120.—(1) Where upon the hearing of any complaint it is proposed to prove against the defendant the fact of a former conviction, production of a copy of the commitment certified under the hand of the Superintendent of Prisons, or production of the Constabulary register book of persons convicted of crime, upon proof of the identity of the person named therein, shall be sufficient proof that such person has been convicted of the offence therein specified.

(2) Production of a certificate stating the substance and effect of any conviction or order, omitting the formal parts thereof, signed by the Clerk of the Peace or other officer having the custody of the records of any Court, upon proof of the identity of the person therein named, shall be sufficient proof of such conviction or that the order therein specified has been made against the person therein named.

(3) No proof need be given of the signature or official character of any person signing such commitment or certificate as aforesaid.

Right of appeal from summary conviction or order. Cap. 24.

14. Section 127 of the Summary Conviction Offences (Procedure) Ordinance shall have effect as though the following sub-section were substituted for sub-section (2) thereof:—

(2) Where a Court makes a conviction or order, the party against whom the conviction or order is made may appeal to the Supreme Court against such conviction or order.

Amendment of section 129 of Cap. 24.

15. Section 129 of the Summary Conviction Offences (Procedure) Ordinance shall have effect as if the word "seventh" were substituted for the word "third" in sub-section (2) thereof.

Amendment of section 130 of Cap. 24.

16. Section 130 of the Summary Conviction Offences (Procedure) Ordinance shall have effect as if the word "ten" were substituted for the word "seven" therein.

Appeals from Magistrates heard by two Judges. Cap. 35.

17. Section 33(1) of the Judicature Ordinance shall have effect as though the following proviso were added thereto:—

Provided that where an appeal is heard by a Full Court of two Judges and such Judges differ in opinion, the appeal shall be reheard by a Full Court consisting of three Judges.

Joinder of complaints.

18. Where two or more complaints are made by one or more parties against another party or other parties and such complaints refer to the same matter, such complaints may, if the Court thinks fit, be heard and determined at one and the same time if each defendant is informed of his right to have such complaints taken separately and consents to their being taken together.

*Repealed by 24 of 1936 S. 18(c)*

19.—(1) Where a surety to a recognizance to keep the peace or to be of good behaviour has reason to suspect that the person bound as principal has been or is about to be guilty of conduct which was or would be a breach of the conditions of the recognizance, he may make a complaint before any Justice of the Peace having jurisdiction either in the place in which the said person is or is believed by the complainant to be or in the place where the Court by which the recognizance was ordered to be entered into was held, and that Justice may thereupon, if in his discretion he thinks fit, issue a summons against the said person.

Enforcement  
of recognizance  
to be of good  
behaviour.

(2) The Court before which the said person appears in answer to any such summons may, as it thinks fit, either order him to enter into a fresh recognizance, with or without sureties, or deal with him in the same manner as if he were a person who had failed to comply with an order to enter into a recognizance and find sureties to keep the peace or to be of good behaviour, and shall in either case order that the first mentioned recognizance shall be discharged.

20. The following section shall be inserted in the Summary Conviction Offences (Procedure) Ordinance as section 72A:—

Larceny  
or "receiving"  
charged,  
"conveying"  
proved, and  
vice versa.

72A.—(1) Where larceny of any kind is charged and the evidence establishes the commission of an offence against section 36 or section 37 of the Summary Conviction Offences Ordinance, the defendant shall not be entitled to have the complaint dismissed but he may be convicted of the offence the commission of which the evidence establishes and punished accordingly.

Cap. 25.

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(2) Where the receiving of any property knowing the same to have been stolen is charged and the evidence establishes the commission of larceny of any kind or of an offence against section 36 or section 37 of the Summary Conviction Offences Ordinance, the defendant shall not be entitled to have the complaint dismissed but he may be convicted of the offence the commission of which the evidence establishes and punished accordingly.

Cap. 25.

Cap. 25.

(3) Where an offence against section 36 or section 37 of the Summary Conviction Offences Ordinance is charged and the evidence establishes the commission of the offence of larceny of any kind or of receiving property knowing the same to have been stolen, the defendant shall not be entitled to have the complaint dismissed but he may be convicted of such larceny or of receiving property knowing the same to have been stolen and punished accordingly.

Limitation of  
time for  
prosecution in  
certain cases.  
Cap. 25.

21. Section 47 of the Summary Conviction Offences Ordinance is hereby repealed and in lieu thereof shall be read the following:—

47. All cases punishable under this Ordinance of

larceny or stealing ;

attempting to commit larceny, or attempting to steal ;

aiding or abetting or counselling or procuring the commission of larceny or of stealing ;

receiving any chattel or money or valuable security knowing it to have been unlawfully come by ;

fraudulent conversion ; or of

embezzling or obtaining or attempting to obtain under false pretences any chattel or money or valuable security with intent to defraud

may be prosecuted at any time within twelve months after the commission of the offence.

Amendment  
of section 51(8)  
of Cap. 25.

22. Section 51 of the Summary Conviction Offences Ordinance is hereby amended by deleting the words "in any public place or within view thereof" in paragraph (8) thereof.

**23.** Section 7 of the Lands and Buildings Taxes Ordinance shall have effect as if the following proviso were inserted therein:—

Amendment  
of section 7 of  
Cap. 204.

A complaint for an offence against this section shall be made within three years from the time when the matter of such complaint arose, and not after.

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### PART III.

#### MISCELLANEOUS AND GENERAL.

**24.** Section 7 of the Forgery Ordinance is hereby repealed and the following substituted therefor:—

Forgery of  
documents  
with intent to  
defraud or  
deceive.

7. Forgery of any document which is not made felony under this or any other enactment for the time being in force, if committed with intent to defraud or deceive, shall be a misdemeanor and punishable with imprisonment, with or without hard labour, for any term not exceeding two years.

X

**25.** Any presumption of law that an offence committed by a wife in the presence of her husband is committed under the coercion of her husband is hereby abolished, but on a charge against a wife for any offence other than treason or murder it shall be a good defence to prove that the offence was committed in the presence of, and under the coercion of, the husband.

Abolition of  
presumption  
of coercion  
of wife by  
husband.

**26.** Sections 6, 7 and 8 of the Young Offenders Detention Ordinance, 1926, shall have effect as if in each section the words "two years" were substituted for the words "one year."

Amendment  
of sections 6,  
7 and 8 of  
19-1926.

**27.** A male offender not above the age of sixteen years, on being convicted of any offence, may, in lieu of any other punishment, be ordered to be whipped.

Whipping of  
offenders not  
over 16.

Fees and expenses of counsel and solicitor assigned to prisoner. Cap. 5.

28. The following shall be substituted for the First Schedule to the Criminal Procedure Ordinance:—

FIRST SCHEDULE.

*Fees to Counsel and Solicitor assigned to any prisoner under this Ordinance.*

There may be allowed to Counsel a fee not exceeding £7 7s. od.; provided that the presiding Judge after the conclusion of the trial, may, if he think fit and the trial has lasted more than one full day, certify that the case was one of exceptional length or difficulty, and thereupon the fee may be increased to such sum not exceeding £11 as he may direct.

There may be allowed to the solicitor a fee not exceeding £2 2s. od.; 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 not exceeding £5 5s. od. as he may direct.

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.

Repeal.

29. The enactments set out in the Second Schedule to this Ordinance are hereby repealed to the extent specified in the second column of that Schedule.

FIRST SCHEDULE.

(Section 11.)

INDICTABLE OFFENCES FOR WHICH ADULTS MAY BE SUMMARILY TRIED.

1. Offences against—

- (a) The Offences against the Person Ordinance, Cap. 8, sections 18, 24, 25, 29, 30, 31, 32, 33, 34, 38 (2), 39, 40, 41, 42, 46, 47, 48, 49, 59, 62 and 63.
- (b) The Larceny Ordinance, Cap. 9, sections 4, 5, 6, 7, 10, 11, 12, 15, 17, 18, 27, 28, 29, 31, 32, 33, 34 and 35. *as amended 1927*
- (c) The Malicious Damage Ordinance, Cap. 10, sections 21, 22, 27, 40 and 41.
- (d) The Coinage Offences Ordinance, Cap. 11, sections 9, 10, 11, 12, 14, 16, 17, 21 and 23.
- (e) The Forgery Ordinance, Cap. 13, sections 6, 7 and 13.
- (f) The Perjury Ordinance, Cap. 14, sections 8, 9 and 10.
- (g) The Libel and Defamation Ordinance, Cap. 18, sections 8 and 9.
- (h) The Criminal Offences Ordinance, Cap. 19, sections 3, 4, 5, 6, 7 and 9.
- (i) The Railways and Telegraphs Offences Ordinance, Cap. 20, sections 4, 5, 6 and 9 (1).
- (j) The Children Ordinance, Cap. 31, section 8.
- (k) The Debtors Ordinance, Cap. 75, section 7.
- (l) The Post Office Ordinance, Cap. 108, sections 45, 47, 48, 50 and 63.

2. Attempted suicide.

3. Attempting to commit, or aiding, abetting, counselling or procuring the commission of any offence hereinbefore in this Schedule specified.

*Repealed by 199/1936  
S. 4.*

*29 76/1927*

## SECOND SCHEDULE.

## ENACTMENTS REPEALED.

Short title of Ordinance.	Extent of repeal.
The Indictable Offences (Preliminary Enquiry) Ordinance, Cap. 23 .. .. .	.. Section 38.
The Summary Conviction Offences (Procedure) Ordinance, Cap. 24 .. .. .	.. Sections 96, 97 and the Second Schedule.
The Summary Conviction Offences Ordinance, Cap. 25	Section 113.
The Corporal Punishment Ordinance, Cap. 33 ..	.. Section 7.

Passed in Council this twenty-eighth day of April, in the year of Our Lord one thousand nine hundred and twenty-eight.

JOHN DE NOBRIGA,  
*Clerk of the Council.*