

Dec 20 / 1928

CHAPTER 24.

SUMMARY CONVICTION OFFENCES
(PROCEDURE).

AN ORDINANCE RELATING TO PROCEDURE IN RESPECT OF OFFENCES PUNISHABLE ON SUMMARY CONVICTION.

Ordinances
No. 9 of 1918,
,, 2 of 1919,
,, 28 of 1921,
,, 62 of 1921,
,, 6 of 1923,
,, 32 of 1925.

DIVISION OF ORDINANCE.

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[1st June, 1918.]

1. This Ordinance may be cited as the Summary Conviction Offences (Procedure) Ordinance. Short title.

2. In this Ordinance—

“ Child ” means any person who, in the opinion of the Court before whom he appears or is brought, is above seven and under fourteen years of age;

“ Clerk ” means any Clerk or Assistant Clerk of the Peace;

Interpretation.

- “ Complainant ” includes any informant or prosecutor in any case relating to a summary conviction offence;
- “ Complaint ” includes any information or charge relating to a summary conviction offence;
- “ Constable ” includes any member of the Constabulary Force;
- “ Court ” or “ Summary Court, ” unless the same is expressly or by implication qualified, means any Magistrate or Justice when sitting in open Court to hear and determine any matters within his power and jurisdiction, either under the provisions of this Ordinance or under the provisions of any other enactment, and such Magistrate or Justice when so sitting as aforesaid shall be and be deemed to be a “ Court ” or “ Summary Court ” within the meaning of this Ordinance;
- “ Defendant ” means any person against whom a complaint is made;
- “ Guardian, ” in relation to a child, means the parent or other lawful guardian of such child, and includes any person who, in the opinion of the Court having cognizance of any case in which such child is concerned, has for the time being the custody, control, or charge of such child;
- “ Keeper ” means the officer having the charge of any prison in the Colony;
- “ Open Court ” means any room or place in which any Court shall be sitting to hear and determine any matters within its jurisdiction and to which room or place the public may have access so far as the same can conveniently contain them;
- “ Order ” includes any conviction in respect of a summary conviction offence;
- “ Penalty ” includes any pecuniary fine, forfeiture, costs, or compensation recoverable or payable under an order;
- “ Prescribed ” means prescribed by Rules of the Supreme Court or by Rules made under the authority of this Ordinance;
- “ Summary Conviction Offence ” means any offence punishable on summary conviction, and includes

any matter in respect of which the Court can make an order in the exercise of its summary jurisdiction;

“ Vessel ” includes ship, boat, lighter, or craft of every kind, and whether navigated by steam or otherwise;

Young person - see 11/1936 definition. - Vide 22 of 1936.

PART I.

S. 2

GENERAL PROVISIONS.

Magistrates.

3. (1) His Majesty may, by warrant under the hand of the Governor and the Seal of the Colony, appoint Magistrates; and in case of the death, retirement, suspension, or removal from office, absence on leave or on special duty, or unavoidable absence of any Magistrate, or whenever in the opinion of the Governor the due administration of justice in any district so requires, may in like manner appoint some other person to act as a Magistrate for such period as may be specified in the warrant. (*Substituted by 6 of 1923, s. 2.*)

Appointment of Magistrates, Assistant Magistrate, and Acting Magistrates.

(2) His Majesty may, by warrant under the hand of the Governor and the Seal of the Colony, appoint any person to be Assistant Magistrate for the magisterial district of St. George West. Such Assistant Magistrate shall have and exercise all the powers, privileges, rights, and jurisdiction of a Magistrate appointed under this section, and the provisions of this section shall apply to such Assistant Magistrate in the same manner as they apply to a Magistrate. (*Added by 62 of 1921, s. 2.*)

Repealed by Sec 3 of 22 of 1936

(3) A Magistrate shall hold office during His Majesty's pleasure.

(4) Every Magistrate shall *ex officio* be a Justice of the Peace for the Colony.

Justices of the Peace.

4. (1) His Majesty may, by warrant under the hand of the Governor, appoint any person named in such warrant to be a Justice of the Peace for the whole Colony or for such district or portion thereof as shall be expedient.

Appointment of Justices.

(2) Any person so appointed may be removed from the office of Justice of the Peace by a like warrant.

(3) A Justice of the Peace shall be so removed on being adjudicated a bankrupt.

Clerks of the Peace and other Officers.

Clerks, etc.

5. (1) The Governor may appoint Clerks and Assistant Clerks of the Peace, and such Clerks and Assistant Clerks shall act for such districts, and shall attend at such places and times, as the Governor shall from time to time appoint.

Interpreters.

(2) The Clerks and Assistant Clerks of the Peace shall, if competent in the opinion of the Magistrate, act as interpreters, but whenever the Governor shall think fit he may appoint interpreters to be attached to the Courts of the various districts. In any particular case the Magistrate may appoint a fit and proper person to act as interpreter if the services of any of the officers in this subsection mentioned cannot be made available.

Jurisdiction and Districts.

Jurisdiction.

6. Every Magistrate and Justice shall have and exercise all such powers, privileges, rights, and jurisdiction as are conferred upon each of them respectively under the provisions of this Ordinance or of any other enactment, and also, subject to this Ordinance and any other enactment, all such powers, privileges, rights, and jurisdiction as are conferred on Justices of the Peace by Common Law.

Appointment of Magistrates to districts.

7. The Governor may, by proclamation, appoint magisterial districts, and may assign to each such district one or more Magistrates. *Repealed by Sec 4 of 22/1936.*

Appointment of Justice to act as Magistrate in certain cases.

8. The Governor may, where any person is Warden as well as Magistrate of any district, appoint, by warrant under his hand and the Seal of the Colony, a Justice who shall have power, whenever called upon to do so by the Governor, to act in the office of a Magistrate with regard to any particular case, and when so acting shall have all the powers and jurisdiction of a Magistrate.

Places and times of hearing.

9. The Governor may appoint places and times for the attendance of Magistrates for the hearing of all cases which they are competent to hear and determine; but all such Magistrates shall have jurisdiction throughout the Colony.

10. Where any summary conviction offence is committed in or upon any vessel within any of the waters of the Colony, the same may be dealt with and determined either by the Magistrate of the district within which any such vessel shall then be, or of the district within which such vessel shall first arrive after the commission of such offence.

Offences committed within territorial waters.

11. Every Magistrate and Justice shall keep or cause to be kept a record of all complaints brought in his district, distinguishing the nature thereof, and the mode in which, and the name or names of the Magistrate or Justice by whom, the same shall have been disposed of.

Record of cases.

12. Such record when signed by the Magistrate or Justice as aforesaid shall be conclusive evidence of the several matters and things therein set forth and contained.

Record to be evidence.

13. Where a Magistrate or Justice is a party to a case or is unable, from personal interest or for any other sufficient reason, to adjudicate in any case, the Governor may appoint another Magistrate or Justice to hear and determine such particular case, or may direct that it be heard in the Court of an adjoining district.

Hearing of case where Magistrate or Justice interested.

Fees, Penalties, Accounts.

14. (1) In every proceeding had before any Magistrate or Justice, except such as are hereinafter specified, the fees set forth in the First Schedule to this Ordinance, or such fees as may be prescribed under section 23 of this Ordinance, shall be allowed and taken.

Payment of fees.

(2) In some conspicuous part of every Magistrate's Court and Constabulary Station, there shall be affixed a table of such fees.

(3) Any Magistrate or Justice shall have power, in any proceeding in which good cause appears to him for so doing, to suspend payment of any fees payable therein until the conclusion of such proceeding, and he may then direct such fees to be paid as costs by any party to the proceeding by whom he has power to order costs to be paid.

15. (1) No such fees as are in the last preceding section mentioned shall be taken from any constable acting as such or from any other officer in the public service in his official capacity.

Exemption from payment of fees.

(2) No fees shall be taken in respect of summonses to defendants.

(3) Any Clerk charging, claiming, or taking any such fee in contravention of the provisions of this section shall be liable, on summary conviction before a Magistrate, to a penalty not exceeding twenty pounds.

Improper demand of fees.

16. Any Magistrate, Justice, or Clerk who, directly or indirectly, asks for or receives upon any pretence whatever any fee, reward, gratuity, or recompense beyond the fees specified in the First Schedule to this Ordinance, or such fees as may from time to time be prescribed, for any act done or to be done by him in the execution of his office or in anywise relating to any complaint, matter, or proceeding before any Magistrate or Justice, shall be liable, on summary conviction before a Magistrate, to a penalty not exceeding fifty pounds.

Fees and penalties payable to Magistrate.

17. All fees received, and all penalties recovered before any Magistrate or Justice, and payable for the use of His Majesty or the Colony, shall be paid to the Magistrate of the district.

Payment of money received by certain officers.

18. (1) Any Clerk, Keeper, or constable who, under the provisions of this Ordinance, receives any money shall pay the same forthwith to the Magistrate of the district in which the complaint was made.

(2) All sums so received by the Magistrate shall forthwith be paid by him to the party to whom the same are to be paid according to the directions of the law or Ordinance on which the complaint was framed, or, if such law or Ordinance contains no directions for payment thereof, into the Treasury; and in case such sums as aforesaid are not paid to such Magistrate by the person aforesaid, the said Magistrate may proceed for the recovery of the said sums in manner in this Ordinance provided.

Neglect to pay fees, etc., recovered to Magistrate.

19. (1) Any Justice, Clerk, constable, or other person having received any such fee, or having levied or recovered any penalty, who neglects to pay the same forthwith to the Magistrate of the district, shall be liable, on summary conviction before a Magistrate, to a penalty not exceeding twenty pounds.

(2) In addition to the penalties for such offence, the money so received may be sued for by the Magistrate in the Supreme Court; and the plaintiff in such action, if successful, shall be entitled to his costs as between solicitor and client, although the sum recovered be within the jurisdiction of an inferior Court of civil jurisdiction.

20. Every Magistrate shall keep a true account of all moneys, fees, and penalties taken, recovered, levied, or received by him; and shall, at such times during the year as the Governor may appoint, transmit to the Treasurer a transcript of such account.

Accounts.
Schedule III.
Form 51.

21. Every Magistrate shall, at such times as the Governor may direct, pay the amount of all such fees and penalties to the Treasurer, and if he shall neglect so to do he shall be liable, on summary conviction before a Magistrate, to a penalty not exceeding fifty pounds: Provided that where he has fraudulently misappropriated such moneys he shall be deemed to have embezzled the same and may be indicted accordingly.

Payment of
fees and
penalties to
Treasurer.

Forms.

22. (1) The forms contained in the Schedules to this Ordinance may, with such variations and additions as the circumstances of the particular case may require, be used in the cases to which they respectively apply, and when so used shall be good and sufficient in law.

Forms.

(2) Nothing in this section shall affect the use and validity of any special forms of process in respect of summary conviction offences which may be given by any Ordinance relating to such offences.

Rules.

23. (1) The Governor in Executive Council may make rules as to:—

Rules.

- (a) Fees to be paid under this Ordinance;
- (b) Accounts to be rendered of moneys received by any person under this Ordinance;
- (c) The method of issue of process under this Ordinance, and the manner of receipt of, and accounting for, fees in respect of such process.

(2) Any rules purporting to be made in pursuance of this section shall be laid before the Legislative Council as soon as may be after they are made, and shall have no force or effect until approved by such Council and published in the *Royal Gazette*.

PART II.

OFFENCES RELATING TO ADMINISTRATION OF JUSTICE IN SUMMARY COURTS.

24. The following shall be deemed offences under this Ordinance, and shall be dealt with as hereinafter provided :—

- | | |
|-------------------------------|--|
| Language. | (1) Indecent, violent, insulting, abusive, or threatening language used in Court or addressed to any Magistrate or Justice in Court, or in going to or returning from the Court, or used against any party to any matter in the course of hearing, or to any witness or other person then lawfully being in the Court room or within the precincts of the Court; |
| Gestures. | (2) Violent, indecent, or unbecoming gestures or conduct in Court while the Court is actually sitting; |
| Assault. | (3) Any assault or battery committed on a Magistrate or Justice in Court, or in going to or returning from the Court, or on any officer or servant of the Court, or on any party to any matter or witness or other person in Court; |
| Interruption and obstruction. | (4) Wilfully interrupting or obstructing any proceedings of the Court, or any other misbehaviour in Court; |
| Disobedience. | (5) Actual and express disobedience in Court to any direction, ruling, or order of the Magistrate or Justice made in the course of the hearing; |
| Resistance. | (6) Any resistance to or obstruction of any officer or servant of the Court in the discharge of his duty, whether in the service of any process of the Court, or in obedience to or in the execution of any warrant or command of the Magistrate or Justice in Court; |

- (7) The writing or uttering to the Magistrate or Justice, whether in Court or otherwise, of any abusive, indecent, or threatening letter or language, or sending to such Magistrate or Justice any threatening message relating to any pending matter or information or of any letter calculated or intended to prejudice the mind of the Magistrate or Justice in relation to any information or matter then pending, or in relation to any person about to give evidence before him in any such information or matter.

Abusive, etc.,
letters.

25. (1) If, in the opinion of the Magistrate or Justice, any such offence as in the last preceding section mentioned is committed by any person whomsoever, it shall be lawful for any constable, on the verbal order of such Magistrate or Justice if such person is present in Court, or on the warrant of such Magistrate or Justice if such person is not present in Court, to take such person into custody, and thereupon it shall be lawful for such Magistrate or Justice, if he thinks fit—

Procedure
against
offender.

- (a) to admonish and discharge him; or
- (b) to order him to be removed from the Court;
or
- (c) to order him to pay a fine not exceeding five pounds; or
- (d) without the imposition of any fine, by warrant under his hand to commit him to prison without hard labour for any term not exceeding fourteen days.

(2) If any fine imposed under this section shall not be paid by the offender within such time as the Magistrate or Justice may prescribe, it shall be lawful for the Magistrate or Justice, on such default by warrant, to commit the offender to prison, with or without hard labour, for any term not exceeding fourteen days.

(3) If any such offender is a practitioner before the Court, it shall be incumbent on such Magistrate or Justice to report the matter in writing to the Judges of the Supreme Court.

(4) Nothing in this section contained shall be construed to be in derogation of the provisions of any other

Ordinance prescribing penalties for any assault or battery committed on any Magistrate or Justice, so that no person shall be twice punished for the same offence.

Appeal.

26. (1) If any person ordered by any Magistrate or Justice to pay a fine or to be imprisoned under the authority of the last preceding section shall be dissatisfied with such order, such person may, at the time of such order, give notice in writing to such Magistrate or Justice (hereinafter referred to as the "convicting Magistrate or Justice ") of his intention to appeal to the Supreme Court against such order.

(2) The giving of such notice signed by the appellant or his solicitor shall not operate as a stay of such order unless the appellant shall, within two days after the giving thereof, enter before a Magistrate or Justice into a recognizance with one surety in the sum of twenty-five pounds acknowledged before a Magistrate or Justice and conditioned that the appellant do personally appear, and do not depart the Court without leave, and abide by the judgment of the Supreme Court thereupon, and pay such costs as may be by such Court awarded.

(3) Upon such notice being given and such recognizance being entered into, the Magistrate or Justice before whom such recognizance is entered into shall liberate the appellant if in custody, and thereupon the appeal shall be proceeded with in the manner in this Ordinance provided.

Cause of committal to be stated.

27. (1) The convicting Magistrate or Justice shall, within seven days after the making of the recognizance, sign and transmit to the Registrar of the Supreme Court a full statement of the case specifying fully the causes of such conviction.

(2) The Supreme Court shall consider the statement by the Magistrate or Justice of the causes of conviction, and also such grounds of appeal as may be set forth by the appellant.

If confirmed, order to be enforced.

28. If the Supreme Court shall confirm the order of the convicting Magistrate or Justice, any Magistrate or Justice may, on receipt of a certificate of such confirmation, proceed to enforce such order as if there had been no appeal against the same.

29. No action shall be brought against any Magistrate or Justice for any act or order done or made by him acting under the authority of section 25 of this Ordinance, or against any officer or servant of the Court or against any constable for any act done by him or them in obedience to the command of any Magistrate or Justice acting thereunder.

Protection
of officers.

30. If, upon any appeal from an order made under the provisions of section 25 of this Ordinance, the order of any Magistrate or Justice is quashed by the Supreme Court, and the person alleged to have offended has been actually in custody, it shall be lawful for but not imperative on the Supreme Court to award to the appellant such sum of money by way of compensation and satisfaction in respect of the committal by such Magistrate or Justice as to the Supreme Court may seem reasonable and proper, and such award shall be a bar to any civil proceedings whatever in respect of such order.

Compensa-
tion where
order
quashed.

31. The Magistrate or Justice whose order is quashed shall not, unless the Governor otherwise orders, be made personally liable to pay any compensation or costs which the Supreme Court may award to the appellant, but the same shall be paid to the appellant from the Treasury on the warrant of the Governor.

Magistrate or
Justice not
liable to pay
compensa-
tion.

32. The provisions of this Part of this Ordinance shall apply to the Courts held by Coroners in the Colony, and to a Magistrate or Justice sitting to take depositions on the hearing of a charge of any indictable offence, and to a Magistrate or Justice exercising jurisdiction in respect of any civil matter lawfully before him, and to any Judge of a Petty Civil Court in the Colony.

Application
of Part II.

PART III.

INSTITUTION OF PROCEEDINGS.

Making of Complaint.

33. Every proceeding in the Court for the obtaining of an order against any person in respect of a summary conviction offence shall be instituted by a complaint made before a Magistrate or Justice.

Mode of
instituting
proceedings.
Schedule III.
Form 1,
Form 2.

Right of making complaint.

34. (1) It shall be lawful for any person to make a complaint against any person committing a summary conviction offence, unless it appears from the enactment on which the complaint is founded that any complaint for such offence shall be made only by a particular person or class of persons.

(2) Notwithstanding anything to the contrary contained in any Ordinance, it shall be lawful for a constable to make a complaint in a case of assault, even though the party aggrieved declines or refuses to make a complaint.

35. In every case where no time is specially limited for making a complaint for a summary conviction offence in the Ordinance relating to such offence, such complaint shall be made within ~~three~~ ^{two} months from the time when the matter of such complaint arose, and not after.

36. (1) It shall not be necessary that any complaint shall be in writing, unless it is required to be so by the enactment on which it is founded, or by some other enactment: Provided that, if a complaint is not made in writing, the Clerk shall reduce it into writing.

(2) Subject to the provisions of section 42 of this Ordinance, every complaint may, unless some enactment otherwise requires, be made without any oath being made of the truth thereof.

(3) Every such complaint may be made by the complainant in person, or by his counsel or solicitor, or by any person authorized in writing in that behalf.

(4) Every such complaint shall be for one offence only, but such complaint shall not be avoided by describing the offence or any material fact relating thereto in alternative words according to the language of the enactment constituting such offence.

(5) The description of any offence in the words of the enactment creating the offence, or in similar words, with a specification, so far as may be practicable, of the time and place when and where the offence was committed, shall be sufficient in law.

37. Any exception, exemption, proviso, condition, excuse, or qualification, whether it does or does not, in any enactment creating an offence, accompany in the same

Sec 30 of 1932

Sec 3 of 1932

Form and requisites of complaint.

Rule as to statement of exception, etc.

Repealed by Sec 22 of 1932

section the description of the offence, may be proved by the defendant, but need not be specified or negatived in the complaint, and if so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the complainant.

Search Warrants.

38. (1) Any Magistrate or Justice who is satisfied, by proof upon oath, that there is reasonable ground for believing that there is in any building, vessel, carriage, box, receptacle, or place—

When search warrant may be issued and proceedings thereunder.

(a) anything upon or in respect of which any summary conviction offence has been or is suspected to have been committed, ~~for which, according to any enactment for the time being in force, the offender may be arrested without warrant;~~ or

vide Sec 6
of 22 of
1936.

(b) anything which there is reasonable ground for believing will afford evidence as to the commission of any such offence; or

(c) anything which there is reasonable ground for believing is intended to be used for the purpose of committing any offence against the person punishable on summary conviction, ~~for which, according to any enactment for the time being in force, the offender may be arrested without warrant,~~

Sec 6 of
22/1936

may at any time issue a warrant under his hand authorizing any constable to search such building, vessel, carriage, box, receptacle, or place for any such thing, and to seize and carry it before the Magistrate or Justice issuing the warrant or some other Magistrate or Justice, to be by him dealt with according to law.

Schedule III.
Form 48.

(2) Any search warrant may be issued and executed at any time, and may be issued and executed on a Sunday.

(3) When any such thing is seized and brought before any Magistrate or Justice, he may detain or cause it to be detained, taking reasonable care that it is preserved till the conclusion of the case; and if any appeal is made, he may order it further to be detained for the purpose of or

Detention of articles seized.

pending an appeal. If no appeal is made, the Magistrate or Justice shall direct such thing to be restored to the person from whom it was taken, except in the cases hereinafter mentioned, unless he is authorized or required by law to dispose of it otherwise.

Detention of forged bank note, etc.

(4) If, under any such warrant, there is brought before any Magistrate or Justice any forged bank note, bank note paper, or instrument, or any thing the possession of which, in the absence of lawful excuse, is an indictable offence according to any Ordinance for the time being in force, the Magistrate or Justice may direct such thing to be detained for production in evidence or to be otherwise dealt with as the case may require.

Disposal of counterfeit coin.

(5) If, under any such warrant, there is brought before any Magistrate or Justice any counterfeit coin or other thing, the possession of which, with knowledge of its nature and without lawful excuse, is an offence according to any Ordinance for the time being in force, every such thing shall be delivered up to the Inspector-General or to any person authorized by him to receive the same, as soon as it has been produced in evidence, or as soon as it appears that it will not be required to be so produced.

Search for and disposal of gunpowder, etc.

(6) If the thing to be searched for is gunpowder or any other explosive or dangerous or noxious substance or thing, the person making the search shall have the same powers and protection as are given by any Ordinance for the time being in force to any person lawfully authorized to search for any such thing, and the thing itself shall be disposed of in the same manner as directed by any such Ordinance or, in default of such direction, as the Inspector-General may direct.

Enforcing appearance of Defendant.

Issue of summons to defendant.
Schedule III.
Form 3.

39. (1) In every case where a complaint is made before a Magistrate or Justice that any person has committed, or is suspected to have committed, any summary conviction offence within the district of such Magistrate or Justice, it shall be lawful for such Magistrate or Justice to issue his summons directed to such person, stating concisely the substance of such complaint, and requiring him to appear at a certain time, being not less than forty-eight hours after service of such summons, and at a certain

place, before the Court of such Magistrate or Justice to answer the said complaint, and to be further dealt with according to law.

(2) The Court may, if it thinks fit, with the consent of parties, hear and determine a complaint notwithstanding that the said period of forty-eight hours may not have elapsed.

(3) The Court may, if it thinks fit, issue a summons directing a defendant to appear forthwith in cases where an affidavit is made by the complainant that such defendant is likely to leave the Island within forty-eight hours.

(4) Nothing herein contained shall oblige any Magistrate or Justice to issue any such summons in any case where the application for an order may by law be made *ex parte*.

40. (1) Every such summons shall be served by a constable upon the defendant either by delivering a copy of it to him personally, or, if he cannot be found, by leaving a copy of it with some person for him at his usual or last known place of abode.

Service of summons on defendant, and proof thereof.

(2) The constable by whom the summons is served shall attend at the time and place specified therein, in order, if necessary, to prove the service: Provided that the Court may, in its discretion, receive proof of such service by affidavit in the manner hereinafter mentioned.

41. If the defendant does not appear before the Court at the time and place mentioned in the summons, then, after proof upon oath, to the satisfaction of the Court, that the summons was duly served or that the defendant wilfully avoids service, the Court may, in its discretion, either—

Hearing *ex parte* or issue of warrant on non-appearance of defendant.

(a) unless the enactment on which the complaint is founded otherwise directs, proceed *ex parte* to the hearing of the complaint, and adjudicate thereon as fully and effectually to all intents and purposes as if the defendant had personally appeared before it in obedience to the summons; or

(b) adjourn such hearing to some future day; or

Schedule III.
Form 4.

(c) upon oath being made by or on behalf of the complainant, substantiating the matter of the complaint to the satisfaction of the Court, issue a warrant to apprehend the person so summoned or avoiding service, and to bring him before the Court to answer the said complaint, and to be further dealt with according to law.

Issue of
warrant for
defendant in
first instance.
Schedule III.
Form 5.

42. On a complaint in writing being made before a Magistrate or Justice for any summary conviction offence, the Magistrate or Justice may, upon oath being made before him substantiating the matter of such complaint to his satisfaction, instead of issuing a summons, issue in the first instance a warrant to apprehend the person against whom such complaint has been made, and to bring him before the Court of such Magistrate or Justice to answer the said complaint, and to be further dealt with according to law.

Enforcing attendance of Witnesses.

Issue of
summons for
witness.

43. If, either before or on the hearing of any complaint, it appears to the Magistrate or Justice on the statement of the complainant or of the defendant or otherwise, that any person is likely to give material evidence for the complainant or for the defendant, the Magistrate or Justice may issue a summons for such person requiring him to attend, at a time and place to be mentioned therein, before the Court of such Magistrate or Justice, to give evidence respecting the case, and to bring with him any specified documents or things and any other documents or things relating thereto which may be in his possession or power or under his control.

Schedule III.
Form 6.

Service of
summons on
witness.

44. (1) Every such summons shall be served by a constable upon the person to whom it is directed, either by delivering a copy of it to him personally, or, if such person cannot be met with, by leaving a copy of it with some person for him at his usual or last known place of abode.

(2) The constable by whom the summons is served shall attend at the time and place specified therein, in order, if necessary, to prove the service: Provided that the Court may, in its discretion, receive proof of such service by affidavit.

45. If the person to whom any such summons is directed does not attend before the Court at the time and place mentioned therein, and there does not appear to the Court on enquiry to be any reasonable excuse for such non-attendance, then, after proof upon oath to the satisfaction of the Court that the summons was duly served or that the person to whom the summons is directed wilfully avoids service, the Court, on being satisfied that he is likely to give material evidence, may issue a warrant to apprehend such person, and to bring him, at a time and place to be mentioned in the warrant, before the Court in order to testify as aforesaid.

Warrant for witness after summons.

Schedule III. Form 7.

46. If the Magistrate or Justice is satisfied in the first instance, by proof upon oath, that any person likely to give material evidence, either for the complainant or for the defendant, will not attend to give evidence without being compelled so to do, then, instead of issuing a summons, he may issue a warrant in the first instance for the apprehension of such person.

Issue of warrant for witness in first instance. Schedule III. Form 8.

47. (1) Every witness arrested under a warrant issued in the first instance shall, if the hearing 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 Magistrate or Justice, and the Magistrate or Justice may, on his furnishing security by recognizance to the satisfaction of the Magistrate or Justice for his appearance at such hearing, 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 hearing.

Mode of dealing with witness arrested under warrant.

(2) A witness arrested or detained under this section shall not be kept in the same room or place as the defendant, if the defendant is in custody.

48. Any witness who—

- (a) refuses or neglects, without reasonable cause, to attend at a Court in compliance with the requirements of a summons duly served in the manner prescribed by this Ordinance; or
- (b) departs from a Court without the leave of the Magistrate or Justice holding the same,

shall be liable, on summary conviction, to a penalty not exceeding twenty pounds, or to imprisonment, with or

Penalty on witnesses refusing, etc., to attend.

without hard labour, for any term not exceeding two months : Provided that no complaint shall be made for any offence under this section except by the order of the Magistrate or Justice made during the hearing of the case for which the evidence of the witness is required.

Non-attendance of witness on adjourned hearing.

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

Refractory Witnesses.

Witness refusing to be sworn, etc.

50. (1) Where any person attending either in obedience to a summons, or after notification as in the last preceding section mentioned, 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 the sanction of the Court; or
- (c) refuses or neglects to produce any documents 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 the hearing of the case for any period not exceeding eight days, and may in the meantime, by warrant, commit such person to prison, unless he sooner consents to do what is so required of him.

Schedule III.
Form 9.

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

(3) 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 taken by it.

PART IV.

HEARING AND ORDER.

Hearing of Complaint.

51. (1) On the day and at the place mentioned in the summons, or on the day and at the place on and at which the defendant is brought before the Court under a warrant, as the case may be, the case with respect to which the complaint has been made shall be called for hearing in the Court.

Time and place of hearing.

(2) The room or place in which the Court is held for the purpose of such hearing shall be deemed an open Court :

Public to have access.

Provided always, that the Magistrate or Justice may, on special grounds of public policy, decency, or expediency, in his discretion exclude the public at any stage of the hearing :

Public may be excluded.

Provided also, that he shall record in every such case the grounds on which such order has been made.

52. If, upon the hearing of any complaint, it appears to the Court that the case ought to be tried as an indictable offence, all further proceedings in the case as for a summary conviction offence shall be stayed, and depositions shall be taken, and the case shall in all other respects be dealt with as if the charge had been originally one for an indictable offence.

Procedure where charge appears to be one proper for indictment.

53. (1) If, upon the hearing of any complaint, it appears that the cause of complaint arose out of the limits of the district of the Magistrate before which such complaint has been made, the Court may direct the case to be transferred to the Court of the district wherein the cause of complaint arose.

Transfer of case where cause of complaint has arisen out of district of Court. Schedule III. Form 49.

(2) If the defendant is in custody and the Magistrate or Justice directing such transfer thinks it expedient that such custody should be continued, or, if he is not in custody, that he should be placed in such custody, the Magistrate or Justice shall, by his warrant, commit the defendant to prison until he can be taken before a Magistrate or Justice of the district wherein the cause of complaint arose.

(3) The complaint and recognizance, if any, taken by such first named Magistrate or Justice under the provisions of this Ordinance shall be by him transmitted to the Magistrate or Justice before whom the defendant is to be taken; and such complaint and recognizance, if any, shall be treated to all intents and purposes as if they had been taken by such last mentioned Magistrate or Justice.

(4) If the defendant is not continued or placed in custody as aforesaid, the Magistrate or Justice shall inform him that he has directed the transfer of the case as aforesaid, and thereupon the provisions of the last preceding sub-section, respecting the transmission and use of the documents in the case, shall apply.

Mode of
conducting
case.

54. Both the complainant and the defendant shall be entitled to conduct their respective cases in person or by counsel or solicitor, and any person may, by leave of the Court, assist his son, daughter, father, mother, brother, sister, or wife, or any person in his permanent employment as a servant, either domestic or in husbandry, in conducting his case.

Head of
department
may
authorize
officer in his
department
to appear for
him.

55. (1) The head of a department shall not be bound to attend in a Summary Court to conduct any proceedings in which he is a complainant, but may, by writing under his hand, authorize any subordinate officer of his department to appear for him and conduct such proceedings on his behalf.

(2) If any question arises as to whether any officer of the Government is the head of a department, a certificate in writing under the hand of the Colonial Secretary to that effect shall be conclusive evidence on the question.

Non-appear-
ance of com-
plainant.

56. If, when the case is called, the defendant appears voluntarily in obedience to the summons, or is brought before the Court under a warrant, and the complainant,

having had due notice of the time and place of hearing (which shall be proved to the satisfaction of the Court), does not appear in person or in the manner in the last preceding section provided or by counsel or solicitor, the Court shall dismiss the complaint, unless the Court, having received a reasonable excuse for the non-appearance of the complainant, or for other sufficient reason, thinks fit to adjourn the hearing of the same to some future day, upon such terms as the Court may think just.

57. (1) If, when the case is called, the defendant does not appear, the Court may, if the case comes within the provisions of section 41 of this Ordinance, proceed as therein directed, or may, if it thinks fit, allow the defendant to appear by counsel or solicitor.

Non-appearance of defendant.

(2) If service of the summons is not proved to the satisfaction of the Court, or if a warrant is issued for the apprehension of the defendant, the Court may adjourn the hearing of the case to some future day, in order that proper service may be effected, or until the defendant is apprehended, as the case may be.

(3) If the defendant is afterwards apprehended on a warrant as aforesaid, he shall be brought before the Magistrate or Justice, who shall thereupon commit him by warrant to prison or to such other safe custody as he may think fit, and order him to be brought at a certain time and place before the Court; and of such time and place the complainant shall, by direction of the Magistrate or Justice, be served with due notice.

58. (1) If, when the case is called, neither the complainant nor the defendant appears, the Court shall make such order as the justice of the case requires.

Non-appearance of both parties.

(2) In such order the Court may include such direction as to payment of costs as to the Court shall seem fit, and the payment of such costs may be enforced in the manner and subject to the conditions set forth in section 73 (6) of this Ordinance.

59. If, when the case is called, both the complainant and the defendant appear, the Court shall proceed to hear and determine the complaint.

Appearance of both parties.

Manner of hearing.

60. (1) At the commencement of the hearing, the Court shall state or cause to be stated to the defendant the substance of the complaint, and shall ask him whether he is guilty or not guilty.

(2) If the defendant says that he is guilty, and shows no cause, or no sufficient cause, why an order should not be made against him, the Court shall make such order against him as the justice of the case requires.

(3) If the defendant says that he is not guilty, the witnesses on both sides shall, unless the Court in any instance otherwise expressly orders, be called, and placed out of the Court and out of hearing, under the charge of the proper officer of the Court or of some other person appointed by the Court for that purpose.

(4) The Court shall then proceed to hear the complainant and such witnesses as he may examine, and such other evidence as he may adduce, in support of his complaint, and also to hear the defendant and such witnesses as he may examine, and such other evidence as he may adduce, in his defence, and also, if the Court thinks fit, to hear such witnesses as the complainant may examine in reply, if the defendant has examined any witnesses or given any evidence.

Notes of evidence to be taken.

(5) The Magistrate or Justice shall, in every case, take or cause to be taken by a competent clerk notes in writing of the evidence, or of so much thereof as he considers is material, in a book to be kept for that purpose, and such book shall be signed by the Magistrate or Justice at the conclusion of each day's proceeding.

Cross complaints.

^{s. 21}
61. Where a complaint is made by one or more parties against another party or parties, and there is a cross complaint by the defendant or defendants in such first named case either by himself or themselves or together with another person or persons against the complainant or complainants in the first named case either by himself or themselves or together with another person or persons, and such cross complaints are with reference to the same matter, the Court may, if it thinks fit, hear and determine such complaints at one and the same time.

s. 21. See Sec 7 of 22 of 1936.

Addresses.

62. The complainant, or his counsel or solicitor, shall be entitled to address the Court at the commencement of his

case; the defendant, or his counsel or solicitor, shall be entitled to address the Court at the commencement or the conclusion of his case, as he thinks fit; and if any witnesses for the defence have been examined or any evidence given, the Magistrate or Justice may in his discretion allow the complainant, or his counsel or solicitor, to reply on the conclusion of the case.

Adjournment of Hearing.

63. (1) At any time before or during the hearing of a complaint, it shall be lawful for the Court, in its discretion, to adjourn the hearing of the same to a certain time and place to be then appointed and stated in the presence and hearing of the party or parties, or his or their respective counsel or solicitor.

Power of adjournment and proceedings thereon.

(2) The Court, on being satisfied that a defendant who has been remanded is, by reason of illness or accident, unable at the expiration of the period for which he was remanded to appear personally before the Court, may, in the absence of the defendant, order him to be further remanded for such term as may be deemed reasonable.

(3) Upon any such adjournment, the Court may—

(a) suffer the defendant to go at large; or

(b) commit him to prison or to such other safe custody as it thinks fit: Provided that no such committal shall be for a longer term than eight days, the day following that on which such committal is made being counted as the first day; or

Schedule III.
Form 20.
Form 21.

(c) discharge him upon his entering into a recognizance, with or without a surety or sureties, conditioned for his appearance at the time and place to which such hearing or further hearing is so adjourned.

Forms 29&30.

(4) If, at the time and place to which such hearing or further hearing is so adjourned, either or both of the parties does or do not appear, the Court may proceed to such hearing or further hearing as if such party or parties was or were present; or, if the complainant does not appear, the Court may dismiss the complaint.

Form 17

Rep
Vide Sec
8 of 22 of
1936

(5) The Magistrate may also, if the defendant fails to appear, issue a warrant for his apprehension.

Making of Order.

Giving of
decision upon
conclusion of
hearing.
Schedule III.
Form 17.

64. (1) Upon the conclusion of the hearing, the Court shall, either at the same or at an adjourned sitting, give its decision on the case, by either dismissing the complaint or making such order as the justice of the case requires against the defendant.

Form 44.

(2) If the complaint is dismissed on the merits, the Court shall, upon being required by or on behalf of the defendant at any time within six months after such dismissal, make a formal order of dismissal and give to the defendant a certificate thereof; and such certificate shall, upon production, without further proof, be a bar to any subsequent complaint for the same matter against the defendant.

(3) If an order is made against the defendant, a concise minute or memorandum thereof shall be forthwith entered in a book to be kept for that purpose; and, if necessary, an order in proper form may be drawn up at any time thereafter.

(4) Any defendant who desires to have the order in his case formally drawn up may, at any time within five days from the date of adjudication, require the Magistrate or Justice to draw up formally such order; and thereupon it shall be the duty of the Magistrate or Justice, within two days from the date of his being so required, to draw up formally such order, and the defendant shall be entitled to have a copy thereof, without any fee being charged for the same.

General
power of
awarding
imprisonment
in default of
payment of
penalty.
Schedule III.
Form 10.
Form 11.
Form 13.

65. (1) Where, by any enactment, the Court is empowered to impose a penalty for a summary conviction offence, it may, in the absence of express provision to the contrary in the same or any other enactment, order a defendant who is convicted of such offence, in default of payment of the sum of money adjudged to be paid by the order, either forthwith or at the time specified in the order, as the case may be, to be imprisoned, with or without hard labour, in accordance with the scale set forth in this section.

(2) Subject in every case to the provisions of the Ordinance on which the order is founded, the period of imprisonment, whether with or without hard labour, which is imposed by the Court in respect of the non-payment of any sum of money adjudged to be paid by an order shall be such period as, in the opinion of the Court, will satisfy the justice of the case, but shall not exceed the maximum fixed in the following scale, that is to say:—

Scale of imprisonment for non-payment of money adjudged to be paid.

<i>Where the sum of money adjudged to be paid by an order—</i>	<i>The said period shall not exceed—</i>
Does not exceed £1 ^{or \$1.50} ...	14 days.
Exceeds £1 ^{or \$1.50} but does not exceed £5 ^{or \$24.00} ...	1 month. <i>30 days.</i>
Exceeds £5 ^{or \$24.00} but does not exceed £25 ^{or \$120.00} ...	3 months.
Exceeds £25 ^{or \$120.00} but does not exceed £50 ^{or \$240.00} ...	4 months.
Exceeds £50 ^{or \$240.00} ...	6 months.

66. Where a Court has authority under any Ordinance, whether past or future, to impose imprisonment for an offence punishable on summary conviction and has not authority to impose a fine for that offence, the Court, when adjudicating on such offence, may, notwithstanding, if the Court thinks that the justice of the case will be better met by a fine than by imprisonment, impose a fine not exceeding fifty pounds: Provided that the alternative term of imprisonment in default of payment of the fine shall not be a greater term than that to which the defendant is liable under the Ordinance authorizing the said imprisonment. (*As amended by 32 of 1925, s. 2.*)

Power to inflict fine in lieu of imprisonment.

67. The Court in fixing the amount of any fine to be imposed on an offender shall take into consideration, amongst other things, the means of the offender so far as they appear or are known to the Court; and where a fine is imposed, the payment of the Court fees and other fees payable in the case up to and including conviction shall not be taken into consideration in fixing the amount of the fine or be imposed in addition to the fine, but the amount of the fine, or of such part thereof as may be paid or recovered, shall be applied as follows:—

Payment and allocation of fines and fees.

- (a) In the first place, in the repayment to the complainant of any Court or other fees paid by him;

- (b) In the second place, in the payment of any Court or other fees not already paid by the complainant;
- (c) The balance (if any) remaining after the aforesaid payments have been made shall be paid to the fund or person to which the fine is directed to be paid by the enactments relating to the offence in respect of which the fine was imposed, or, if there is no such fund or person, then to the fund into which the Court or other fees are paid. (*Added by 32 of 1925, s. 3.*)

Consecutive sentences of imprisonment. Schedule III. Form 52.

68. Where a sentence of imprisonment (whether peremptory or in default of payment of a penalty) is passed on any person by a Summary Court, the Court may order that the sentence shall commence at the expiration of any other term of imprisonment to which that person has been previously sentenced, so however that where two or more sentences passed by a Summary Court are ordered to run consecutively, the aggregate term of imprisonment shall not exceed twelve months, unless such sentences included at least two sentences for indictable offences dealt with summarily by consent or on a plea of guilty, in which case the aggregate term of imprisonment shall not exceed eighteen months. (*As amended by 32 of 1925, s. 4.*)

Mode of dealing with forfeiture not pecuniary.

69. Subject to the express provisions of any enactment relating thereto, every forfeiture not pecuniary which is incurred in respect of a summary conviction offence, or which may be enforced by the Court, may be sold or disposed of in such manner as the Court may direct, and the proceeds of such sale shall be applied in the like manner as if the proceeds were a penalty imposed under the enactment on which the proceeding for the forfeiture is founded.

Offence charged—attempt proved.

70. (1) Where the complete commission of the offence charged is not proved, but the evidence establishes an attempt to commit the offence, the defendant may be convicted of such attempt and punished accordingly: Provided that, after conviction for such attempt, the defendant shall not be liable to be prosecuted again for the same offence which he was charged with committing.

Attempt charged—full offence proved.

(2) Where an attempt to commit an offence is charged, but the evidence establishes the commission of

the full offence, the defendant shall not be entitled to have the complaint dismissed, but he may be convicted of the attempt and punished accordingly: Provided that, after conviction for such attempt, the defendant shall not be liable to be prosecuted again for the offence which he was charged with attempting to commit.

71. Every complaint shall be deemed divisible; and if the commission of the offence charged, as described in the enactment creating the offence or as charged in the complaint, includes the commission of any other offence, the defendant may be convicted of any offence so included which is proved, although the whole complaint charged is not proved, or he may be convicted of an attempt to commit any offence so included.

Conviction for offence involved in offence charged.

72. (1) Where embezzlement, or the fraudulent application or disposition of anything, is charged, and the evidence establishes the commission of larceny of any kind, the defendant shall not be entitled to have the complaint dismissed, but he may be convicted of such larceny, and punished accordingly. *See Sec. 2 of 20/1928*

conversion

Embezzlement charged—larceny proved, and vice versa.

4 false pre-tences -

(2) Where larceny of any kind is charged, and the evidence establishes the commission of embezzlement, or the fraudulent application or disposition of anything, or the receiving of any 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 embezzlement or fraudulent application or disposition or receiving, and punished accordingly. (*Substituted by 32 of 1925, s. 5.*)

see Sec 4 No 30 of 1932

(3) No person so convicted of larceny, embezzlement, fraudulent application or disposition, or receiving, as aforesaid, shall be liable to be afterwards prosecuted for larceny, embezzlement, fraudulent application or disposition, or receiving, upon the same facts. (*Substituted by 32 of 1925, s. 5.*) *See Sect. 70 of 7/1928 in 72A*

conversion

conversion

Costs and Compensation.

72 B

73. (1) In every case where the complaint is dismissed, the Court may order that the complainant shall pay to the defendant such sum for costs as to the Court may seem just and reasonable, and if the Court is of opinion that the

Order as to costs and compensation.

See Sec 10 of 22 of 1936

complaint was frivolous or vexatious, it may also order the complainant to pay to the defendant a reasonable sum, not exceeding five pounds, as compensation for the trouble and expense to which the defendant may have been put, by reason of such complaint, in addition to his costs.

(2) The acceptance of any such order for compensation by the defendant shall be a bar to any subsequent civil proceedings for false imprisonment or malicious prosecution by him against the complainant, but the defendant shall be at liberty to refuse to accept any such order for compensation.

(3) Subject to the provisions of section 67 of this Ordinance, in every case where an order is made against the defendant, the Court may, in addition to the penalty or sentence of imprisonment, if any, imposed on such defendant, order him to pay to the complainant such costs, and also, subject to the provisions of any enactment in that behalf, to pay to the complainant or any other person such compensation, as to the Court may seem just and reasonable: Provided that this section shall not affect the procedure of the Court under any enactment making express provision with respect to such compensation. (*As amended by 32 of 1925, s. 6.*)

(4) Any such order for payment of costs made against a defendant may include any costs of and attendant upon his apprehension.

(5) No such order for payment of costs shall include any fees to counsel or solicitor.

(6) Any sum so allowed for costs, or for costs and compensation, shall in every case be specified in the order of dismissal or order, as the case may be, and the Court may order that, on default of payment within such time as to the Court shall seem proper of any sum so allowed for costs, or for costs and compensation, the person making default be imprisoned, with or without hard labour, for any term not exceeding the term prescribed in respect of a like sum in the scale of imprisonment set forth in section 65 of this Ordinance.

Schedule III.
Form 28.
Form 28a.

s. s. 1. *see sec 11 of 22 of 1936*
PART V.

~~ENFORCEMENT OF ORDER TO PAY MONEY.~~

~~74. (1) The Court by whose conviction or order any sum of money is adjudged to be paid shall not issue forthwith a warrant committing a person to prison in respect of the~~

Mode of
payment
of money
adjudged to
be paid by
order.

non-payment of the sum adjudged to be paid by such conviction or order, but shall allow time for payment of the said sum or direct payment thereof to be made by instalments, unless the Court is satisfied that such person is possessed of sufficient means to enable him to pay the sum forthwith, or unless, upon being asked by the Court whether he desires that time shall be allowed for payment, he does not express any such desire, or fails to satisfy the Court that he has a fixed abode within its jurisdiction, or unless the Court for some special reason directs that no time shall be allowed: Provided that where a person liable to pay such sum shall give, to the satisfaction of the Court, security, either with or without surety or sureties, for the payment of the said sum or of any instalments thereof, the Court shall allow time for payment of the said sum or any instalment thereof.

(2) Where any such person desires to be allowed time for payment, the Court in deciding what time shall be allowed shall consider any representation made by him, but the time allowed shall not be less than seven clear days:

Provided that if, before the expiration of the time allowed, the person in respect of whom the warrant has been issued surrenders himself to any Court having jurisdiction to issue a warrant of commitment in respect of the non-payment of such sum as aforesaid, and states that he prefers immediate committal to awaiting the expiration of the time allowed, that Court may, if it thinks fit, forthwith issue a warrant committing him to prison.

(3) Where a person so allowed time for payment as aforesaid appears to the Court to be not less than sixteen nor more than twenty-one years of age, the Court may, if it thinks fit, and subject to any rules made under this Ordinance, order that he be placed under the supervision of such person as may be appointed by the Court until the sum adjudged to be paid is paid, and in such case, before issuing a warrant in respect of non-payment of the sum, the Court shall consider any report which may be made by the person so appointed as to the conduct and means of the person under his supervision.

(4) In all cases where time is not allowed for payment, the reasons of the Court for the immediate committal shall be stated in the warrant of commitment.

Repealed
by
Sec 12
of
22
of
1936

Repealed by No 30 of 1932 Sec 5

~~(5) Where a sum of money is directed to be paid by instalments and default is made in the payment of any one instalment, the same proceedings may be taken as if default had been made in the payment of all the instalments then remaining unpaid. (Substituted by 32 of 1925, s. 7.)~~

Repealed by Sec 13 of 22 of 1936

Allowance of further time and payment by instalments.

75. Where time has been allowed for the payment of a sum adjudged to be paid by a conviction or order, further time may, subject to any rules made under this Ordinance, on an application by or on behalf of the person liable to pay such sum, be allowed by a Court having jurisdiction to issue a warrant of commitment in respect of the non-payment of such sum as aforesaid, or such Court may, subject as aforesaid, direct payment by instalments of the sum so adjudged to be paid. (Added by 32 of 1925, s. 8.)

Provisions for enforcement of payment of fines, etc.

76. Where a person has been adjudged to pay a sum by a conviction or order of a Summary Court, or in proceedings for enforcing an order in any matter of bastardy, or an order under which weekly sums are made payable towards the maintenance of a wife, the Court may order him to be searched, and any money found on him on apprehension, or when so searched, or which may be found on him when taken to prison in default of payment of the sum so adjudged to be paid, may, unless the Court otherwise directs, be applied towards the payment of the sum so adjudged to be paid, and the surplus, if any, shall be returned to him :

Provided that the money shall not be so applied if the Court is satisfied that the money does not belong to the person on whom it was found, or that the loss of the money will be more injurious to his family than his imprisonment. (Added by 32 of 1925, s. 9.)

Court may accept deposit of money in lieu of surety.

~~77. The Court may accept a deposit of money from or on account of any person in lieu of such surety or sureties, and, on any breach of the condition of his recognizance, such deposit shall be forfeited and shall be dealt with in the manner hereinafter mentioned.~~

Repealed by Sec 13 of 22 of 1936

Warrant of Distress.

78. (1) Any sum of money adjudged to be paid by an order shall, if the enactment on which the order is founded so directs, but subject to the provisions hereafter in this section contained, and may, in the discretion of the Court in other cases, be levied upon the moveable property of the defendant by distress and sale thereof.

Issue of distress warrant in certain cases.

(2) In any such case the Court shall, but subject as aforesaid, or may, as the case may be, issue its warrant of distress for the purpose of levying the same, and such warrant shall be in writing and shall be signed by the Magistrate or Justice.

Schedule III.
Form 12.
Form 14.
Form 18.
Form 19.

(3) Where a warrant of distress is issued by the Court, it shall authorize the person charged with the execution thereof to take any money as well as any goods of the person against whom the distress is levied, and any money so taken shall be treated as if it were the proceeds of sale of goods taken under the warrant. (*Added by 32 of 1925, s. 10.*)

(4) If it appears to the Court, at the time such sum of money is adjudged to be paid or when application is made to it to issue any such warrant, that the defendant has no money or moveable property whereon to levy the distress, or that, in the event of a warrant of distress being issued, his money or moveable property will be insufficient to satisfy the sum of money adjudged to be paid by the order, or that the levy of the distress will be more injurious to him or his family than imprisonment, the Court may, if it thinks fit, instead of issuing such warrant of distress, order the defendant, on non-payment of the said sum, to be imprisoned, with or without hard labour, for any term not exceeding the term prescribed in respect of a like sum in the scale of imprisonment set forth in section 65 of this Ordinance. (*As amended by 32 of 1925, s. 10.*)

(5) The wearing apparel and bedding of a person and his family, and, to the value of three pounds, the tools and implements of his trade, shall not be taken under a warrant of distress issued by the Court.

Commitment
or security
until return
made to dis-
tress warrant.
Schedule III.
Form 25.

79. Where a warrant of distress is issued against the defendant, the Court may either suffer the defendant to go at large or, by a warrant in that behalf, order him to be kept and detained in safe custody until return has been made to the warrant, unless the defendant give sufficient security, by recognizance or otherwise, to the satisfaction of the Court, for his appearance before the Court at the time and place appointed for the return of the warrant.

Imprison-
ment in
default of
distress.
Schedule III.
Form 45.
Form 26.

80. Where a warrant of distress is issued against the defendant, and a return is made by the constable charged with the execution of the warrant to the effect that no sufficient money or moveable property of the defendant can be found whereon to levy the distress, the Court may order the defendant, on non-payment of the sum of money adjudged to be paid by the order and all costs and charges of the distress and of the commitment, to be imprisoned, with or without hard labour, for any term not exceeding the term prescribed in respect of a like sum in the scale of imprisonment set forth in section 65 of this Ordinance. (*As amended by 32 of 1925, s. 11.*)

General pro-
visions with
respect to dis-
tress war-
rants.

81. The following provisions shall have effect with respect to the execution of warrants of distress issued by the Court, namely :—

- (1) A warrant of distress shall be executed by or under the direction of a constable;
- (2) If the constable charged with the execution of the warrant is prevented from executing the same by the fastening of doors or otherwise, the Magistrate or Justice may, by writing under his hand endorsed on the warrant, authorize him to use such force as may be necessary to enable him to execute the warrant;
- (3) Except so far as the person upon whose moveable property the distress is levied otherwise consents in writing, the distress shall be sold at public auction, and three days at least shall intervene between the making of the distress and the sale; but where consent in writing is so given as aforesaid the sale may be in accordance with such consent;
- (4) Subject as aforesaid, the distress shall be sold within the time fixed by the warrant, and if no

time is so fixed, then within the period of fourteen days from the date of the making of the distress, unless the sum for which the warrant was issued, and also the charges of taking and keeping the distress, are sooner paid;

- (5) If any person charged with the execution of a warrant of distress wilfully retains from the produce of any property sold to satisfy the distress, or otherwise exacts, any greater costs or charges than those to which he is for the time being entitled by law, or makes any improper charge, he shall be liable, on summary conviction before a Magistrate, to a penalty not exceeding ten pounds: Provided that nothing herein contained shall affect the liability of any such person to be prosecuted and punished for extortion;
- (6) A written account of the costs and charges incurred in respect of the execution of any warrant of distress shall, as soon as practicable, be delivered by the constable charged with the execution of the warrant to the Magistrate or Justice; and it shall be lawful for the person upon whose moveable property the distress was levied, at any time within one month after the making of the distress, to inspect such account, without payment of any fee or reward, at any time during office hours, and to take a copy of such account;
- (7) A constable charged with the execution of a warrant of distress shall sell the distress or cause the same to be sold, and may deduct out of the amount realised by such sale all costs and charges actually incurred in effecting such sale, and shall pay to the Magistrate or Justice, or to some person specified by him, the remainder of such amount, in order that the same may be applied in payment of the sum for which the warrant was issued and of the proper costs and charges of the execution of the warrant, and that the surplus, if any, may be rendered to the person upon whose moveable property the distress was levied.

Schedule III.
Form 46.

82. When any person against whom a warrant of distress is issued pays or tenders to the constable having the

Payment of
amount of
distress
warrant.

execution of the same the sum or sums in such warrant mentioned, or produces to him the receipt for the same of the Clerk of the Court, and also pays the amount of the costs and charges of such distress up to the time of such payment or tender, the constable shall cease to execute the warrant.

^{s. 31} Commitment of Defendant, etc.

Power to commit defendant in certain cases.

^{s. 31} 83. In every case where an order is made against any person for the payment of a sum of money, and such person is liable to be imprisoned, or imprisoned and kept to hard labour, for a certain term unless such sum shall be sooner paid, if such person does not pay the same, either forthwith or at the time specified in such order for the payment of the same, as the case may be, it shall be lawful for the Court to issue its warrant of commitment, under the hand of the Magistrate or Justice, requiring any constable to take and convey such person to prison, and there deliver him to the Keeper, and requiring the Keeper to receive such person into the prison, and there to imprison him and keep him to hard labour, as the case may be, for such time as may be directed and appointed by the warrant of commitment, unless the sum of money adjudged to be paid by the order, and also all other costs, charges, and expenses, shall be sooner paid. Any warrant of commitment issued under the provisions of this section may be executed on a Sunday. (As amended by 6 of 1923, s. 3.)

Schedule III. Form 22.

See See
8-13-22
1936
see two

Power to postpone issue of warrant of commitment.

^{s. 32} 84. (1) Where application is made to the Court to issue a warrant for committing a person to prison for non-payment of any sum of money adjudged to be paid by an order, the Court may, if it deems it expedient so to do, postpone the issue of such warrant until such time and on such conditions, if any, as to the Court may seem just.

(2) When the Court orders the imprisonment of any person, the Court may, if it thinks fit, order that such imprisonment shall not commence forthwith, but shall commence on any day not more than three months after the date of such order as the Court may fix, and in such case the Court may either suffer the person to go at large until such day or discharge him upon his entering into a recognizance, with or without sureties, conditioned for his reappearance on such day to undergo such imprisonment.

*repealed
ec 16
of
22 of
1936*

85. In all cases where any person against whom a warrant of commitment for non-payment of any sum of money adjudged to be paid by an order is issued, pays or tenders to the constable having the execution of the same the sum or sums in such warrant mentioned, together with the amount of the expenses of such warrant up to the time of such payment or tender, the constable shall cease to execute such warrant.

Payment of penalty to constable.

*affix 15
Road Lodge
Maine, Maine
22 of 1936*

86. Where any person is brought by a constable to any prison to be imprisoned by virtue of a warrant of commitment, the constable shall endorse on such warrant the day on which such person was arrested by virtue thereof; and the imprisonment shall be computed from such day and inclusive thereof.

Commencement of imprisonment.

87. Where any person has been committed to prison by the Court for default in finding a surety or sureties, the Court may, on application made to it by such person or by some person acting on his behalf, enquire into the case of such person, and if, upon new evidence produced to the Court or proof of a change of circumstances, the Court thinks, having regard to all the circumstances of the case, that it is just so to do, the Court may reduce the amount for which it was ordered that the surety or sureties should be bound, or dispense with the surety or sureties, or otherwise deal with the case as the Court may think just.

Varying of or discharging order for sureties.

88. (1) Where any person has been committed to prison by the Court for non-payment of any sum of money adjudged to be paid by an order, such person may pay or cause to be paid to the Keeper the sum mentioned in the warrant of commitment, together with the amount of the costs, charges, and expenses, if any, also mentioned therein, and the Keeper shall receive the same and thereupon discharge such person, unless he is in his custody for some other matter.

Right of person imprisoned in default to be released on paying sum, etc.

(2) Where a term of imprisonment is imposed by the Court for non-payment of any sum adjudged to be paid by an order, that term shall, on payment of a part of such sum to the Court or to the Keeper, be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days in the term as the sum paid bears to the sum adjudged to be paid; Provided that in

Deleted by 22 of 1926
~~no case shall the period of imprisonment be reduced below seven days. (Substituted by 2 of 1919, s. 3.)~~

3-70 Schedule

(3) In any case where, under the last preceding subsection, a sum has been received in part satisfaction of a sum due from a prisoner in consequence of the conviction of the Court, such sum shall be applied, firstly, towards the payment in full or in part of any costs or damages or compensation which the Court may have ordered to be paid to the complainant, and, secondly, towards the payment of the fine, if any, imposed on the prisoner.

Determina-
 tion of
 liability of
 defendant on
 satisfaction
 of or dis-
 charge from
 order.

89. Where the defendant, having been convicted of the offence with which he was charged, has paid the sum of money adjudged to be paid by the order, or has been discharged therefrom by the Crown, or has undergone imprisonment for non-payment thereof or imprisonment adjudged in the first instance, or both, or has been discharged from his conviction in manner aforesaid, he shall be released from all other criminal proceedings for the same matter: Provided that nothing in this section shall affect the further liability of any person in respect of any continuing or recurring offence.

Summary Order.

Summary
 order to do
 specific act.

90. (1) Where a power is by any enactment given to the Court of requiring any person to do or to abstain from doing any act or thing, other than the payment of money, or of requiring any act or thing to be done or left undone, other than the payment of money, and no mode is prescribed of enforcing such requisition, the Court may exercise such power by an order, and may annex to any such order any condition as to time or mode of action or otherwise which the Court may think just, and may suspend or rescind any such order on such undertaking being given, or such condition being performed, as the Court may think just, and generally may make such arrangements for carrying into effect such power as to the Court may seem fit.

Schedule III.
 Form 15.

Schedule III.
 Form 13.

(2) Every person who makes default in complying with an order of the Court in relation to any matter arising under an enactment, other than the payment of money, shall be punished in the manner prescribed by such enactment, or, if no punishment is so prescribed, may, in the discretion of the Court, be ordered to pay a sum not exceeding one pound for every day during which he is in default

or to be imprisoned, with or without hard labour, until he has remedied his default : Provided that a person shall not, for non-compliance with the requisition of the Court, whether made by one or more orders, to do or to abstain from doing any act or thing, be liable under this section to the payment of any sums amounting in the aggregate to more than twenty-five pounds, or to imprisonment for any periods amounting in the aggregate to more than two months.

(3) In making any such order as aforesaid, it shall be lawful for the Court to order that, in default of compliance with the order, the defendant shall pay to the complainant such sum as the Court may award as a fair compensation to him for such default, and to direct that, in default of the payment of such sum, the defendant shall be imprisoned for any term not exceeding the term prescribed in respect of a like sum in the scale of imprisonment set forth in section 65 of this Ordinance.

PART VI.

SUMMARY TRIAL OF INDICTABLE OFFENCES.

Summary Trials Generally.

91. (1) Where, upon the holding of any preliminary enquiry on a charge of an indictable offence, the Magistrate or Justice is of opinion that the evidence establishes, or appears likely to establish, the commission of a summary conviction offence of a like kind to the offence charged, the Magistrate or Justice may, if he thinks fit, and unless the Attorney-General otherwise directs, inform the accused person accordingly, and all further proceedings in the case thereafter shall be the same as if a complaint had been made against such person for such latter offence.

Power to reduce charge from indictable to summary conviction offence.

(2) The Court, without prejudice to any other power which it may possess, may, for the purpose of ascertaining whether it is expedient to deal with a case summarily, either before or during the hearing of the case, adjourn the case and remand the person charged.

Power to remand person charged.

(3) A person may be remanded under this section in like manner in all respects as a person accused of an indictable offence may be remanded.

Attorney-General may require case to be adjourned or dealt with specially.

92. It shall be lawful for the Attorney-General, in the case where any charge of an indictable offence is being proceeded with summarily under the provisions of this Ordinance, at any time before the decision thereof, by order in writing under his hand, to require such Magistrate or Justice to adjourn such case or to deal with the same as one for trial on indictment, and on receipt of such requisition the Magistrate or Justice shall deal with such case accordingly.

Magistrate or Justice to adjourn case on request of prosecutor.

93. A Magistrate or Justice shall at any time before the decision thereof, at the request of any person in charge of any prosecution, adjourn the hearing of any charge involving an indictable offence punishable on summary conviction, in order that the Attorney-General may be consulted with a view of obtaining an order as in the last preceding section mentioned to have the case dealt with as one for trial on indictment.

General provisions as to dealing summarily with indictable offences.

94. Where an indictable offence is, under the circumstances mentioned in this Ordinance, authorized to be dealt with summarily—

- (1) the procedure shall, until the Court assumes the power to deal with the offence summarily, be the same in all respects as if the offence were to be dealt with throughout as an indictable offence, but when and so soon as the Court assumes the power to deal with such offence summarily, the procedure shall be the same, from and after that period, as if the offence were a summary conviction offence and not an indictable offence, and the provisions of this Ordinance shall apply accordingly: Provided that nothing herein contained shall be construed to prevent the Court from dealing thereafter with the offence as an indictable offence, if it thinks fit so to do;
- (2) the evidence of any witness taken before the Court assumed the power to deal with the offence summarily need not be taken again, but every such witness shall, if the defendant so requires it, be recalled for the purpose of cross-examination;
- (3) the conviction for any such offence shall be of the same effect as a conviction on a trial on indictment for the offence;

(4) where the Court has assumed the power to deal with the offence summarily, and dismisses the complaint on the merits, it shall, if required, deliver to the person charged, a copy, certified under the hand of the Magistrate or Justice, of the order of dismissal, and such dismissal shall be of the same effect as an acquittal on a trial on indictment for the offence;

(4) the conviction shall contain a statement as to the plea of guilty of an adult, but it shall not be necessary to the validity or regularity of any conviction or committal in respect of an indictable offence under the provisions of this Ordinance that the same should contain any averment or statement of the consent of the person charged or his guardian to any offence being dealt with summarily by such Magistrate or Justice: Provided, however, that in every case in which such Magistrate or Justice so deals summarily with any offence by consent of the person charged, a note of such consent having been given, and of the person by whom the same has been given, shall be taken by such Magistrate or Justice or his Clerk.

95 Vide Sec 17 of 22 of 1936.

Summary Trial of Child for Indictable Offence.

95. (1) Where a child is charged before the Court with any indictable offence, other than treason, murder, or manslaughter, the Court, if it thinks it expedient so to do, and if the guardian of the child so charged, when informed by the Court of his right to have the child tried by a jury, does not object to the child being dealt with summarily, may deal summarily with the offence, and, in case of conviction, inflict the same description of punishment as might have been inflicted if the case had been tried on indictment: Provided that—

Summary trial of child for indictable offence unless objected to by guardian.

Schedule III. Form 39. Form 40.

(a) where a penalty is awarded, the amount shall not in any case exceed two pounds;

(b) when the child is a male, the Court may, either in addition to or in lieu of any other punishment, order the child to undergo corporal punishment, or to be sent to an

Repealed
by 22 of
1936
Sec 17

Repealed by 22 of 11/11/36
which see the new 95.

Industrial School or Orphanage, or to both undergo corporal punishment and be sent to an Industrial School or Orphanage;

- (c) when the child is a female, the Court may, either in addition to or in lieu of any other punishment, order the child to be sent to an Industrial School or Orphanage.

(2) For the purpose of a proceeding under this section, the Court shall, at any time during the hearing of the case at which it becomes satisfied by the evidence that it is expedient to deal with the case summarily, cause the charge to be reduced into writing, (if this has not been already done), and read to the guardian of the child, and then address a question to such guardian to the following effect:—"Do you desire the child to be tried by a jury, and object to the case being dealt with summarily by this Court?" with a statement, if the Court thinks such statement desirable for the information of such guardian, of the meaning of the case being dealt with summarily, and of the sitting of the Supreme Court at which the child will be tried, if tried by a jury.

Schedule III.
Form 38.

(3) Where the guardian of a child is not present when the child is charged with an indictable offence before the Court, the Court may, if it thinks it just so to do, remand the child for the purpose of causing notice to be served on such guardian, with a view of securing, so far as may be practicable, his attendance at the hearing of the charge, or the Court, may, if it thinks it expedient so to do, deal with the case summarily.

(4) Nothing in this section shall render punishable for an indictable offence any child who is not, in the opinion of the Court before which he is charged, of or above the age of seven years and of sufficient capacity to commit crime.

96 Vide Sec 18 of 22 of 1936.

Summary Trial of Adult for Indictable Offence.

Summary
trial with
consent of
adult.

Schedule III.
Form 42.
Form 43.

96. (1) Where a person who is an adult is charged before the Court with any indictable offence specified in the second column of the Second Schedule to this Ordinance, the Court, if it thinks it expedient so to do, and if the person charged with the offence, when informed by the Court of

his right to be tried by a jury, consents to be tried summarily, may summarily try the offence, and adjudge such person, if found guilty of the offence, either to pay a penalty not exceeding fifty pounds or to be imprisoned, with or without hard labour, for any term not exceeding six months.

repeated
by 5297
4/12/28

(2) For the purpose of a proceeding under this section, the Court shall, at any time during the hearing of the case at which it becomes satisfied by the evidence that it is expedient to deal with the case summarily, cause the charge to be reduced into writing, (if this has not been already done), and read to the person charged, and then address a question to him to the following effect:—" Do you desire to be tried by a jury, or do you consent to the case being tried summarily by this Court? " with a statement, if the Court thinks such statement desirable for the information of the person to whom the question is addressed, of the meaning of the case being tried summarily, and of the sitting of the Supreme Court at which he will be tried, if tried by a jury.

97 *Nov Dec 18 of 22 of 1936*

97. (1) Where a person who is an adult is charged before the Court with any indictable offence which is specified in the first column of the Second Schedule to this Ordinance, and is not comprised in the second column of the said Schedule, and the Court, at any time during the hearing of the case, becomes satisfied that the evidence is sufficient to put the person charged on his trial for the said offence, and further is satisfied (either after such a remand as is provided by this Ordinance or otherwise) that the case is one which, having regard to the character and antecedents of the person charged, the nature of the offence, and all the circumstances of the case, may properly be dealt with summarily and may be adequately punished by virtue of the powers of this Ordinance, then the Court shall cause the charge to be reduced into writing, (if this has not been already done), and read to the person charged, and shall then ask him whether he is guilty or not of the charge; and if such person says that he is guilty, the Court shall thereupon cause a plea of guilty to be entered, and adjudge him either to pay a penalty not exceeding fifty pounds or to be imprisoned, with or without hard labour, for any term not exceeding six months.

Summary conviction, or plea of guilty, of adult.

106

Schedule III. Form 41.

(2) The Court, before asking, in pursuance of this section, the person charged whether he is guilty or not, shall explain to him that he is not obliged to plead or answer, and that if he pleads guilty he will be dealt with summarily and that if he does not plead or answer, or pleads not guilty, he will be dealt with in the usual course; with a statement, if the Court thinks such statement desirable for the information of the person to whom it is addressed, of the meaning of the case being dealt with summarily or in the usual course, and of the sitting of the Supreme Court at which he will be tried, if tried by a jury. The Court shall further state to such person to the effect that he is not obliged to say anything unless he desires so to do, but that whatever he says will be taken down in writing and may be given in evidence against him upon his trial.

(3) If the person charged does not plead guilty, whatever he says in answer shall be taken down in writing and read over to him and signed by the Magistrate or Justice and kept with the depositions of the witnesses and transmitted with them in manner required by law, and afterwards upon the trial of the person charged may, if necessary, be given in evidence against him without further proof thereof, unless it is proved that the Magistrate or Justice purporting to have signed the same did not in fact sign the same.

PART VII.

MISCELLANEOUS PROVISIONS.

Ownership of Property.

98. (1) Where, in any document in any proceeding under this Ordinance, it is necessary to state the ownership of any property whatsoever, whether moveable or immoveable, which belongs to or is in the possession of more than one person, it shall be sufficient to name one of such persons, and to state such property to belong to the person so named and another or others, as the case may be.

(2) Where, in any such document, it is necessary to mention, for any purpose whatsoever, any partners or other

Mode of
stating
ownership of
property of
partners, etc.

joint owners or possessors, it shall be sufficient to describe them in manner aforesaid.

(3) The provisions of this section shall be construed to extend to all companies and associations, societies and trustees, but property may be described as belonging to any company or association by its legal or registered title.

(4) Where any property is, in any such document, described as being in any company, association, or society by its registered title, proof of the registration of the company, association, or society shall not be required unless the Court decides that such proof shall be given; in which case the further hearing shall be adjourned for the purpose on such terms as the Court may direct; or the Court may, in its discretion, amend the proceedings by substituting the name of some person or persons for the name of such society, company, or association.

99. Where, in any document in any proceeding under this Ordinance, it is necessary to state the ownership of any church, chapel, or building set apart for religious worship or of anything belonging to or being in the same, it shall be sufficient to state that such church, chapel, or building, or such thing is the property of any clergyman or minister officiating therein or of the churchwarden or churchwardens of such church, chapel, or building, without its being necessary to name him or them.

Mode of stating ownership of church, etc.

100. (1) Where, in any document in any proceeding under this Ordinance, it is necessary to state the ownership of any money or other property whatsoever in the charge, custody, or under the control of any public officer and which is alleged to have been stolen, embezzled, or otherwise misappropriated, or in respect of which any offence punishable on summary conviction is alleged to have been committed, it shall be sufficient to state such money or property to be the money or property of the Government.

Mode of stating ownership of public property.

(2) Where, in any document in any proceeding under this Ordinance, it is necessary to state the ownership of any work or building made, erected, or maintained, either wholly or in part, at the expense of the inhabitants of the Colony or of any city, town, or village thereof, or of

anything belonging to or being in or used in relation to the same, or of anything provided for the use of the poor or of any public institution or establishment, or of any materials or tools provided or used for repairing any such work or building or any public road or highway, or of any other property whatsoever, whether moveable or immoveable, of such inhabitants as aforesaid, it shall be sufficient to state that such property is the property of the inhabitants of the Colony or of the city, town, or village, as the case may be, without naming any of such inhabitants.

Remedies of married woman against her husband and others in respect of property.

101. (1) Every married woman shall have in her own name against all persons whatsoever, including her husband (subject as regards her husband to the proviso hereinafter contained), the same remedies and redress by way of criminal proceedings for the protection and security of her own separate property as if such property belonged to her as an unmarried woman.

(2) In any complaint or other proceeding under this section, it shall be sufficient to allege the property to which the complaint or other proceeding relates to be the property of the married woman: Provided that no proceeding shall be taken by any wife against her husband by virtue of this section while they are living together, as to or concerning any property claimed by her, nor, while they are living apart, as to or concerning any act done by the husband while they were living together, concerning property claimed by the wife, unless such property has been wrongfully taken by the husband when leaving or deserting, or about to leave or desert, his wife.

Criminal liability of wife to husband.

102. A wife who does any act with respect to any property of her husband, which, if done by the husband with respect to property of the wife, would make the husband liable to criminal proceedings by the wife under the last preceding section, shall in like manner be liable to criminal proceedings by her husband.

Husband and wife competent witnesses.

103. In any proceedings taken under and by virtue of the provisions of the two last preceding sections, the husband and wife respectively shall be competent and admissible witnesses, and, except when defendant, compellable to give evidence.

Arrest.

104. Any person who is found committing any offence which is punishable on summary conviction may be taken into custody, without warrant, by any constable, or may be apprehended by the owner of the property on or with respect to which any such offence is committed, or by his servant or any other person authorized by him, and shall in the latter case be delivered as soon as possible into the custody of any constable to be dealt with according to law.

Arrest of offender in certain cases.

105. On a person being taken into custody for a summary conviction offence without a warrant, any commissioned or non-commissioned officer of the Constabulary Force may in any case, and shall, if it will not be practicable to bring such person before a Magistrate or Justice within twenty-four hours after he was so taken into custody, enquire into the case, and, unless the offence appears to such commissioned or non-commissioned officer to be of a serious nature, discharge the person upon his entering into a recognizance with or without sureties for a reasonable amount to appear before a Court at the time and place named in the recognizance; but where such person is retained in custody he shall be brought before a Court of summary jurisdiction as soon as practicable.

Procedure where offender is taken into custody without warrant.

106. (1) Every warrant of arrest issued under this Ordinance, or, unless the contrary is expressly provided, under any other enactment relating to summary conviction offences, shall bear the date of the day of issue, and shall be signed by the Magistrate or Justice by whom it is issued.

Form and requisites of warrant of arrest.

(2) No such warrant shall be signed in blank.

(3) No such warrant shall be issued without an information or other statement in writing and upon oath.

(4) Every such warrant shall be directed to all constables.

(5) Every such warrant may be executed by any constable.

(6) Every such warrant shall state concisely the offence or matter for which it is issued, and shall name or otherwise describe the person to be arrested, and it shall order the constables to whom it is directed to apprehend such

person and bring him before the Court to answer the said information or statement, or to testify, or otherwise, according to the circumstances of the case, and to be further dealt with according to law.

(7) It shall not be necessary to make any such warrant returnable at any particular time, but the same shall remain in force until it is executed.

Execution of
warrant.

107. (1) Every such warrant of apprehension may be issued and executed on a Sunday.

(2) The constable executing any such warrant shall, before making the arrest, inform the person to be arrested that there is a warrant for his apprehension, unless there is reasonable cause for abstaining from giving such information on the ground that it is likely to occasion escape, resistance, or rescue.

(3) Subject to the provision hereafter in this section contained, it shall not be necessary for the constable executing any such warrant to have the same in his possession; but if he has it, he shall, upon request, show it to the person arrested or to be arrested.

(4) Every person arrested on any such warrant shall be brought before the Court as soon as is practicable after he is so arrested.

(5) Any constable authorized to execute any such warrant may, for the purpose of executing it, either with or without assistance from any other person or persons, break open and enter any house, building, or enclosed place, if admittance cannot otherwise be obtained: Provided that in such case he shall be in possession of the warrant, and before so doing he shall, as far as practicable, notify his possession of the warrant.

Handcuffing,
etc.

108. A person arrested, whether with or without warrant, shall not be handcuffed or otherwise bound, except in case of necessity, or of reasonable apprehension of violence, or of attempt to escape, or by order of the Court or of a Magistrate or Justice.

Seizure and Restitution of Property.

Seizure of
property the
proceeds of
summary
conviction
offence.

109. The Court may order the seizure of any property which there is reason to believe has been obtained by, or is the proceeds of, any summary conviction offence, or into

which the proceeds of any summary conviction offence have been converted, and may direct that the same shall be kept or sold, and that the same, or the proceeds thereof if sold, shall be held as it directs, until some person establishes, to its satisfaction, a right thereto. If no person establishes such a right within twelve months from the seizure, such property, or the proceeds thereof, shall become vested in the Treasurer for the use of the Colony, and shall be disposed of accordingly.

vide Sec 11 of Ord 26 of 1911

~~Subs. Amended by Sec 9 of Ord 30/1932~~
110. The Court may order the seizure of any instruments, materials, or things which there is reason to believe are provided or prepared, or being prepared, with a view to the commission of any summary conviction offence, and may direct the same to be held and dealt with in the same manner as property seized under the last preceding section.

Seizure of things intended to be used in commission of offence.

111. Any order made under either of the two last preceding sections may be enforced by a search warrant under this Ordinance.

Enforcement of order of seizure.

112. (1) If, upon the apprehension of any person charged with a summary conviction offence, any property is taken from him, a report shall be made by the Constabulary to the Court of the fact of such property having been taken from such person and of the particulars of such property, and the Court shall, if it is of opinion that such property, or any portion thereof, can be returned consistently with the interests of justice and the safe custody of the person charged, order such property, or any portion thereof, to be returned to the person charged or to such other person as he may direct.

Return of property found upon person apprehended.

(2) If, upon the apprehension of any person charged with a summary conviction offence, any money is taken from him, the Court may, in its discretion, in case of the conviction of such person, order such money, or any part thereof, to be applied to the payment of any costs, or costs and compensation, directed to be paid by such person.

Money found on person apprehended.

113. (1) Subject as hereinafter provided, and to the provisions of the Pawnbrokers Ordinance, where any person is convicted of a summary conviction offence, any property found in his possession, or in the possession of

Restitution of property on conviction. Cap. 268. Schedule III. Form 47.

See Sec 20
No 22
436
432

any other person for him, may be ordered by the Court to be delivered to the person who appears to the Court to be entitled thereto. *or if there is no such person, to the person in the use of the Colony*

(2) Nothing in this section shall prevent the Court from ordering the return to any person charged with a summary conviction offence, or to any person named by the Court, of any property found in the possession of the person so charged, or in the possession of any other person for him, or of any portion thereof, if the Court is of opinion that such property or portion thereof can be returned consistently with the interests of justice and with the safe custody or otherwise of the person so charged.

Keeping of the Peace.

Procedure in case of articles of the peace. Schedule III. Form 16. Form 32.

114. (1) The power of a Court, upon complaint of any person, to adjudge a person to enter into a recognizance and find sureties to keep the peace or to be of good behaviour towards such first mentioned person, shall be exercised by an order upon complaint.

(2) The provisions of this Ordinance shall apply to the hearing of any such complaint, and the complainant and the defendant and the witnesses may be called and examined and cross-examined, and the complainant and the defendant shall respectively be liable to the payment of costs, or of costs and compensation, as in the case of any other complaint.

(3) The Court may order the defendant, in default of compliance with the order, to be imprisoned for any term not exceeding six months, with or without hard labour.

Power to bind parties to be of good behaviour.

115. The Court shall have power, in any complaint made for a summary conviction offence, whether the complaint be dismissed or the defendant be convicted, to bind both the complainant, defendant, and any witness in the case, or all or any of them, with or without a surety or sureties, to be of good behaviour, and may order any person so bound, in default of compliance with the order, to be imprisoned for any term not exceeding three months, with or without hard labour, in addition to any other punishment to which such person is liable.

Saving of Validity of Process.

116. The following provisions with respect to certain proceedings in the Court shall have effect, that is to say:—

Warrant of commitment.

(1) A warrant of commitment shall not be held void by reason only of any defect therein, if it is therein alleged that the offender has been convicted, or ordered to do or to abstain from doing any act or thing required to be done or left undone, and there is a good and valid order to sustain the same;

(2) A warrant of distress shall not be held void by reason only of any defect therein, if it is therein alleged that an order has been made, and there is a good and valid order to sustain the same; and a person acting under a warrant of distress shall not be deemed a trespasser from the beginning by reason only of any defect in the warrant or of any irregularity in the execution of the warrant; but this enactment shall not prejudice the right of any person to satisfaction for any special damage caused by any defect in or irregularity in the execution of a warrant of distress.

Warrant of distress.

(3) A summons or warrant or other process shall not be held void by reason of the Magistrate or Justice who signed the same dying or ceasing to hold office.

Death of Magistrate or Justice.

117. It shall not be competent for any person to impeach, in any proceeding or in any other manner whatever, any order made by the Court on the hearing of a complaint, on the ground that the Court had no jurisdiction to make the order, unless such objection was taken on the hearing of the complaint or at the time of the making of the order.

Barring of objection to jurisdiction unless taken at hearing, etc.

118. (1) In any case in the Court, no variance between the complaint or summons or warrant and the evidence adduced in support thereof, as to the time at which the cause of complaint is alleged to have arisen, shall be deemed material, if it is proved that such complaint was in fact made within the time limited by law for making the same; and no variance between such complaint or summons

Effect of variance or defect in proceedings.

or warrant and the evidence adduced in support thereof, as to the place in which the cause of complaint is alleged to have arisen, shall be deemed material.

(2) No objection shall be taken or allowed, in any proceeding in the Court, to any complaint, summons, warrant, or other process for any alleged defect therein in substance or in form, or for any variance between any complaint or summons and the evidence adduced in support thereof.

(3) If any variance or defect mentioned in this section appears to the Court at the hearing to be such that the defendant has been thereby deceived or misled, it shall be lawful for the Court to make any necessary amendments, and, if it is expedient so to do, to adjourn, upon such terms as it may think fit, the further hearing of the case.

Proof of Process.

Proof of service of summons, etc.

119. (1) In every proceeding in the Court in which it is necessary to prove the service of any summons, notice, order, or other process whatsoever of the Court upon any person, it shall be deemed to be sufficient proof of such service if the person by whom such process has been served is duly sworn, by and before any Magistrate or Justice, to an affidavit of such service.

Schedule III. Form 50.

(2) Any such affidavit shall be received in evidence in any proceeding in any Court without proof of the signature or of the official character of the person making the same or of the person before whom it is made; and the onus of showing that any service referred to in any such affidavit was not made in accordance with the tenor of the affidavit shall be on the party objecting.

(3) All such affidavits shall be numbered by the Clerk of the Court consecutively in the order in which they are received, and shall be filed as of record in the Court in which they are entitled; and, in every case in which any such affidavit is used, it shall be sufficient to note on the proceedings the number of such affidavit and the Court in which it is filed.

Proof of previous conviction.

120. Where, upon the hearing of any complaint, it is proposed to prove against the defendant the fact of a former conviction, a copy of the order of any Court in respect of

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vide 21 of 1936

the former offence, or of the record required to be kept under section 11 of this Ordinance, certified in either such case by the Clerk of such Court, shall, upon proof of the identity of the defendant, be deemed sufficient evidence of such former conviction.

Recognizances.

121. Where a Magistrate or Justice has made an order directing or allowing any recognizance to be taken, and it is not practicable or convenient for him to attend at the time and place where the recognizance is to be taken, it shall be lawful for any other Magistrate or Justice to attend and take the recognizance, which shall thereafter have effect and be dealt with in the same manner as if it had been taken by such first mentioned Magistrate or Justice.

Taking of
recognizance.

122. A recognizance for the appearance of any person before the Court may be conditioned for his appearance at every time and place to which, during the course of the proceedings, the hearing may be from time to time adjourned, without prejudice, however, to the power of the Court to vary the order at any subsequent hearing.

Continuous
recognizance.
Schedule III.
Form 29.

123. (1) Where a recognizance is conditioned for the appearance of any person before the Court or for his doing some other act or thing to be done in, to, or before the Court or in a proceeding in the Court, the Court may, if the recognizance appears to the Court to be forfeited, declare the same to be forfeited: Provided, however, that the Court may at any time cancel or mitigate the forfeiture, upon the person liable under the recognizance applying and giving security, to the satisfaction of the Court, for the future performance of the condition of the recognizance, and paying, or giving security for the payment of, the costs incurred in respect of the forfeiture, or upon such other conditions as the Court may think just.

Mode of
enforcing
recognizance.

Schedule III.
Form 33.

Form 36.
Form 37.

(2) Where a recognizance to keep the peace and to be of good behaviour, or not to do or commit some act or thing, has been entered into by any person as principal or as surety before the Court, the Court may, upon proof of the conviction of the person bound as principal by such recognizance of any offence which is by law a breach of

Form 34.
Form 35.

the condition of the same, by order, adjudge such recognizance to be forfeited, and adjudge the persons bound thereby, whether as principal or as sureties, or any of such persons, to pay the sums for which they are respectively bound.

Where
recognizance
forfeited.

For §§ 3 and 4. See Sec 22 of 22 of 1936
124. (1) Where any recognizance is declared or adjudged to be forfeited, any Magistrate or Justice having jurisdiction over the matter of the complaint may, forthwith or at any time after such declaration, issue a warrant of commitment against any person liable, whether as principal or surety under such recognizance, for any term not exceeding the term prescribed in respect of a like sum in the scale of imprisonment set forth in section 65 of this Ordinance, with or without hard labour, unless the amount due under such recognizance and the costs of the commitment and conveying such person to prison, if the Magistrate or Justice thinks fit so to order (the amount thereof being ascertained and stated in the warrant), are sooner paid. (*Substituted by 32 of 1925, s. 12.*)

(2) All sums paid or recovered in respect of any recognizance declared or adjudged by the Court in pursuance of this section to be forfeited shall be paid to the Clerk.

Rewards.

Rewards.

125. Subject to the provisions of any enactment, the Governor may award an amount not exceeding one-half of the net proceeds of any penalty, seizure, or forfeiture, after the deduction of all costs, charges, and expenses whatsoever, to or among any person or persons who may have been concerned in seizing, prosecuting, or giving information or assistance in the matter, and, if there are more persons than one, in such proportions as he may think fit.

Remissions.

Power of the
Governor as
to remission
of penalties,
etc.

126. (1) It shall be lawful for the Governor to remit, in whole or in part, any sum of money which may be imposed as a penalty and as costs, charges, and expenses in connection with such penalty, on any person convicted of a summary conviction offence, or of an offence summarily dealt with under this Ordinance, although such money may be, in whole or in part, payable into the Treasury for the use of the Colony, or to some party other than the

Right of
appeal under
former
Ordinances.

128. Where a right of appeal is given by any Ordinance passed before the commencement of this Ordinance to any person whomsoever whether in respect of the conviction or order of any Magistrate or Justice against such person or in respect of any refusal by any Magistrate or Justice to convict or make an order against any defendant, then and in every such case an appeal shall lie under this Ordinance, and the proceedings upon such appeal shall be according to this Ordinance.

Notice of
appeal to be
given.

129. (1) An appeal shall be commenced by the appellant giving to the Clerk notice of such appeal, which may be verbal or in writing, and if verbal shall be forthwith reduced to writing by the Clerk and signed by the appellant, or by his counsel or solicitor if he has appeared by counsel or solicitor.

(2) The notice of appeal shall be given in every case before the expiration of the ^{third} ~~third~~ day after the day on which the Court has made the order or given the refusal appealed against.

(3) Such notice shall be as in Forms 1 or 2 in the Fourth Schedule to this Ordinance.

Reasons for
appeal.

130. An appellant shall, either at the time of giving a notice of appeal, or at any time within ^{seven} ~~seven~~ days of the pronouncing of the decision, serve a written notice of reasons for appeal upon the Clerk.

Enumeration
of admissible
reasons for
appeal.

131. A notice of reasons for appeal may set forth all or any of the following reasons, and no others, that is to say:—

- (1) That the Court had no jurisdiction in the case: Provided that it shall not be competent for the Supreme Court to entertain such reason for appeal, unless objection to the jurisdiction of the Court has been formally taken at some time during the progress of the case and before the pronouncing of the decision; or
- (2) That the Court has exceeded its jurisdiction in the case; or
- (3) That the Magistrate or Justice was personally interested in the case; or

- (4) That the Magistrate or Justice has acted corruptly or maliciously in the case; or
- (5) That the decision has been obtained by fraud; or
- (6) That the case has been already heard or tried and decided by, or forms the subject of a hearing or trial pending before, some competent tribunal; or
- (7) That the Court refuses to make a conviction or order, or that the appellant is not guilty, as the case may be, either of which reasons shall entitle the appellant to maintain—
 - (a) that legal evidence substantially affecting the merits of the case has been rejected by the Court; or
 - (b) that illegal evidence has been admitted by the Court and that there is not sufficient legal evidence to sustain the decision after rejecting such illegal evidence; or
 - (c) that the decision is unreasonable or cannot be supported having regard to the evidence; or
- (8) That the decision is erroneous in point of law; or
- (9) That some other specific illegality, not hereinbefore mentioned, and substantially affecting the merits of the case, has been committed in the course of the proceedings in the case. (*As amended by 2 of 1919, s. 4.*)

*Sec. 3
270/1924
in (8 & 9)
vide 26
of 22 of.
1936*

132. (1) An appellant shall, subject as hereinafter in this section appears, set forth in his notice of reasons for appeal the particular matter on which he relies or of which he complains, in such manner as to inform the respondent thereof, as, for example, if he relies upon the reason for appeal stated in paragraph (6) of the last preceding section, the name of the tribunal shall be stated, and, if a decision is alleged, the approximate date of such decision shall be stated; if he relies upon the reason for appeal stated in paragraph (8) of the last preceding section, the nature of the error shall be stated; and if he relies upon the reason for appeal stated in paragraph (9) of the last preceding section, the illegality complained of shall be clearly specified.

Manner of setting forth reasons for appeal.

(2) Where the reason for appeal given is that the appellant is not guilty, no particulars need be stated.

nine

Recognizance to be entered into.

133. (1) Within ~~six~~ *nine* days after the pronouncing of the decision, the appellant shall, unless he remains in custody under the provisions of section 135 of this Ordinance, enter into a recognizance with one or more sureties acknowledged before a Magistrate or Justice and conditioned to appear and prosecute the appeal and abide by the judgment of the Supreme Court thereupon and pay such costs as may be by the Supreme Court awarded.

*Rec. Sect. 133
20/11/36
in 88 (13).
vide 27 of
22 of 1936.*

(2) Such recognizance shall be as in Form 3 in the Fourth Schedule to this Ordinance.

Appellant to be liberated on entering into recognizance.

134. (1) Upon notice of appeal being given and such recognizance as aforesaid being entered into, the Magistrate or Justice before whom the recognizance is entered into shall liberate the appellant if in custody, and the Clerk shall, with all convenient despatch, transmit to the Registrar of the Supreme Court a copy of the record of the proceedings, and the notes of evidence duly certified under his hand.

see Sect. 134 in new 134

Clerk to send copy of proceedings to Registrar.

(2) On receipt thereof, the Registrar shall cause the appeal to be entered for the next convenient sittings of the Supreme Court in ~~Appeal~~ and shall notify the Clerk thereof.

*See Sect 6
27/11/36
new 134*

Where recognizance not entered into.

135. (1) A defendant who shall have given notice of appeal and is unable to find the necessary surety or sureties may prosecute his appeal without entering into a recognizance provided he remains in custody pending the hearing of the appeal, and in such case the Magistrate or Justice shall, by warrant under his hand, direct the appellant to be detained in custody accordingly, ^{notwithstanding that the} and shall, in such warrant, intimate to the Keeper that notice has been given of appeal.

*See 29
of
22/1936*

(2) The appellant shall in such case be detained in custody and may be taken without any fresh order or warrant in custody of a constable to the Supreme Court to attend the hearing of the appeal.

*Repealed
by
22 of
1936
S:2*

notwithstanding that the appellant may be held all time for payment of any fine or penalty

(3) Notwithstanding anything in this section contained, an appellant may, at any time before his appeal is heard, enter into a recognizance in the form and subject to the conditions in section 133 of this Ordinance set forth, and thereupon he shall be liberated unless he is in custody in respect of any other charge or matter.

136. The Clerk shall, in the prescribed manner, transmit to or cause to be served upon the respondent or his solicitor a copy certified under his hand of the notice of appeal, and of the reasons for appeal, and shall, when ascertained from the Registrar, notify the appellant and respondent, or their solicitors, of the day on which the appeal will in the ordinary course of business be on the list for hearing before the Supreme Court.

Copy of notice to be sent to respondent.

137. (1) An appellant may serve written notice upon the Registrar that he abandons his appeal, and thereupon the provisions of section 149 of this Ordinance shall apply as if the Supreme Court had affirmed the decision of the Magistrate or Justice.

Abandonment of appeal.

(2) The Registrar shall give notice to the Clerk and to the respondent of the abandonment of the appeal.

Hearing and Judgment.

138. (1) If the appellant makes default in duly prosecuting his appeal, the Magistrate or Justice shall thereupon treat the recognizance as forfeited and deal with the same in accordance with the provisions of this Ordinance.

Where appellant makes default in prosecuting appeal.

(2) If the appellant making such default has been released from custody under the provisions of section 134 of this Ordinance, and if he remains or becomes liable to be kept in custody, the Magistrate or Justice shall forthwith issue a warrant for his apprehension, in order that he may be rendered to prison accordingly.

139. (1) If, on the day of hearing or at any adjournment of the case, the appellant does not appear, the case shall be struck out and the decision shall be affirmed, unless the Supreme Court thinks fit, for sufficient cause, to order otherwise.

Where appellant fails to appear.

(2) If in any such case the respondent appears, the judgment shall be with costs of the appeal against the appellant, unless the Supreme Court expressly orders otherwise; but if the respondent does not appear, the costs of the appeal shall be in the discretion of the Court.

140. If, on the day of hearing and at every adjournment of the case, the appellant appears, the Supreme Court shall,

Where appellant appears.

whether the respondent appears or not, proceed to the hearing or further hearing and the determination of the case, and shall give judgment according to the very right of the case without regarding any imperfection or defect of form: Provided that if it appears or is proved to the Court that the appellant has not complied with the requirements hereinbefore contained with respect to the giving of notice of appeal, the Court shall dismiss the appeal and affirm the decision, with or without costs of appeal against the appellant. The Court may, however, in its discretion, extend the time for service of notice of reasons for appeal upon such conditions as it may think fit. (*As amended by 28 of 1921, s. 2.*)

Appeal limited to reasons given in notice.

141. On the hearing, it shall not be competent for the appellant to go into, or to give evidence of, any other reasons for appeal than those set forth in his notice of reasons for appeal:

Provided that where, in the opinion of the Court, other reasons for appeal than those set forth in the notice of reasons for appeal should have been given, or the statement of reasons is defective, the Court, in its discretion, may allow such amendments of the notice of reasons for appeal upon such conditions as to service upon the respondent and as to costs as it may think fit. (*As amended by 28 of 1921, s. 3.*)

Objections to form of reasons for appeal.

142. (1) No objection on account of any defect in the form of setting forth any reason for appeal shall be allowed; and no objection to the reception of evidence offered in support of any reason for appeal shall prevail, unless the Supreme Court is of opinion that the ground of appeal is so imperfectly or incorrectly stated as to be insufficient to enable the respondent to enquire into the subject matter thereof or to prepare for the hearing.

(2) In any case where the Court is of opinion that any objection to any reason for appeal or to the reception of evidence in support of any reason for appeal ought to prevail, the Court may, if it thinks fit, cause the reason for appeal forthwith to be amended by the Registrar upon such terms and conditions, if any, as the Court may think just.

Objections to complaint, information, conviction, or order.

143. If, on the hearing, it appears that there is any defect in form in the information or complaint, or any

omission or mistake in the drawing up of the conviction or order, and if it is shewn, to the satisfaction of the Supreme Court, that there was sufficient evidence before the Magistrate or Justice making such conviction or order to have authorized the drawing up thereof free from such omission or mistake, the Supreme Court shall amend such information or complaint or such conviction or order and proceed thereafter as if no such defect, omission, or mistake had existed: Provided that nothing in this section shall affect the provisions of section 141 of this Ordinance.

144. On any appeal from a decision of a Court of summary jurisdiction, no objection shall be taken or allowed to any proceeding in such Court for any defect or error which might have been amended by such Court, or to any complaint, summons, warrant, or other process to or of such Court for any alleged defect therein in substance or in form, or for any variance between any complaint or summons and the evidence adduced in support thereof in such Court: Provided, however, that if any error, defect, or variance mentioned in this section appears to the Supreme Court at the hearing of any appeal to be such that the appellant has been thereby deceived or misled, it shall be lawful for the Supreme Court either to refer the case back to the Magistrate or Justice with directions to re-hear and determine the same or to reverse the decision appealed from, or to make such other order for disposing of the case as justice may require.

Defects in proceedings under appeal.

145. No objection shall be taken or allowed, on any appeal, to any notice of appeal which is in writing or to any recognizance entered into under this Ordinance for the due prosecution of such appeal for any alleged error or defect therein; but if any such error or defect appears to the Supreme Court to be such that the respondent on such appeal has been thereby deceived or misled, it shall be lawful for the Court to amend the same and, if it is expedient to do so, also to adjourn the further hearing of such appeal, such amendment and such adjournment (if any) being made on such terms as the Court may deem just.

Defects in notice of appeal or recognizance.

146. The Supreme Court may, in any case where it may consider it necessary that evidence should be adduced, either—

Power to the Court to take evidence.

- (1) order such evidence to be adduced before the Court on some day to be fixed in that behalf; or

- (2) order such evidence to be given by affidavit; or
- (3) refer the case back to the Magistrate or Justice to take such evidence, and may in such case either direct the Magistrate or Justice to adjudicate afresh after taking such evidence and subject to such directions in law, if any, as the Court may think fit to give, or direct him, after taking such evidence, to report specific findings of fact for the information of the Court; and on any such reference the case shall, so far as may be practicable and necessary, be dealt with as if it were being heard in the first instance.

Neglecting or refusing to appear when summoned.

147. Every person who, being duly summoned to appear and give evidence upon any appeal, neglects or refuses without lawful excuse to appear at the time and place specified in the summons, or who, having appeared, refuses without lawful excuse to give evidence or to answer any question put to him by the Supreme Court, shall be liable, on the order of the Supreme Court, to a penalty not exceeding twenty pounds, or to imprisonment, with or without hard labour, for any term not exceeding three months.

Giving of judgment.

148. (1) On the conclusion of the hearing, the Court shall, either at the same or any subsequent sitting of the Court, pronounce judgment on the appeal.

Powers of Court in giving judgment.

- (2) In giving judgment the Supreme Court may—
 - (a) affirm, modify, amend, or reverse the decision, either in whole or in part, and, if the Court thinks that a different sentence should have been passed, quash the sentence passed by the Magistrate or Justice and pass such other sentence warranted in law (whether more or less severe) in substitution therefor as the Court thinks should have been passed; or
 - (b) if any omission or mistake is made in drawing up any order or judgment, and it is shewn to the satisfaction of the Court that sufficient grounds were in proof before the Magistrate or Justice making the order or giving the judgment to have authorized the drawing up thereof free from such

- omission or mistake, amend such order or judgment and adjudicate thereupon as if no such omission or mistake had existed; or
- (c) refer the case back to the Magistrate or Justice with directions to re-hear the same, or otherwise to deal with the same as the Court may think just, and thereafter either to return the case to the Court for further hearing and determination, or to determine the same, as the Court may think fit, or refer the case back as mentioned in section 146 of this Ordinance; and in every such case the provisions of sub-section (3) of section 146 shall apply; or
- (d) make such other order for disposing of the case as justice may require.

(3) The Supreme Court may, so far as may be necessary for doing complete justice between the parties, review any order made by the Magistrate or Justice.

149. (1) After the pronouncing of the judgment of the Supreme Court, and subject to the provisions hereafter in this section contained, the Magistrate or Justice from whom the appeal came shall have the same jurisdiction and power to enforce, and shall enforce, any decision which may have been affirmed, modified, amended, or substituted by the Supreme Court, or any judgment which may have been pronounced by the Court, in the same manner in all respects as if such decision or judgment had been pronounced by himself: Provided that in any case where an order for the imprisonment of any person is affirmed on appeal, whether with or without modification or amendment, or where the Supreme Court orders the imprisonment of any person, the Supreme Court may, if it considers it expedient to do so, forthwith commit such person to prison in pursuance and in execution of such order.

Enforcing of judgment.

Schedule IV.
Form 5.

(2) The imprisonment of such person (if he is not actually in custody at the time) shall be reckoned to begin from the day on which he is in actual custody in the prison in which he may have been ordered to be imprisoned; and if he is actually in custody, from the day the order for his imprisonment is affirmed.

Costs.

Frivolous and vexatious appeals.

150. If, on the hearing of an appeal, the Supreme Court adjudges such appeal to have been frivolous and vexatious, the solicitor who has given notice of appeal shall be personally liable to pay the taxed costs of the respondent, and in such case, upon proof to the satisfaction of a Judge in Chambers that execution against the appellant and his sureties (if any) has not produced sufficient to realise the amount of such taxed costs, then the Judge shall, on summons to be served on such solicitor, make an order for the payment by such solicitor of the balance of such costs remaining unpaid.

General power of the Court as to costs.

151. Subject to the express provisions of this Ordinance, the Supreme Court may make such order as to the costs of any case both in the Summary Court and in the Supreme Court as it may think just.

Costs in abandonment or withdrawal of appeal.

152. Where an appeal is abandoned or withdrawn, the Supreme Court may, on proof of notice of appeal having been given to the respondent, order that he shall receive such costs as the Court may think fit, notwithstanding that the appeal has not been entered or prosecuted.

Payment of costs.

153. Where any order as to costs is made by the Supreme Court against either party to an appeal, such costs shall be payable to the Registrar, and shall be by him paid over to the party entitled to the same, and, in the absence of any special direction of the Court to the contrary, such costs shall be payable forthwith.

Enforcement of order for costs.

154. If any such costs are not paid within the time limited by this Ordinance or ordered by the Court, the Registrar shall, on the application of the person entitled to the same or of any person duly authorized on his behalf, grant to such party a certificate that such costs have not been paid, and, upon production of such certificate to any Magistrate or Justice, such Magistrate or Justice shall enforce the payment of such costs in the manner and subject to the conditions laid down in section 78 of this Ordinance with respect to a sum of money adjudged to be paid by an order, or, if the costs are ordered to be paid by the appellant, payment thereof may be made by enforcing the recognizance entered into by the appellant in the manner provided in this Ordinance.

Schedule IV. Form 4.

Special Case.

155. (1) After the hearing and determination of any complaint, the Magistrate or Justice may, in his discretion, on the application of either party to such complaint or on his own motion without such application, state a case on any point of law arising in the case for the opinion of the Supreme Court. The statement of facts in such case so stated shall, for the purpose of the determination thereof, be conclusive. Statement of case.

(2) (a) If the case is stated on the application of a party, such party (hereinafter called the "appellant") shall, at the time of making his application, before the case is stated, enter into a recognizance with one or more sureties acknowledged before the Magistrate or Justice and conditioned to appear and prosecute his appeal and to abide by the judgment of the Supreme Court thereupon and pay such costs as may be by the Supreme Court awarded.

(b) Such recognizance shall be in Form 3 ^{in Form 3 A.} in the Fourth Schedule to this Ordinance, with such variations as may be required. ^{22 of 1936}
~~See Sect. 6 of 40/1925~~ ^{S.E.C.30}

(3) If the appellant is in custody, he shall be liberated upon such recognizance being entered into.

(4) The case so stated shall be transmitted to the Registrar of the Supreme Court in a similar manner and with the same notice to the parties as in a case on appeal under this Ordinance.

(5) Nothing herein contained shall be construed to prevent either party in such a case appealing as to any determination of fact or any question of law not raised in the case stated by the Magistrate or Justice; but such appeal shall be in such event independent of the case stated.

(6) The Attorney-General may, by notice in writing under his hand, require a Magistrate or Justice to state a case on any point of law, and, on receipt of such notice, the Magistrate or Justice shall state such case accordingly.

(7) The Supreme Court may remit any case stated under the provisions of this section to the Magistrate or Justice stating the same for further information from such Magistrate or Justice.

(8) The Supreme Court shall hear and determine the questions of law arising on the case stated, and the provisions of this Ordinance with respect to the hearing and judgment of appeals and of all matters incidental thereto shall, so far as applicable, apply to a case stated under this section.

PART IX.

SUPPLEMENTARY.

Rules.

156. (1) The Chief Justice, with the concurrence of a Puisne Judge, may make such rules as to them seem meet for the practice and procedure of the Supreme Court with regard to appeals and special cases, and may frame a table of fees to be taken in respect of such appeals and special cases and of the costs that may be allowed to any party to any appeal; and all such rules and tables shall be transmitted under the seal of the Court to the Governor, and shall be published in the *Royal Gazette*, and shall take effect so soon as they have been so published and approved of by the Governor and the Legislative Council, but not otherwise.

(2) Until rules are made under this section with respect to the fees and costs recoverable by any party on an appeal, such fees and costs shall be taxed according to the scale set forth in the Fifth Schedule to this Ordinance.

Application
to Court to
compel
Magistrate or
Justice to do
act.

157. In any case where a Magistrate or Justice refuses to entertain a complaint, the person aggrieved by such refusal may obtain from the Magistrate or Justice a copy of the entry relating to such refusal, and, on giving not less than three days' previous notice in writing thereof to the Magistrate or Justice, may make application to the Supreme Court for an order, to be considered an order in the exercise of its appellate jurisdiction, on the Magistrate or Justice to entertain, hear, and determine the complaint, and, if the Court sees fit to make such an order, the Magistrate or Justice shall be bound forthwith to entertain, and thereafter to hear and determine, the complaint in due course of law.

SCHEDULES.

FIRST SCHEDULE.

TABLE OF FEES (a).

(Section 14).

	£	s.	d.
For a complaint under the Summary Ejectment Ordinance, for each defendant	0	3	0
For any other complaint, for each defendant	0	4	0
For each summons to a witness either for complainant or defendant ...	0	1	0
For a warrant of distress :			
The cost of taking and keeping the distress, also a charge of five per centum on the proceeds for selling the goods.			

SECOND SCHEDULE.

(Sections 96 and 97).

INDICTABLE OFFENCES FOR WHICH ADULTS MAY BE SUMMARILY TRIED.

FIRST COLUMN. Adults pleading guilty.	SECOND COLUMN. Adults consenting.
1. Simple Larceny.	1. Simple larceny, where the value of the whole of the property alleged to have been stolen, in the opinion of the Court, exceeds twenty pounds, but does not exceed fifty pounds.
2. Offences declared by any Ordinance for the time being in force to be punishable as simple larceny.	2. Offences declared by any Ordinance for the time being in force to be punishable as simple larceny, where the value of the whole of the property alleged to have been stolen, destroyed, injured, or otherwise dealt with by the offender, in the opinion of the Court, exceeds twenty pounds, but does not exceed fifty pounds.
3. Larceny from or stealing from the person.	3. Larceny from or stealing from the person, where the value of the whole of the property alleged to have been stolen, in the opinion of the Court, exceeds twenty pounds, but does not exceed fifty pounds.
4. Larceny as a clerk or servant.	4. Larceny as a clerk or servant, where the value of the whole of the property alleged to have been stolen, in the opinion of the Court, exceeds twenty pounds, but does not exceed fifty pounds.
5. Embezzlement by a clerk or servant.	5. Embezzlement by a clerk or servant, where the value of the property alleged to have been embezzled, in the opinion of the Court, exceeds twenty pounds, but does not exceed fifty pounds.
6. Stealing any animal, or killing any animal with intent to steal the carcase or any part of the animal so killed, in any case where such stealing or killing is an indictable offence.	6. Stealing any animal, or killing any animal with intent to steal the carcase or any part of the animal so killed, in any case where such stealing or killing is an indictable offence, and where the value of the animal, in the opinion of the Court, exceeds twenty pounds, but does not exceed fifty pounds.

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~~2005 8/20/28~~
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by
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Sec
18

(a) Substituted by Rule dated 9th November, 1922.

INDICTABLE OFFENCES FOR WHICH ADULTS MAY BE SUMMARILY TRIED—*continued.*

FIRST COLUMN. Adults pleading guilty.	SECOND COLUMN. Adults consenting.
7. Receiving stolen goods, in any case where such receiving is an indictable offence.	7. Receiving stolen goods, in any case where such receiving is an indictable offence, and where the value of the whole of the property alleged to have been received, in the opinion of the Court, exceeds twenty pounds, but does not exceed fifty pounds.
8. Obtaining by any false pretence from any person any chattel, money, or valuable security.	8. Obtaining by any false pretence from any person any chattel, money, or valuable security, where the amount of the money or the value of the whole of the chattels, valuable securities, or property alleged to have been obtained by such false pretence, in the opinion of the Court, exceeds twenty pounds, but does not exceed fifty pounds.
9. Aiding, abetting, counselling, or procuring the commission of any offence hereinbefore in this column specified.	9. Aiding, abetting, counselling, or procuring the commission of any offence hereinbefore in this column specified, where the value of the whole of the property which is the subject of the alleged offence, in the opinion of the Court, exceeds twenty pounds, but does not exceed fifty pounds.
10. (a) Breaking and entering any building and committing any felony therein. (b) Being in any building and committing any felony therein and breaking out of such building.	10. (a) Breaking and entering any building and committing any felony therein. (b) Being in any building and committing any felony therein and breaking out of such building.
11. Attempt to commit any offence hereinbefore in this column specified.	11. Attempt to commit any offence hereinbefore in this column specified, where the value of the whole of the property which is the subject of the alleged offence, in the opinion of the Court, exceeds twenty pounds, but does not exceed fifty pounds.
12. Assault occasioning actual bodily harm.	12. Assault occasioning actual bodily harm.
13. Unlawful and malicious wounding or attempt to commit such offence.	13. Unlawful and malicious wounding or attempt to commit such offence.

THIRD SCHEDULE.

Forms for use in proceedings relating to summary conviction offences.

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- No. 25.—Warrant of commitment pending return to warrant of distress.
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FORMS.

NOTE.—The words in *italics* in the margin of a Form, or words to the like effect, are to be used according to the circumstances of each case.

PART I.

INSTITUTION OF PROCEEDINGS.

Section 33.)

FORM No. 1.

Complaint without Oath.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant.

v.

C. D., Defendant.

*A. B., of
(or Justice) for the*

comes before me, the undersigned Magistrate District, and complains against *C. D.*, of (1) and the

said *A. B.* prays that the said *C. D.* may be summoned to answer the said complaint.

Signed.

(1) State concisely the substance of the complaint.

Before me this
(Signed.)

day of

, 19 , at

Complainant.

(*Magistrate or Justice.*)

(Section 33.)

FORM No. 2.

Complaint upon Oath.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant.

v.

C. D., Defendant.

The complaint of *A. B.*, of that *C. D.*, of (3)

(2)

who saith on his oath (1)

(1) Or, Affirmation.
(2) State concisely the substance of the complaint.
(3) Add, for the arrest of a witness—
And he further saith that E.F. of can give material evidence, but is not likely to attend voluntarily; or, and wilfully avoids service of the summons,

And the said A. B. prays that the said C. D. may be summoned to answer the said complaint (4)

(5)

(Signed.)

Complainant.

19 Taken before me this at

day of

(Signed.)

(Magistrate or Justice.)

(4) Or, if a warrant is desired in the first instance—may be apprehended for the said offence, and dealt with according to law.

(5) Or, for sureties for the peace—And he makes this complaint for the safety of his person and property and not from malice or revenge against the said C. D. Add, for the arrest of a witness—And he further prays that E. F. may be apprehended and brought before the Court to give evidence.

PART II.

ENFORCING APPEARANCE OF DEFENDANT.

FORM No. 3.

(Section 39.)

Summons to Defendant upon Complaint.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant,

v.

C. D., Defendant,

To C. D., of

Whereas complaint has this day been made before me, the undersigned Magistrate (or Justice) for the District, This for that you (1) is to command you to be and appear at o'clock, m. on the day of 19 , at before the Magistrate (or Justice) in the said Court, to answer the said complaint and to be further dealt with according to law.

(1) State concisely the substance of the complaint.

Dated this day of 19 .

(Signed)

(Magistrate or Justice.)

FORM No. 4.

(Section 41.)

Warrant of Apprehension where Defendant has disobeyed Summons.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant,

v.

C. D., Defendant.

To all Constables.

Whereas on the day of 19 , complaint was made before me, the undersigned Magistrate (or Justice) for the District, for that C. D. (1) And whereas I then issued my summons to the said C. D. commanding him to be and appear [etc., as in

(1) State concisely the substance of the complaint.

C. D. (1) and it having been made to appear to me that E. F., of was likely to give material evidence on behalf of the complainant (2), I duly issued my summons to the said E. F., requiring him to be and appear [etc., as in the summons]; And whereas the said E. F., has neglected to be and appear at the time and place so appointed in and by the said summons, and no just excuse has been offered for such neglect; And whereas proof has been made before me, upon oath, that such summons has been duly served upon the said E. F., (3), that the said E. F., is likely to give material evidence as aforesaid, and that a reasonable sum has been paid or tendered (4) to him for his expenses in this behalf :—This is to command you forthwith to apprehend the said E. F., and to bring him at o'clock, m., on day, the day of 19 , at before the Magistrate (or Justice) in the said Court, to testify what he knows concerning the matter of the said complaint, and to be further dealt with according to law.

(1) State concisely the substance of the complaint.
 (2) Or, defendant.
 (3) Or, that the said E. F. wilfully avoids service of such summons.
 (4) Or, is ready to be paid or tendered.

Dated this day of 19 .
 (Signed) (Magistrate or Justice.)

FORM NO. 8. (Section 46.)

Warrant for Apprehension of Witness in the first instance.

TRINIDAD AND TOBAGO. COUNTY OF
 A. B., Complainant,
 v.
 C. D., Defendant.
 To all Constables.

Whereas Complaint has been made before me, the undersigned Magistrate (or Justice) for the District, for that C. D. (1) and it being made to appear to me, upon oath, that E. F., of is likely to give material evidence on behalf of the complainant (2), and it is probable that the said E. F. will not attend to give evidence without being compelled so to do :—This is to command you forthwith to apprehend the said E. F., and to bring him at o'clock m., on day, the day of 19 , at before the Magistrate (or Justice) in the said Court, to testify what he knows concerning the matter of the said complaint [or, information], and to be further dealt with according to law.

(1) State concisely the substance of the complaint.
 (2) Or, defendant.

Dated this day of 19 ,
 (Signed) (Magistrate or Justice.)

FORM NO. 9. (Section 50.)

Warrant of Commitment of Witness for refusing to be sworn or to give evidence.

TRINIDAD AND TOBAGO. COUNTY OF
 A. B., Complainant,
 v.
 C. D., Defendant.
 To all Constables and to the Keeper of Gaol (or Prison).

Whereas complaint has been made before me, the undersigned Magistrate (or Justice) for the District, for that C. D. (1) and one E. F. now appearing before me in the said Court on the day of 19 , at and, being required by me to make oath (2) as a witness in that behalf, has refused so to do [or, being duly sworn as a witness in the matter

(1) State concisely the substance of the complaint.
 (2) Or, Affirmation.

FORM No. 12.

(Section 78.)

Conviction for Penalty to be levied by Distress, and, in default of Distress, Imprisonment.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant,

v.

C. D., Defendant.

The day of 19
 C. D. (hereinafter called the defendant) is this day convicted before the said Court for that he (1) And it is adjudged that the defendant do, for his said offence, forfeit and pay the sum of (2) to be paid and applied according to law; And do also pay to the said A. B. the sum of for his costs in this behalf; And if the said several sums be not paid forthwith (3) *it is ordered that the same be levied by distress and sale of the moveable property of the defendant; And, in default of sufficient distress,* it is adjudged that the defendant be imprisoned in the (Gaol) Prison (4) for the term of unless the several sums, and all costs and charges of the said distress [and of the commitment] shall be sooner paid.

(1) State concisely the substance of the complaint.
 (2) State the penalty, and also the compensation, if any.
 (3) Or, on or before the day of 19
 (4) Add, if it be so, and there kept to hard labour.

(Signed)

(Magistrate or Justice.)

* Or, where the issuing of a distress warrant would be injurious to the defendant or his family, or it appears that he has no moveable property whereon to levy a distress, then, instead of the words between the asterisks, **say, "then, inasmuch as it has now been made to appear to the said Court that the issuing of a warrant of distress in this behalf would be more injurious to the defendant or his family than imprisonment [or, that the defendant has no moveable property whereon to levy the said sums by distress] it is adjudged" [etc., as above, to the end.]

FORM No. 13.

(Sections 65 and 90.)

Order for Payment of Money, and, in default of Payment, Imprisonment.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant,

v.

C. D., Defendant.

A. B. having made a complaint that C. D. (hereinafter called the defendant) (1)

And both the said parties having appeared before the said Court [or, the said A. B. having appeared before the said Court, but the defendant, although duly called, not having appeared by himself his solicitor or his counsel; And it having been satisfactorily proved to the said Court, upon oath, that the defendant has been duly served with the summons in this behalf, which required him to be and appear here on this day before the said Court to answer the said complaint, and to be further dealt with according to law]; And now the Court having heard the matter of the said complaint, it is adjudged that the defendant do pay to the said A. B. the sum of forthwith (2) And do also pay to the said A. B. the sum of for his costs in this behalf; And if the said several sums be not paid forthwith (3) it is adjudged that the defendant be imprisoned in the (Gaol) Prison (4) for the term of unless the said several sums, and all costs and charges of the commitment, shall be sooner paid.

(1) State concisely the substance of the complaint.
 (2) Or, on or before the day of 19, or as the statute may require.
 (3) Or, on or before the day of 19
 (4) Add, if it be so, and there kept to hard labour.

Dated this

day of

19

(Signed)

(Magistrate or Justice.)

(Section 78.)

FORM No. 14.

Order for Payment of Money to be levied by Distress, and, in default of Distress, Imprisonment.

TRINIDAD AND TOBAGO.

COUNTY OF.

A. B., Complainant,

v.

C. D., Defendant.

(1) State concisely the substance of the complaint.

A. B. having made a complaint that C. D. (hereinafter called the defendant) (1) And both the said parties having appeared before the said Court [or, *the said A. B. having appeared before the said Court, but the defendant, although duly called, not having appeared by himself or his solicitor or counsel; And it having been satisfactorily proved to the said Court, upon oath, that the defendant has been duly served with the summons in this behalf, which required him to be and appear here on this day before the said Court to answer the said complaint, and to be further dealt with according to law*]; And now the Court having heard the matter of the said complaint, it is adjudged that the defendant do pay the said A. B. the sum of

(2) Or, on or before the day of 19

(3) Add, if it be so, and there kept to hard labour.

And do also pay to the said A. B. the sum of for his costs in this behalf; And if the said several sums be not paid forthwith (2) *it is hereby ordered that the same be levied by distress and sale of the moveable property of the defendant; And, in default of sufficient distress in that behalf,* it is adjudged that the defendant be imprisoned in the Prison (3) for the term of unless the said several sums, and all costs and charges of the said distress [and of the commitment] shall be sooner paid.

Dated this day of 19

(Signed)

(Magistrate or Justice.)

* Or, where the issuing of a distress warrant would be injurious to the defendant or his family, or it appears that he has no moveable property whereon to levy a distress, then, instead of the words between the asterisks**, say "then, inasmuch as it has now been made to appear to the said Court that the issuing of a warrant of distress in this behalf would be more injurious to the defendant or his family than imprisonment [or, that the defendant has no moveable property whereon to levy the said sums by distress] it is adjudged" [etc., as above, to the end].

(Section 90.)

FORM No. 15.

Order for any other Matter, where the disobeying of it is punishable by Imprisonment.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant,

v.

C. D., Defendant.

(1) State concisely the substance of the complaint.

A. B. having made a complaint that C. D. (hereinafter called the defendant) (1) And both the said parties having appeared before the said Court [or, *the said A. B. having appeared before the said Court, but the defendant, although duly called, not having appeared by himself or his solicitor or counsel; And it having been satisfactorily proved to the said Court, upon oath, that the defendant has been duly served with a summons in this behalf, which required him to be and appear here on this day before the said Court to answer the said complaint, and to be further dealt with according to law*]; And now the Court having heard the matter of the said complaint, it is adjudged that the defendant do [here state the matter required to be done]; And if, upon a copy of a minute of this order being served on the defendant, either personally or by leaving the same for him at his last or most usual place of abode, he shall refuse or neglect to obey the same, in that case it is adjudged that the defendant, for such his disobedience, be imprisoned in the (Gaol) Prison (2)

(2) Add, if it be so, and there kept to hard labour.

(3) Or, on or before the day of 19

for the term of [unless the said order be sooner obeyed, if the statute authorizes this]: And it is also adjudged that the defendant do pay to the said A. B. the sum of for his costs in this behalf; And if the said sum for costs be not paid forthwith (3) it is adjudged that the defendant be imprisoned in the said Prison (2) for the term of to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs, and all costs and charges of the commitment, shall be sooner paid.

Dated this day of 19

(Signed)

(Magistrate or Justice.)

FORM No. 16.

(Section 114.)

Order to enter into recognizance to keep the Peace and be of Good Behaviour.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant,

v.

C. D., Defendant.

A. B. having made a complaint that C. D. (hereinafter called the defendant) (1) And both the said parties having appeared before the said Court, and the Court having heard the matter of the said complaint, it is adjudged that the defendant do forthwith to the satisfaction of enter into a recognizance in the sum of with suret in the sum of [each] to keep the peace and be of good behaviour towards His Majesty and all his liege people, and especially towards the said A. B., for the term of And if the complainant fails to comply with this order, it is adjudged that he be imprisoned in the (Gaol) Prison for the term of unless he sooner complies with this order.

(1) State concisely the substance of the complaint.

[If costs are ordered proceed as follows :] And it is also adjudged that the defendant do pay to the said A. B. the sum of for his costs in this behalf ; And if the said sum for costs be not paid forthwith (2) it is adjudged that the defendant be imprisoned in the said Prison (3) for the term of to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs, and all costs and charges of the commitment, shall be sooner paid.

(2) Or, on or before the day of 19 or by instalments of, etc.

(3) Add, if it be so, and there kept to hard labour.

Dated this day of 19 .

(Signed)

(Magistrate or Justice.)

FORM No. 17.

(Sections 63 and 64.)

Order of Dismissal of Complaint.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant,

v.

C. D., Defendant.

A. B. having made a complaint that C. D. (hereinafter called the defendant) (1) And both the said parties having appeared before the said Court in order that it should hear and determine the said complaint or, [the defendant having appeared before the said Court, but the said A. B. although duly called, not having appeared by himself or his counsel] whereupon the matter of the said complaint being by the said Court duly considered, [it manifestly appears to the said Court that the said complaint is not proved, and*] the Court therefore dismisses the same [and adjudges that the said A. B. do pay to the defendant the sum of as compensation for his trouble and expense in this behalf, and also the sum of for his costs incurred by him in his defence in this behalf : And if the said several sums be not paid forthwith (2) it is adjudged that the said A. B. be imprisoned in the (Gaol) Prison (3) for the term of unless the said several sums, and all costs and charges of the commitment, shall be sooner paid.]

(1) State concisely the substance of the complaint.

(2) Or, on or before the day of 19

(3) Add, if it be so, and there kept to hard labour.

Dated this day of 19 .

(Signed)

(Magistrate or Justice.)

* If the complainant does not appear, these words may be omitted.

PART V.

WARRANTS OF DISTRESS.

(Section 78.)

FORM No. 18.

Warrant of Distress on Conviction for Penalty.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., *Complainant,*

v.

C. D., *Defendant.**To all Constables.*

(1) Or, on the
day of
, 19
(2) State the
substance of
the complaint
as in the
conviction.

Whereas C. D. (hereinafter called the defendant) was this day (1) convicted before the said Court for that he (2) And it was thereby adjudged that the defendant should, for such his offence, forfeit and pay [etc., as in the conviction], and should also pay to the said A. B. the sum of for his costs in that behalf; And it was thereby ordered that if the said several sums should not be paid [forthwith], the same should be levied by distress and sale of the moveable property of the defendant; And it was thereby also adjudged that, in default of sufficient distress, the defendant should be imprisoned in the (Gaol) Prison [and there kept to hard labour] for the term of unless the said several sums, and all costs and charges of the said distress [and of the commitment] should be sooner paid; And whereas the defendant being so convicted as aforesaid, and being [now] required to pay the said sums of and has not paid the same or any part thereof, but therein has made default:—This is to command you forthwith to make distress of the moveable property of the defendant (except the wearing apparel and bedding of him and his family, and, to the value of three pounds, the tools and implements of his trade), And if, within the space of* days next after the making of such distress, the said sums, together with the reasonable charges of taking and keeping the said distress, shall not be paid, then to sell the said moveable property by you distrained, and pay the money arising therefrom to [the Magistrate, Justice, or other person specified] in order that it may be applied according to law, and that the overplus, if any, may be rendered on demand to the defendant; And if no such distress can be found, then to certify the same to the said Court, in order that further proceedings may be had according to law.

Dated this day of 19

(Signed)

(Magistrate or Justice.)

* NOTE.—The property is not to be sold until after the expiration of three days next after the day on which it is seized unless the defendant otherwise consents in writing.

(Section 78.)

FORM No. 19.

Warrant of Distress on Order for payment of Money.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., *Complainant,*

v.

C. D., *Defendant.**To all Constables.*

Whereas on the day of 19, complaint was made before me, the undersigned Magistrate (or Justice) for the District, for that C. D. hereinafter called the defendant (1) and both the said parties having appeared before the said Court [or as in the order]; And the said Court having considered the matter of the said complaint, it was adjudged that the

(1) State the
substance of
the complaint,
as in the
order.

defendant should pay to the said *A. B.* the sum of _____ and should also pay to the said *A. B.* the sum of _____ for his costs in that behalf; And it was thereby ordered that if the said several sums should not be paid on or before the _____ day of _____ 19____, the same should be levied by distress and sale of the moveable property of the defendant; And it was thereby also adjudged that, in default of sufficient distress in that behalf, the defendant should be imprisoned in the _____ (Gaol) Prison [and there kept to hard labour] for the term of _____ unless the said several sums, and all costs and charges of the distress [and of the commitment] should be sooner paid; And whereas the time by the said order appointed for the payment of the said several sums of _____ and _____ has elapsed, but the defendant has not paid the same or any part thereof, but therein has made default:—This is to command you forthwith to make distress of the moveable property of the defendant (except the wearing apparel and bedding of him and his family, and, to the value of three pounds, the tools and implements of his trade); And if within the space of* _____ days after the making of such distress, the said last mentioned sums, together with the reasonable charges of taking and keeping the said distress, shall not be paid, then to sell the said moveable property by you distrained, and pay the money arising therefrom to [the Magistrate, Justice, or other person specified] in order that it may be applied according to law, and that the overplus, if any, may be rendered on demand to the defendant; And if no such distress can be found, then to certify the same to the said Court, in order that further proceedings may be had according to law.

Dated this _____ day of _____ 19____.

(Signed)

(Magistrate or Justice.)

* NOTE.—The property is not to be sold until after the expiration of three days next after the day on which it is seized, unless the defendant otherwise consents in writing.

PART VI.

WARRANTS OF COMMITMENT.

FORM No. 20.

(Section 63.)

Warrant to remand Defendant when apprehended.

TRINIDAD AND TOBAGO.

COUNTY OF _____

A. B., Complainant,

v.

C. D., Defendant.

To all Constables and to the Keeper of _____ (Gaol) Prison.

Whereas on the _____ day of _____ 19____, complaint was made before me, the undersigned Magistrate (or Justice) for the _____ District, for that *C. D.* (1) _____ And whereas the said *C. D.*

has been apprehended under and by virtue of a warrant upon such complaint [or information], and is now brought before me as such Magistrate (or Justice) as aforesaid:—

This is to command you forthwith to convey the said *C. D.* to the _____ (Gaol) Prison, and there deliver him to the Keeper of the said Prison, together with this warrant;

And I hereby command you, the said Keeper, to receive the said *C. D.* into your custody in the said Prison, and there safely keep him until _____ day, the

day of _____ 19____, when you are hereby required to cause him, the said *C. D.*, to be conveyed and be at _____ at _____ o'clock, _____ m. of the same day, before the Magistrate (or Justice) in the said Court, to answer the said complaint and to be further dealt with according to law.

(1) State concisely the substance of the complaint.

Dated this _____ day of _____ 19____.

(Signed)

(Magistrate or Justice.)

(Section 63.)

FORM No. 21.

Warrant of Commitment of Defendant for Safe Custody during an Adjournment.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant,

v.

C. D., Defendant.

To all Constables and to the Keeper of (Gaol) Prison.

(1) State concisely the substance of the complaint.

Whereas on the _____ day of _____ 19____, complaint was made before me, the undersigned Magistrate (or Justice) for the _____ District, for that C. D. (1) hearing of the same is adjourned to _____ day, the _____ 19____, at _____ o'clock _____ m., at _____ and it is necessary that the said C. D. should, in the meantime, be kept in safe custody:—This is to command you forthwith to convey the said C. D. to the _____ (Gaol) Prison, and there deliver him to the Keeper of the said (Gaol) Prison, together with this warrant: And I hereby command you, the said Keeper, to receive the said C. D. into your custody in the said (Gaol) Prison, and there safely keep him until the _____ day of _____ 19____, when you are hereby required to cause him, the said C. D., to be conveyed and be at the time and place to which the said hearing is so adjourned as aforesaid, before the Magistrate (or Justice) in the said Court, to answer further the said complaint and to be further dealt with according to law.

Dated this _____ day of _____ 19____.

(Signed)

(Magistrate or Justice.)

(Section 83.)

FORM No. 22.

Warrant of Commitment on Conviction for penalty in the first instance.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant,

v.

C. D., Defendant.

To all Constables, and to the Keeper of (Gaol) Prison.

(1) State the substance of the complaint as in the conviction.

(2) Or, on or before the day of _____ 19____

(3) Add, if it be so, and there kept to hard labour.

(4) Add, if it be so, and keep him to hard labour.

C. D. (hereinafter called the defendant) was this day convicted before the said Court for that he (1) _____ And it was thereby adjudged that the defendant should, for such his offence, forfeit and pay the sum of _____ [etc., as in the conviction], and should also pay to the said A. B. the sum of _____ for his costs in that behalf; And it was further adjudged that if the said several sums should not be paid forthwith (2) _____ the defendant should be imprisoned in the _____ (Gaol) Prison (3) _____ for the term of _____ unless the said several sums [and the costs and charges of the commitment] should be sooner paid; And whereas the time by the said conviction appointed for the payment of the said several sums has elapsed, but the defendant has not paid the same or any part thereof, but therein has made default:—This is to command you to take the defendant and him safely to convey to the said (Gaol) Prison, and there deliver him to the Keeper thereof together with this warrant; And I hereby command you, the said Keeper, to receive the defendant into your custody in the said (Gaol) Prison and there imprison him (4) _____ for the term of _____ unless the said several sums [and the costs and charges of the commitment, amounting to the further sum of _____] shall be sooner paid; And for your so doing, this shall be your sufficient warrant.

Dated this _____ day of _____ 19____.

(Signed)

(Magistrate or Justice.)

FORM No. 23.

Warrant of Commitment on Conviction where the punishment is by Imprisonment.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant,

v.

C. D., Defendant.

To all Constables, and to the Keeper of

(Gaol) Prison.

C. D. (hereinafter called the defendant) was this day convicted before the said Court for that he (1) And it was thereby adjudged that the defendant should, for such his offence, be imprisoned in the (Gaol) Prison (2) for the term of .—This is to command you to take the defendant and him safely to convey to the said (Gaol) Prison and there deliver him to the Keeper thereof, together with this warrant. And I hereby command you, the said Keeper, to receive the defendant into your custody in the said (Gaol) Prison, and there imprison him (3) for the term of And for your so doing, this shall be your sufficient warrant.

(1) State the substance of the complaint as in the conviction.
(2) Add, if it be so, and there kept to hard labour.
(3) Add, if it be so, and keep him to hard labour.

Dated this

day of

19 .

(Signed)

(Magistrate or Justice.)

FORM No. 24.

Warrant of Commitment on Order in the first instance.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant,

v.

C. D., Defendant.

To all Constables, and to the Keeper of

(Gaol) Prison.

Whereas on the day of 19 , complaint was made before me the undersigned Magistrate (or Justice) for the District, for that C. D. (1) and both the said parties having appeared before the said Court [or as it may be in the order]; And the said Court having considered the matter of the said complaint, it was adjudged that the said C. D. should pay to the said A. B. the sum of and should also pay to the said A. B. the sum of for his costs in that behalf; And it was thereby also ordered that if the said several sums should not be paid on or before the day of 19 , the said C. D. should be imprisoned in the (Gaol) Prison (2) for the term of unless the said several sums should be sooner paid; And whereas the time by the said order appointed for the payment of the said several sums of money has elapsed, but the said C. D. has not paid the same or any part thereof, but therein has made default:—This is to command you, to take the said C. D. and him safely to convey to the said (Gaol) Prison, and there deliver him to the Keeper thereof, together with this warrant; And I hereby command you, the said Keeper, to receive the said C. D. into your custody in the said (Gaol) Prison, and there imprison him (3) for the term of unless the said several sums [and the costs and charges of the commitment amounting to the further sum of] shall be sooner paid; And for your so doing, this shall be your sufficient warrant.

(1) State the substance of the complaint as in the order.

(2) Add, if it be so, and there kept to hard labour.

(3) Add, if it be so, and keep him to hard labour.

Dated this

day of

19 .

(Signed)

(Magistrate or Justice.)

(Section 79.)

FORM No. 25.

Warrant of Commitment pending Return to Warrant of Distress.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., *Complainant,*

v.

C. D., *Defendant.**To all Constables, and to the Keeper of (Gaol) Prison.*

C. D. (hereinafter called the defendant) was, on the _____ day of

19 _____, convicted before the said Court for that he (1)

(1) State the substance of the complaint as in the conviction.

And whereas, default having been made in payment according to the said adjudication and order, a warrant of distress has been issued against the defendant in pursuance of the said conviction, but no return has been made thereto; And whereas the defendant has not given security, to the satisfaction of the Court, for his appearance at the time and place appointed for the return of the said warrant of distress:—This is to command you, to take the defendant and him safely to convey to the _____ (Gaol) Prison, and there deliver him to the Keeper thereof, together with this warrant; And I hereby command you, the said Keeper, to receive the defendant into your custody in the said (Gaol) Prison, and there safely keep him until _____ day, the _____ day of _____ 19 _____, being the day appointed for the return of the said warrant of distress, unless he previously enters into a recognizance in the sum of _____ with _____ suret _____ in the sum of _____ [each] conditioned for his appearance on that day, and on that day, if he has not then been released by virtue of having entered into such recognizance, to cause him to be conveyed and be at _____ at _____ o'clock, _____ m., before the Magistrate (or Justice) in the said Court, to be further dealt with according to law.

Dated this _____ day of _____ 19 _____.

(Signed)

(Magistrate or Justice.)

(Section 80.)

FORM No. 26.

Warrant of Commitment for Want of Distress.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., *Complainant,*

v.

C. D., *Defendant.**To all Constables, and to the Keeper of (Gaol) Prison.*

Whereas, [etc., as in one of the warrants of distress in Part V. to "has made default" and then thus :] And whereas afterwards, on the _____ day of _____ 19 _____, I, the said Magistrate (or Justice), issued a warrant to _____ commanding him to levy the said sums of _____ and _____ by distress and sale of the moveable property of the defendant; And whereas it appears to me, as well by the return of the said Constable to the said warrant of distress as otherwise, that the said Constable has made diligent search for the moveable property of the defendant, but that no sufficient distress whereon to levy the said several sums could be found:—This is to command you to take the defendant, and him safely to convey to the _____ (Gaol) Prison, and there deliver him to the Keeper thereof, together with this warrant; And I hereby command you, the said Keeper, to receive the defendant into your custody in the said (Gaol) Prison, and there imprison him (1) _____ for the term of _____ unless the said several sums, and all costs and charges of the said distress [and of the commitment] amounting to the further sum of _____ shall be sooner paid; And for your so doing, this shall be your sufficient warrant.

(1) Add, if it be so, and keep him to hard labour.

Dated this _____ day of _____ 19 _____.

(Signed)

(Magistrate or Justice.)

FORM No. 27.

Warrant of Commitment on Order where the disobeying of it is punishable by Imprisonment.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant,

v.

C. D., Defendant.

To all Constables, and to the Keeper of

(Gaol) Prison.

Whereas on the _____ day of _____ 19____, complaint was made before me, the undersigned Magistrate (or Justice) for the _____ District for that C. D. (1)

(1) State the substance of the complaint as in the order.

And both the said parties having appeared before the said Court [or as it may be in the order]; And the said Court having considered the matter of the said complaint, it was adjudged that the defendant should [etc., as in the order] And it was also adjudged that if, upon a copy of a minute of the said order being served upon the defendant, either personally or by leaving the same for him at his last or most usual place of abode, he should refuse or neglect to obey the same, in such case the defendant should, for such his disobedience, be imprisoned in the

(Gaol) Prison (2) for the term of [unless the said order should be sooner obeyed]; and it was also adjudged that the defendant should pay to the said A. B. the sum of _____ for his costs in that behalf; And it was ordered that if the said sum for costs should not be paid forthwith (3)

(2) Add, if it be so, and there kept to hard labour.

the defendant should be imprisoned in the said (Gaol) Prison (2) for the term of _____ to commence at and from the termination of

(3) Or, on or before the day of _____ 19____

his imprisonment aforesaid, unless the said sum for costs [and the costs and charges of the commitment] should be sooner paid; And whereas it is now proved to me that, after the making of the said order, a copy of a minute thereof was duly served upon the defendant, but he then refused [or neglected] to obey the same, and has not as yet obeyed the same; And whereas the time appointed by the said order for the said payment of the said sum for costs has elapsed, but the defendant has not paid the same or any part thereof, but therein has made default:—This is to command you, to take the defendant and him safely to convey to the said (Gaol) Prison, and there deliver him to the Keeper thereof, together with this warrant; And I hereby command you the said Keeper, to receive the defendant into your custody in the said (Gaol) Prison, and there imprison him (4)

for the term of _____ And further, on the termination of his imprisonment aforesaid, to imprison him (4) for the term of _____ unless the said sum for costs [and the costs and charges of the commitment, amounting to the further sum of _____] shall be sooner paid: And for your so doing, this shall be your sufficient warrant.

(4) Add, if it be so, and keep him to hard labour.

Dated this _____

day of _____

19____

(Signed)

(Magistrate or Justice.)

FORM No. 28.

(Section 73.)

Warrant of Commitment for Non-Payment of Costs upon Order of Dismissal of Complaint.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant,

v.

C. D., Defendant.

To all Constables, and to the Keeper of

(Gaol) Prison.

Whereas on the _____ day of _____ 19____, complaint was made [or, information was laid] before me, the undersigned Magistrate (or Justice) for the _____ District for that C. D. (1)

(1) State the substance of the complaint as in the order.

and both the said parties having appeared before the said Court [or as it may be in the order]; And thereupon the matter of the said complaint [or information] having been by the said Court duly considered, and it manifestly appearing to the said Court that the said complaint [or information] was not proved, the said Court therefore dismissed the same, and adjudged that the said A. B. should pay to the said C. D. the sum of _____ for his costs incurred by him in his defence in that behalf; And it was ordered that if

(2) Or, on or before the day of 19 (3) Add, if it be so, and there kept to hard labour.

(4) Add, if it be so, and keep him to hard labour.

the said sum for costs should not be paid forthwith (2) should be imprisoned in the (Gaol) Prison (3) for the term of unless the said sum should be sooner paid; And whereas the time appointed by the said order for the payment of the said sum has elapsed, but the said A. B. has not paid the same or any part thereof, but therein has made default:—This is to command you, to take the said A. B. and him safely to convey to the said (Gaol) Prison, and there deliver him to the Keeper thereof, together with this warrant; And I hereby command you, the said Keeper, to receive the said A. B. into your custody in the said (Gaol) Prison, and there imprison him (4) for the term of unless the said sum [and the costs and charges of the commitment, amounting to the further sum of] shall be sooner paid; And for your so doing, this shall be your sufficient warrant.

Dated this day of 19

(Signed)

(Magistrate or Justice.)

(Section 73.)

FORM NO. 28a.

Warrant of Commitment (Cumulative term) on Conviction for Penalty in the first instance.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant, v. C. D., Defendant.

To all Constables, and to the Keeper of the Royal Gaol, Port-of-Spain,

hereinafter called the defendant,

(1) State the substance of the complaint as in the conviction.

(2) Or, on or before the day of 19

was this day convicted before the said Court for that he (1) And it was thereby adjudged that the defendant should, for such his offence, forfeit and pay the sum of and it was ordered that if the said sum be not paid forthwith (2) the defendant should be imprisoned in the Royal Gaol and there kept to hard labour, for the term of unless the said sum should be sooner paid; And it was also adjudged that the defendant should pay to the sum of as costs and compensation; And it was also ordered that if the said sum of be not paid forthwith (2) the defendant should be imprisoned in the said Gaol, and there kept to hard labour for the term of to commence at and from the termination of the hereinbefore mentioned term of unless the said sum of should be sooner paid.

And whereas the time by the said conviction appointed for the payment of the said several sums has elapsed, but the defendant has not paid the same or any part thereof, but therein has made default:—This is to command you to take the defendant and him safely to convey to the said Gaol and there deliver him to the Keeper thereof, together with this warrant; and I hereby command you, the said Keeper, to receive the defendant into your custody in the said Gaol and there imprison him and keep him to hard labour for the term of unless the said sum of (fine) shall be sooner paid; And further on the termination of his imprisonment aforesaid to imprison him and keep him to hard labour for the term of unless the said sum of for costs and compensation shall be sooner paid: And for so doing this shall be your sufficient warrant.

Dated this day of 19 ;

(Signed)

(Magistrate or Justice.)

PART VII.

RECOGNIZANCES.

FORM No. 29.

(Sections 63 and 122.)

Recognizance for appearance of Defendant where the case is adjourned or not at once proceeded with.

TRINIDAD AND TOBAGO.

COUNTY OF

Be it remembered that on the _____ day of _____ 19____, *C. D.*, of _____ and *G. H.*, of _____ personally came before me, the undersigned Magistrate (*or Justice*) for the _____ District, and severally acknowledged themselves to owe to Our Sovereign Lord the King the several sums following, namely, the said *C. D.*, as principal, the sum of _____ and the said *G. H.*, as surety, the sum of _____ to be levied on their several moveable and immoveable property respectively, if the said *C. D.* fails in the condition hereon endorsed.

Taken and acknowledged the day and year first above mentioned before me.

(Signed)

*(Magistrate or Justice.)**Condition endorsed.*

The condition of the within written recognizance is such that if the within bounden *C.D.* appears before the Magistrate (*or Justice*) in the said Court, on _____ day, the _____ day of _____ 19____, at _____ o'clock, _____ m., at _____ [and at every time and place to which during the course of the proceedings against the said *C. D.*, the hearing may be from time to time adjourned] to answer further the complaint made against him by *A. B.*, and to be further dealt with according to law, then the said recognizance shall be void, but otherwise shall remain in full force.

FORM No. 30.

(Section 63.)

Notification to be made to Defendant and his Surety on entering into such Recognizance.

Take notice that you, *C. D.*, are bound, as principal, in the sum of _____ and you *G. H.*, as surety, in the sum of _____ that you, *C. D.*, personally appear on _____ day, the _____ day of _____ 19____, at _____ o'clock, _____ m., at _____ before the Magistrate (*or Justice*) in the said Court to answer further a certain complaint of *A. B.* the further hearing of which was adjourned to the said time and place, and to be further dealt with according to law, and unless you, *C. D.*, appear accordingly, the recognizance entered into by you, *C.D.*, as principal, and by you, *G. H.*, as his surety, will forthwith be levied on you severally.

Dated this _____ day of _____ 19____.

(Signed)

(Magistrate or Justice.)

FORM No. 31.

Recognizance for Appearance, or for doing some other thing in, to, or before, or in a Proceeding in a Magistrate's Court.

TRINIDAD AND TOBAGO.

COUNTY OF

We, the undersigned *C. D.*, of _____ *G. H.*, of _____ and *J. K.*, of _____ severally acknowledge ourselves to owe to Our Sovereign Lord the King the several sums following, namely, the said *C.D.*, as principal,

the sum of _____ and the said *G. H.* and *J. K.*, as sureties, the sum of _____ each, to be levied on our several moveable and immoveable property respectively, if the said *C. D.* fails in the condition hereon endorsed.

(Signed, where not taken orally.)

C. D.

G. H.

J. K.

Taken [orally] before me this _____ day of _____ 19 _____
(Signed)

(Magistrate or Justice.)

NOTE.—Where the recognizance is taken orally, omit the words "the undersigned" and insert the word "orally" after "taken."

Condition endorsed.

The condition of the within written recognizance is such that if the within bounden *C. D.* appears before the Magistrate (or Justice) in the said Court, on _____ day, the _____ day of _____ 19 _____, at _____ o'clock _____ m., at _____ [and at every time and place to which during the course of the proceedings against the said *C. D.*, the hearing may be from time to time adjourned] to answer [further] the complaint made against him by *A. B.* and to be further dealt with according to law, [or, appears before the said Court sitting at _____ for sentence when called upon, or as the case may be] then the said recognizance shall be void, but otherwise shall remain in full force.

(Section 114.)

FORM No. 32.

Recognizance to keep the Peace and be of Good Behaviour, or not to do or commit some act or thing.

TRINIDAD AND TOBAGO.

COUNTY OF _____

We the undersigned, *C. D.*, of _____ *G. H.*, of _____ and *J. K.*, of _____ severally acknowledge ourselves to owe to Our Sovereign Lord the King the several sums following, namely, the said *C. D.*, as principal, the sum of _____ and the said *G. H.*, and *J. K.*, as sureties, the sum of _____ each to be levied on our several moveable and immoveable property respectively, if the said *C. D.* fails in the condition hereon endorsed.

(Signed, where not taken orally)

C. D.

G. H.

J. K.

Taken [orally] before me this _____ day of _____ 19 _____
(Signed)

(Magistrate or Justice.)

NOTE.—Where the recognizance is taken orally, omit the words "the undersigned," and insert the word "orally" after "taken."

Condition endorsed.

The condition of the within written recognizance is such that if the within bounden *C. D.* keeps the peace and is of good behaviour towards His Majesty and all his liege people, and especially towards *A. B.* of _____ for the term of _____ now next ensuing, [or, abstains from doing the thing forbidden, or as the case may be] then the said recognizance shall be void, but otherwise shall remain in full force.

(Section 123.)

FORM No. 33.

Declaration of Forfeiture of Recognizance.*

TRINIDAD AND TOBAGO.

COUNTY OF _____

The _____ day of _____ 19 _____

The said *C. D.* not having appeared [or as the case may be] in accordance with the said condition, this Court declares that the within written recognizance is forfeited.

(Signed)

(Magistrate or Justice.)

* To be endorsed on the recognizance.

FORM No. 34.

(Section 123.)

Summons to Person bound by Recognizance which is alleged to have been forfeited by Conviction of Principal.

TRINIDAD AND TOBAGO.

COUNTY OF

To of

You are hereby summoned to appear on day, the day of 19, at o'clock m., at before the Magistrate (or Justice) in the said Court, to show cause why the recognizance entered into the day of 19, whereby you are bound to pay the sum of should not be adjudged to be forfeited, and why you should not be adjudged to pay that sum.

Dated this day of 19 .

(Signed)

(Magistrate or Justice.)

FORM No. 35.

(Section 123.)

Adjudication of Forfeiture of Recognizance where Person bound as Principal has been convicted of an Offence which is a Breach of the Condition.

TRINIDAD AND TOBAGO.

COUNTY OF

The day of 19 .

C. D. (hereinafter called the defendant) was, by his recognizance entered into the day of 19, bound in the sum of the condition of the said recognizance being that the defendant should (1)

And proof having been given that the defendant has been convicted of the offence of having (2) being an offence which is in law a breach of the condition of the said recognizance :—Therefore it is adjudged that the said recognizance is forfeited, and that the defendant do pay to [the Magistrate, Justice, or other person specified] the said sum of and do also pay to the sum of for costs ; And it is ordered that the said sums be paid forthwith (3)

And if default is made in payment according to this adjudication and order,* it is ordered that the sums be levied by distress and sale of the moveable property of the defendant ; And, in default of sufficient distress,* it is adjudged that the defendant be imprisoned in the (Gaol) Prison (4) for the term of unless the said several sums, and all costs and charges of the distress [and of the commitment] shall be sooner paid.

(Signed)

(Magistrate or Justice.)

- (1) State the condition of the recognizance.
- (2) State the offence concisely.
- (3) Or, on or before the day of 19
- (4) Add, if it be so, and there kept to hard labour.

* Or, where the issuing of a distress warrant would be injurious to the defendant or his family, or it appears that he has no moveable property whereon to levy a distress, then, instead of the words between the asterisks** say "then, inasmuch as it has now been made to appear to the said Court that the issuing of a warrant of distress in this behalf would be more injurious to the defendant or his family than imprisonment, [or, that the defendant has no moveable property whereon to levy the said sums by distress], It is adjudged" [etc., as above, to the end].

FORM No. 36.

(Section 123.)

Oral or Written Acknowledgment of Undertaking to perform Condition of Forfeited Recognizance.

TRINIDAD AND TOBAGO.

COUNTY OF

C. D. was, by his recognizance entered into the day of 19, bound in the sum of the condition of the recognizance being that the said C. D. should (1) And default having been made in performance of this condition, the recognizance was, on the day of 19, declared to be forfeited. And the said C. D. has applied to the said Court to cancel or mitigate the forfeiture :—Now, therefore, I, the said C. D., as principal, and we, G. H., of and J. K., of as sureties [or I, G. H., of as surety] hereby undertake that the

- (1) State the condition of the recognizance.

condition of the said recognizance shall be duly performed [and also that the said C. D. shall, on or before the _____ day of _____ 19____, pay the sum of _____ for costs incurred in respect of the said forfeiture ;] And I, the said principal, and we the said sureties [or I, the said surety] hereby severally acknowledge ourselves bound to forfeit and pay to [the Magistrate, Justice, or other person specified] the sum of _____ in case the said principal fails to perform the condition of the said recognizance.

(Signed, where not taken orally)

C. D.
G. H.
J. K.

Taken [orally] before me this _____ day of _____ 19____ .

(Signed)

(Magistrate or Justice.)

(Section 123.)

FORM NO. 37.

*Order cancelling or mitigating Forfeiture of Recognizance.**

TRINIDAD AND TOBAGO.

COUNTY OF _____

The within written recognizance was declared to be forfeited on the _____ day of _____ 19____ ; And the said _____ has applied to this Court to cancel [or mitigate] the forfeiture of the said recognizance, and has given security, to the satisfaction of the Court, for the future performance of the condition of the said recognizance, and has paid [or, given security for payment of] the costs incurred in respect of the forfeiture thereof [or insert such other conditions as the Court may think just] :— Therefore the said forfeiture is hereby cancelled [or, mitigated to the sum of _____].

Dated this _____ day of _____ 19____ .

(Signed)

(Magistrate or Justice.)

* To be endorsed on the recognizance.

PART VIII.

SUMMARY TRIAL OF INDICTABLE OFFENCES.

Section 95.)

FORM NO. 38.

Notice to Parent or Guardian of Child charged with Indictable Offence.

TRINIDAD AND TOBAGO.

COUNTY OF _____

A. B., Complainant,

v.

C. D., Defendant.

To _____ of _____

(1) State concisely the substance of the complaint.
(2) Or, guardian.

C. D. has been charged for that he (1) _____ and he has been remanded until the sitting of the said Court on _____ day, the _____ day of _____ 19____, at _____ And it has been alleged that you are his parent (2) _____ If you desire that he shall be tried by a jury, and object to his case being dealt with summarily, you must attend at the hearing of the complaint [or information] before the said Court at that time and place.

Dated this _____ day of _____ 19____ .

(Signed)

(Magistrate or Justice.)

FORM No. 39.

(Section 95.)

Summary Conviction of Child for Indictable Offence.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant,

v.

C. D., Defendant.

The day of 19 .

C. D., (hereinafter called the defendant), being a child within the meaning of the Summary Conviction Offences (Procedure) Ordinance, and above the age of seven years and of sufficient capacity to commit crime, and having been charged for that he (1)

(1) State concisely the substance of the complaint.
(2) Or, guardian.

And of the defendant* having been informed by the Court being dealt with summarily under the said Ordinance, and not having objected to the case so to deal with the case :*—The defendant is this day convicted before the said Court for his said offence, [proceed as in other forms of summary convictions. If whipping is ordered insert either in addition to or in substitution for any other punishment, as the case may be :] And it is adjudged that the defendant, being a male child, shall, as soon as practicable, be whipped and receive strokes.

(3) Or, be.

(Signed)

(Magistrate or Justice.)

* Omit the words between asterisks if the parent or guardian is absent, and substitute for the said words "not having been present at the hearing of the charge, but the Court thinking it expedient that the case be dealt with summarily."

FORM No. 40.

(Section 95.)

Order of Dismissal of Child dealt with summarily for Indictable Offence.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant,

v.

C. D., Defendant.

C. D. (hereinafter called the defendant), being a child within the meaning of the Summary Conviction Offences (Procedure) Ordinance, and having been charged on the complaint of A. B. of for that he (1)

(1) State concisely the substance of the complaint.

And the Court having, in the exercise of its jurisdiction, dealt with the case summarily under the said Ordinance ; And the matter of the said complaint being by the said Court duly considered, it manifestly appears to the said Court that the said complaint is not proved :—Therefore the Court doth hereby dismiss the said complaint [If costs, or costs and compensation, are ordered, proceed as in Form No. 18.]

Dated this day of 19 .

(Signed)

(Magistrate or Justice.)

FORM No. 41.

(Section 97.)

Summary Conviction (on Plea of Guilty) of Adult for Indictable Offence.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., Complainant,

v.

C. D., Defendant.

The day of 19 .

C. D. (hereinafter called the defendant), having been charged for that he (1) and having pleaded guilty to the said charge ; And the Court being satisfied that the case is one which may properly be dealt with summarily under the Summary Conviction Offences (Procedure) Ordinance :—The defendant is this day convicted before the said Court of the said offence, and it is adjudged that he be, for his said offence, imprisoned in the (Gaol) Prison (2)

(1) State concisely the substance of the complaint.

(2) Add, if it be so, and there kept to hard labour.

for the term of [If costs are ordered, proceed as in conviction for penalty and, in default of payment, imprisonment.]

(Signed)

(Magistrate or Justice.)

(Section 96.)

FORM No. 42.

Summary Conviction (by Consent) of Adult for Indictable Offence.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., *Complainant,*

v.

C. D., *Defendant.*

The C. D., (hereinafter called the defendant), having been charged for that he (1)

(1) State concisely the substance of the complaint.

and having been informed by the Court of his right to be tried by a jury, and having consented to be dealt with summarily under the Summary Conviction Offences (Procedure) Ordinance, and the Court thinking it expedient so to deal with the case: The defendant is this day convicted before the said Court of the said offence, and it is adjudged that he do (2) the said offence, [proceed as in ordinary forms of summary conviction.]

2) Or *be.*

(Signed)

(Magistrate or Justice.)

(Section 96.)

FORM No. 43.

Order of Dismissal of Adult dealt with summarily for Indictable Offence.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., *Complainant,*

v.

C. D., *Defendant.*

(1) State concisely the substance of the complaint.

C. D. (hereinafter called the defendant) having been charged on the complaint of A. B. for that he (1) and having been informed by the Court of his right to be tried by a jury, consented to be dealt with summarily under the Summary Conviction Offences (Procedure) Ordinance, and the Court having thought it expedient so to deal with the case; And the matter of the said complaint having been by the said Court duly considered, it manifestly appears to the said Court that the said complaint is not proved:—Therefore the Court doth hereby dismiss the said complaint. [If costs, or costs and compensation, are ordered, proceed as in Form No. 18.]

Dated this 19 day of

(Signed)

(Magistrate or Justice.)

PART IX.

MISCELLANEOUS FORMS.

(Section 64.)

FORM No. 44.

Certificate of Dismissal of Complaint.

TRINIDAD AND TOBAGO.

COUNTY OF

(1) State concisely the substance of the complaint.

I hereby certify that a complaint made by A. B. against C. D. for that he (1) was, on the day of 19, considered by the said Court, and was by the said Court dismissed [with costs.]

Dated this 19 day of

(Signed)

(Magistrate or Justice.)

(Section 80.)

FORM No. 45.

Constable's Return to Warrant of Distress.

TRINIDAD AND TOBAGO.

COUNTY OF

A. B., *Complainant,*

v.

C. D., *Defendant.*

I, the Constable charged with the execution of the warrant of distress in the above-mentioned case, do hereby certify to the said Court that, by

Section 53.)

FORM No. 49.

Warrant on Transfer of Case.

TRINIDAD AND TOBAGO.

A. B., *Complainant,*

v.

C. D., *Defendant.*

To all Constables and to the Keeper of the

Gaol (or Prison).

Whereas on the _____ day of _____ 19____, complaint

was made before me, the undersigned Magistrate (or Justice) for the District for that C. D. (1) _____

(1) State concisely the substance of the complaint.

And whereas, on the hearing of the said complaint, it appeared that the cause of complaint arose out of the limits of the district of the said Court, and the said Court has directed the case to be transferred to the Court of the district where the cause of complaint arose, that is to say, to the _____ Court:—This is to command you

forthwith to convey the said C. D. to the _____ Gaol (or Prison) and there deliver him to the Keeper of the said

together with this warrant; And I hereby command you, the said Keeper, to receive the said _____ into your custody in the said Gaol (or Prison) until he can be taken before the Magistrate (or Justice) of the said Court, to answer the said complaint and to be further dealt with according to law.

Dated this _____

day of _____

19____

(Signed)

(Magistrate or Justice.)

(Section 119.)

FORM No. 50.

Affidavit for use in proving Service of Process.

TRINIDAD AND TOBAGO.

No. _____

Return of Service of Process in respect of Summary Conviction Offences for the Court.

Name of Complainant.	Name of Defendant.	Document served.	Date of Service.	Place of Service.	Mode of Service.

I do swear that the above Return of Service is true and in accordance with the facts of such Service.

(Signed)

Deponent.

Sworn before me by the above-named deponent this _____ day of _____ 19____

(Signed)

(Magistrate or Justice.)
[or as the case may be.]

NOTE.—In filling up the several columns it will be sufficient to write:—
In Column One and Column Two, the initials of Christian names, giving surnames in full; and
In Column Six, the words “personally,” or on “wife,” “son,” “daughter,” “attorney,” “agent,” “clerk,” or “servant,” as the case may require.

FORM No. 51.

(Section 20.)

Return by Magistrate (or Justice), etc., of Fines, Penalties, etc., received.

TRINIDAD AND TOBAGO.

Monthly return of the Magistrate (or Justice) of District [or, of the Keeper of the (Gaol) Prison] under the Summary Conviction Offences (Procedure) Ordinance, of all moneys received, and when and to whom paid from the day of 19 , to the day of 19 .

Name of Person convicted.	Date of Conviction or order.	Offence.	Costs.	Amount thereof paid.	Fine.	Amount thereof paid to Parties.	Names of Parties.	Amount of Fine received and paid to Treasurer.	Punishment when Fine not paid.	Name of convicting Justice.	Reasons for non-payment or other Observations.

FORM No. 52.

(Section 68.)

Form of Commitment for cumulative term of Imprisonment.

TRINIDAD AND TOBAGO.

COUNTY OF

To all Constables and to the Keeper of

A. B., late of C. having been this day at the Court convicted for that he did [here state the offence] and adjudged for his offence to forfeit the sum of and in default of payment to be imprisoned [hard labour] for to commence after the expiration of another term of imprisonment for which he now stands committed under a warrant signed by [me] and dated the day of

I command that [the said sums remaining unpaid] the said A. B. be conveyed to and delivered to the Keeper to be safely kept and imprisoned [hard labour] for to commence after the expiration of the other term of imprisonment [unless the said sums and the charges of his commitment and conveyance to prison amounting to shall be sooner paid.]

(Signed)

(Magistrate or Justice.)

FOURTH SCHEDULE.

(Section 129.)

FORM 1.

(Form of Notice where the appellant is a defendant.)

TRINIDAD AND TOBAGO.

To A. B., Esq.,

Clerk of the

Court.

Take notice that I, E. F. aggrieved by a conviction (or order) of G. H., Esq., dated against me the said E. F. for having as therein alleged on the day of (here state briefly the conviction or order) do appeal against such conviction.

Dated this

day of

19

E. F. (or his Counsel or Solicitor.)

(Section 129.)

FORM 2.

(Form of Notice where Court refuses to make a conviction or order.)

TRINIDAD AND TOBAGO.

To A. B., Esq.,

Clerk of

Court.

Take notice that I, C. D. aggrieved by the refusal of E. F., Esq., to make any conviction or order upon a certain complaint or information bearing date the day of wherein G. H. was charged with (set out substance of complaint) do appeal against such refusal to convict.

Dated this

day of

19

C. D. (or his Counsel or Solicitor.)

(Sections 133 and 155.)

FORM 3.

(Form of Recognizance where appellant is convicted.)

TRINIDAD AND TOBAGO.

Be it remembered that on the year of Our Lord A. B. and C. D. of (appellant) of (surety or sureties as the case may be) came before me the undersigned (Magistrate or Justice of the Peace) for (district) and severally acknowledged themselves to owe to our Sovereign Lord the King the several sums following, that is to say, the said A. B. the sum of and the said C. D. the sum of and the said E. F. the sum of

Whereas on day of the said A. B. was convicted before Esq., Magistrate (or Justice of the Peace, as the case may be) for that he the said A. B. did on day of (here state substance of conviction or order.)

And whereas the said A. B. has appealed against the said conviction (or order.)

Now the condition of this recognizance is such that if the said A. B. shall personally appear at the sittings of the Court of Appeal when his appeal comes on to be heard, [and at every sitting of such Court to which his appeal may be from time to time adjourned] and shall then and there duly prosecute such his appeal, and shall not depart the Court without leave, and shall abide by and perform the judgment of the said Court of Appeal, and pay all such costs as shall be awarded against him by the said Court, then this recognizance shall be void, but otherwise shall be in full force and effect.

(Appellant)
(Surety)
(Surety)

(Signed)
"
"

A. B.
C. D.
E. F.

Taken and acknowledged before me.

(Signed)

(Magistrate or Justice.)

Subsect 4
7/20/1928
In form
B & 3 A

FORM 4.

(Section 154.)

(Registrar's certificate of Non-payment of costs.)

TRINIDAD AND TOBAGO.

Certificate of Registrar of the Supreme Court.

(Title of the Appeal.)

I hereby certify that at a Court of Appeal holden at the Court House in Port-of-Spain *(or Scarborough, as the case may be)* on _____ day of _____ an appeal by *A. B.* against a conviction *(or order)* of *C. D.*, Esq., one of His Majesty's Magistrates *(or Justices)* for _____ *(District)* was heard and determined, and the said Court thereupon ordered that the said conviction *(or order)* should be confirmed *(or quashed)* and that the said _____ should pay to the said _____ the sum of _____ for the costs incurred by him in the said appeal and which sum was thereby ordered to be paid to me, the undersigned Registrar, on or before the _____ day _____ to be by me handed over to the said _____ : And I further certify that the said sum for costs has not, nor has any part thereof, been paid.

Dated _____

Registrar.

FORM 5.

(Section 149.)

(Warrant of commitment for Non-payment.)

To all Constables and to _____ Keeper of the Gaol
at _____
Whereas *A. B.*, late of _____ *(Labourer)* was on _____ day of _____ duly convicted before the undersigned, one of His Majesty's Magistrates *(or Justices)* in and for the said County of _____ for that *(set out substance of conviction)* And whereas the said *A. B.* appealed against the said conviction *(or order)* in which *C. D.* was the respondent and which appeal was heard and determined at the Court of Appeal holden at _____ and the said Court thereupon ordered that *(set out conviction or order)* and that _____ should pay to the sum of _____ for costs incurred by him in the said appeal which said sum was to be paid to the Registrar of the Supreme Court on or before the _____ day of _____ 19____, to be by him handed over to the said _____ ;
And whereas the Registrar of the said Court hath on the _____ day of _____ instant duly certified that the said sum for costs has not been paid. These are therefore to command you to take the said _____ and him safely to convey to the Gaol at _____ and there deliver him to the Keeper thereof together with this receipt : And I do hereby command you the Keeper of the said Gaol _____ there to imprison him for the space of _____ unless the said sum and all costs and charges of the said Appeal *(and of the commitment and conveying the said sum to the said _____ amounting to a further sum of _____)* are sooner paid unto you the said Keeper ;
And for so doing this shall be your sufficient warrant.

Given under my hand this _____ day of _____ in the year of Our Lord one thousand nine hundred and _____ in the _____ *(County)* aforesaid.

(Signed)

(Magistrate or Justice.)

(Section 156.)

FIFTH SCHEDULE.

		£	s.	d.
(1) REGISTRAR—				
On filing or sealing notice		2	0
On sealing a writ of subpoena not exceeding 3 persons		5	0
On any affidavit		1	0
Copies of notes of evidence or any other document filed in the proceedings, per folio of 90 words			6
On every taxation of bill of costs	2		6
(2) COUNSEL—				
Fee on brief	from £2	2	0 to 7 7 0
(3) SOLICITORS—				
Instructions to support or to vary or rescind Magistrate's order		6	8
Attendances		from 3s.	4d. to 13 4
Copy of notes of evidence for Counsel, per folio of 90 words			6
Every notice or præcipe for subpoena		2	6