

TRINIDAD AND TOBAGO.

No. 22—1925.

I ASSENT.

[L.S.]

H. A. BYATT,  
*Governor.*

2nd June, 1925.

AN ORDINANCE to regulate the procedure in Criminal  
Cases triable on Indictment.

[2nd June, 1925.]

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

1. This Ordinance may be cited as the Criminal Pro-<sup>short title</sup>  
cedure Ordinance, 1925.

2. In this Ordinance, unless the context otherwise <sup>Interpretation.</sup>  
requires—

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

“ Registrar ” means the Registrar of the Court.

[Price 1/-]

*Place, time, and mode of trial.*

trials in  
Port-of-Spain.

3. All persons committed within the Island of Trinidad for trial for treason or felony punishable with death, and all persons committed within the said Island elsewhere than in the Counties of Victoria, St. Patrick, Nariva and Mayaro, for any other offence, shall be tried at Port-of-Spain.

trials in  
San Fernando.

4. All persons committed within the counties of Victoria, St. Patrick, Nariva and Mayaro for trial for any offence other than treason or felony punishable with death shall be tried at San Fernando.

trials in  
Tobago.

5. All persons committed within the Island of Tobago for trial for any offence shall be tried in Tobago :

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 in Tobago, order that the trial of such person shall take place in Port-of-Spain.

Entry and  
transfer of  
cases.

6.—(1) Notwithstanding the provisions of sections 3 and 4 of this Ordinance, the Attorney-General, whenever he considers that the ends of justice so require, may, in any case not capital—

- (1) Enter for trial at San Fernando any criminal case which but for this section would be triable at Port-of-Spain ;
- (2) Enter for trial at Port-of-Spain any criminal case which but for this section would be triable at San Fernando ;
- (3) Transfer the trial of any case entered for trial at Port-of-Spain to San Fernando ; and
- (4) 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 at which it has been so entered for trial or to which it has been transferred; and all recognizances, 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 recognizance or summoned to attend the trial shall attend at such place.

7. At every Criminal Sessions of the Court for the trial of criminal cases in 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 if any Criminal Sessions shall be held during any period appointed to be observed as Court vacation, the Chief Justice may direct that one Court only shall be held at such Sessions.

8.—(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 then nevertheless be admitted to bail, or discharged on his own recognizance, at the discretion of the Court: When person committed is to be tried. Provided that nothing in this Ordinance shall abrogate or derogate from the power of the Court to order the postponement of any trial.

(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 recognizance, 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, When new prosecution may be had.

Mode of trial. 9. 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.

Issue of law. 10. 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.

Issue of fact. 11. 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.*

Attorney-General may discharge prisoner.

12. 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.

Private prosecution.

13. 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 recognizance as is required under the provisions of the Indictments Ordinance, 1916, 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 re-committal for trial, and such Court or Judge shall thereupon make such order therein as to such Court or Judge shall seem fit.

Right of Attorney-General to enter *nolle prosequi*.

14. 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 Marshal by delivering the same to the person so committed for trial, or admitted to bail, or leaving the same at his usual place of abode, or at the place specified in the recognizance 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 recognizance 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.

*Conduct of trials.*

15. The Attorney-General, Solicitor-General, Crown Counsel, or such other Counsel as may from time to time be appointed for the purpose by the Governor, may conduct all or any trials under this Ordinance, and for that purpose the Solicitor-General, Crown Counsel, or such other Counsel as aforesaid, shall have all the powers and may perform all the duties of the Attorney-General in relation to criminal prosecutions, but subject to any express directions of the Attorney-General in that behalf.

*Attendance of witnesses.*

16. Every person who is bound by recognizance 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 recognizance 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.

Service of  
subpoena.

18. 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, shall prepare and deliver to the Marshal 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; and, when application shall be made to postpone any trial by reason of the absence of any witness stated to be material, 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 sued out four clear days at the least before the first day of the Criminal Sessions.

Subpoena to be  
served by  
Marshal, and  
his return  
*prima facie*  
evidence.

19. The Marshal shall, with all diligence, by himself or his assistants, serve a copy of such writ of subpoena upon every witness named in such writ, and shall note every such service, with the time thereof, upon the original writ of subpoena, and shall forthwith return the original writ into the office of the Registrar with a certificate thereon endorsed and subscribed of the service or non-service thereof, as the circumstances of the case may require; and in all cases the return of the Marshal duly certified as aforesaid shall be *prima facie* evidence of the facts stated in such return.

Warrant for  
apprehension  
of witness not  
attending on  
recognizance.

20. If any person who has been bound by recognizance 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, before the Court in order to give evidence on behalf of the prosecution or of the defence, as the case may be.

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 wilfully 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.

Warrant for apprehension of witness disobeying summons.

22. Every person who makes default in attending as a witness in either of the cases mentioned in the last two preceding sections shall be liable, on the summary order of the Court, to a fine not exceeding twenty pounds, and in default of payment, to imprisonment for any term not exceeding two months.

Fine for non-attendance of witness.

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.

Warrant for apprehension of witness in first instance.

(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 recognizance, 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, &c.

24. — (1) If any person attending the Court as a witness, either on his recognizance, 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 not exceeding twenty pounds, and in default of payment, to imprisonment for any term not exceeding 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.

Non-  
attendance of  
witness at  
adjourned trial.

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.

*Expenses of Witnesses.*

26. Where any person appears before the Court on recognizance, 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 the prosecution.

27. The Court is hereby authorised, in its discretion, at the request of any person who appears before such Court on recognizance 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. Expenses of witnesses for accused.

28. 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 Treasurer. Ascertainment of witness's expenses.

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 Treasurer.

*Proceedings at Trial and Subsequent Proceedings.*

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 recognizance to appear or not, the Court may issue a warrant for his apprehension. Bench warrant where accused person does not appear.

- 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 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.
- Idem.** **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.
- Procedure on plea or demurrer by accused.** **32.** The accused on being arraigned on any indictment may plead the general issue *ore 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 autrefois convict or autrefois acquit.** **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.
- Alternative plea.** **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.
- Provision as to respiting indictment.** **35.** No person prosecuted shall be entitled to traverse or postpone the trial of any indictment : Provided always, 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 recognizances 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 recognizance for that purpose.

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.

Accused may require postponement.

37. In any case where the trial of an accused person is postponed, it shall be lawful for the Court to respite the recognizance 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 recognizance for that purpose, in such and the same manner as if he was originally bound by his recognizance to appear and be tried at the time and place to which such trial has been so postponed.

Effect on recognizance of postponement of trial.

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.

Effect of plea of not guilty.

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 Registrar, at the time of delivering to the accused a copy of the indictment, to call upon him to select his Counsel if he have 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 First Schedule to this Ordinance.

Counsel and Solicitor for accused.

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 prosecution.

- 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.
- 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.
- 44.** When the case on both sides is closed, the Judge shall, if necessary, sum up the law and evidence in the case.
- 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.
- 46.** The verdict, when returned by the jury and accepted by the Court, shall be entered by the Registrar on the back of the indictment or on a sheet of paper annexed thereto, before the jury are discharged.
- 47.** If the jury find the accused person not guilty, he shall be immediately discharged from custody on that indictment.
- 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 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.

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.

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

50. Whenever any person shall be convicted by the verdict of the jury, or on his own confession, the Registrar, 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 Criminal Sessions, pronounce judgment, and sentence the prisoner to undergo such punishment as the Court shall see fit:

Sentence after conviction.

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 recognizance 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

Consecutive periods of imprisonment.

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.

Conviction for felony after previous conviction for felony.

**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 if a male, to undergo corporal punishment.

Procedure in case of previous convictions.

**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 :

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.

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. Proof of previous conviction.

(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.

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 Persons convicted may be condemned in costs.

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.

Compensation  
to persons  
defrauded or  
injured.

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 one hundred pounds, 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.

Costs of  
private prosecution.

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.

Place of  
imprisonment.

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 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.

Solitary  
confinement.

59. Every warrant for the execution of any prisoner under sentence of death shall be under the 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 contained in the Second Schedule to this Ordinance, 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 seal of the Colony and the hand of the Governor, and shall be in the form contained in the Third Schedule to this Ordinance :

Warrant of execution.

Provided that it shall be lawful for the Governor, by warrant under his hand and the 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.

#### *Arraignment and Trial of Insane Persons.*

60. 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 on arraignment to be insane.

61. 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.

Procedure where person indicted appears during trial to be insane.

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

**62.** 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.

Provision for custody of accused person found insane.

**63.** Where any person is found to be insane under the provisions of sections 60 or 61 of this Ordinance, 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.

Judge to report finding to the Governor.

**64.** 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.

*Reserving Questions of Law.*

Power to reserve questions of law on a criminal trial.

**65.** 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 Full Court; 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 recognizance 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 the Full Court, and receive judgment or render himself in execution as the case may be.

66. 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. Statement of question reserved.

67. Where, upon any trial on indictment, a question of law has been reserved, the Full Court shall consider and determine such question after hearing Counsel or the parties, if the Attorney-General or person convicted thinks it fit that the case should be argued, and the Full Court may either— Power of Full Court in Crown Cases reserved.

- (1) confirm the judgment given upon the indictment; or
- (2) order that such judgment be set aside notwithstanding the verdict (which order shall for all purposes have the same effect as if the defendant had been acquitted); or
- (3) order that such judgment be set aside, and give instead thereof the judgment which ought to have been given at the trial; or
- (4) make such other order as justice requires.

The Full Court may, if it thinks fit, require the Judge by whom the question is reserved to amend the statement specially entered on the record.

#### *Pardons and Commutation of Sentences.*

68. Where the Governor, in the name and on the 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 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 Free or conditional pardon.

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.

Commutation  
of punishment.

69. 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.*

Circumstantial  
evidence.

70. 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.

71. 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.

72. 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 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.

Description of  
coin and bank  
notes.

For the purposes of this section the expression "Bank Note." "bank note" shall be deemed to include a Government currency note.

#### *Miscellaneous provisions.*

73. 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.

OR  
Marshal to  
attend all  
sittings of  
Court.

*Gaol delivery.* 74. 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 recognizance.*

75.—(1) In every case where an accused person bound by recognizance 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 any such recognizance 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 contained in the Fourth Schedule to this Ordinance, to the Marshal.

(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.

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

77. In case of the absence or inability to act of the Attorney-General, the duties of his office may, for all the purposes of this Ordinance, be discharged by the Solicitor-General <sup>Solicitor-General to act for Attorney-General.</sup> for the time being.

78. It shall be lawful for the Chief Justice, with the concurrence of a Puisne Judge, to make such rules and regulations <sup>Rules and regulations.</sup> as he shall see fit for the better carrying into effect the objects of this Ordinance. All such Rules shall be published in the *Royal Gazette*.

79. The enactments mentioned in the Fifth Schedule to this Ordinance are hereby repealed <sup>Repeal.</sup> to the extent specified in the third column of the said Schedule.

### FIRST SCHEDULE.

Section 39.

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

	£	s.	d.
To Counsel .. .. .	..	7	7 0
To the Solicitor .. .. .	..	2	2 0

Section 59.

## SECOND SCHEDULE.

TRINIDAD AND TOBAGO.

GEORGE the Fifth by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India, &c., &c., &c.

*To the Marshal of our Colony of Trinidad and Tobago.*

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 \_\_\_\_\_ ; 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 \_\_\_\_\_ 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.

## THIRD SCHEDULE.

TRINIDAD AND TOBAGO

GEORGE the Fifth by the Grace of God of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India, &c., &c., &c.

*To the Keeper of the Royal Gaol.*

GREETING :

WHEREAS (A.B.) late of \_\_\_\_\_ 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 \_\_\_\_\_ and having upon such arraignment pleaded *NOR 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 \_\_\_\_\_ 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.

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#### FOURTH SCHEDULE.

Section 75.

TRINIDAD AND TOBAGO.

GEORGE the Fifth by the Grace of God of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India, &c., &c., &c.

To the Marshal of our Colony of Trinidad and Tobago.

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 \_\_\_\_\_ in the year one thousand \_\_\_\_\_

Registrar.

## FIFTH SCHEDULE.

## Enactments repealed.

No. or No. and year.	Title or Short title.	Extent of repeal.
13	.. The Criminal Procedure Ordinance	.. The whole.
34	.. The Judicature Ordinance	.. Sections 27, 28 and 29.
135	.. The Lunatics Ordinance	.. Sections 28 and 29.
25 of 1907	.. An Ordinance to amend the Criminal Procedure Ordinance No. 13	.. The whole.
4 of 1908	.. The Criminal Procedure Ordinance, 1908	.. The whole.
3 of 1911	.. The Criminal Procedure Ordinance, 1911	.. The whole.
43 of 1920	.. The Gaol Delivery Ordinance, 1920	.. The whole.

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

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

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**OBJECTS AND REASONS.**

It is proposed by this Bill to consolidate and amend the law applicable to the trial of criminal cases on indictment which at present appears in the seven enactments mentioned in the Fifth Schedule to the Bill.

The Table prefixed to the Bill shows how the existing law is dealt with and explains the more important of the new provisions.

An effort is made to arrange the clauses of the Bill in a more convenient order than is the case in the present Criminal Procedure Ordinance.