

TRINIDAD AND TOBAGO.

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No. 21—1936.

I ASSENT,

[L.S.]

M. FLETCHER,
Governor.

21st December, 1936.

24th December, 1936.

AN ORDINANCE to amend the Indictable Offences
(Preliminary Enquiry) Ordinance, Cap. 23.

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 Indictable Offences Short title.
(Preliminary Enquiry) (Amendment) Ordinance, 1936, and
shall be read as one with the Indictable Offences
(Preliminary Enquiry) Ordinance. Cap. 23.

2. The following words—"for which, according to any Cap. 23.
Ordinance for the time being in force, the offender may be sec. 5 (1)
arrested without warrant"—appearing at the end of amended.
paragraphs (a) and (c) of section 5 (1) of the Indictable
Offences (Preliminary Enquiry) Ordinance are hereby
deleted.

3. Sub-section (1) of section 8 of the Indictable Offences Cap. 23, sec.
(Preliminary Enquiry) Ordinance, is hereby amended by 8 amended.
adding at the end thereof the following:—"Such warrant
may be issued and executed at any time and may be issued
and executed on a Sunday".

5. The following sub-sections numbered (5) and (6) shall be added to section 21 of the Indictable Offences (Preliminary Enquiry) Ordinance :—

Section 21 of
Cap. 23
amended.

(5) 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 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.

Binding over
of witnesses
conditionally.

(6) 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.

6. The following sub-sections numbered (5) and (6) shall be added to section 23 of the Indictable Offences (Preliminary Enquiry) Ordinance :—

Section 23 of
Cap. 23
amended.

(5) In every case in which a Magistrate shall discharge an accused person on a preliminary enquiry,

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 21 (5) of this Ordinance, or of a witness who is proved at the trial by the oath of a credible witness to be dead, or 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.

(2) In the case of a deposition taken under section 20 of this Ordinance, the provisions of subsection (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

- (a) 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

(2) If any person acts in contravention of the ^{Penalties.} provisions of this section, he shall in respect of each offence be liable, on summary conviction by a Magistrate, to imprisonment for any term not exceeding four months, with or without hard labour, or to a fine not exceeding Two hundred and forty Dollars.

9. Sections 6, 7 and 8 of the Criminal Justice Ordinance, ^{Repeal.} 1928, are hereby repealed. ^{Ord.7-1928,}
^{secs. 6-8}

Passed in Council this fifteenth day of December, in the year of Our Lord one thousand nine hundred and thirty-six.

J. O'CONNOR,
Clerk of the Council.