

3.8.17

TRINIDAD AND TOBAGO.

No. 12.—1917.

I ASSENT,

[L.S.]



J. R. CHANCELLOR,
Governor.

29th May, 1917.

AN ORDINANCE to amend and consolidate the law relating to preliminary enquiries into indictable offences by Magistrates and Justices.

[29th May, 1917.]

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

1. This Ordinance may be cited as the Indictable Short Title. Offences (Preliminary enquiry) Ordinance, 1917.

2. In this Ordinance, unless the context otherwise Interpre- requires: tation.

“The Court” means the Supreme Court or a Judge thereof;

“Magistrate” includes a Justice of the Peace;

“Constable” means a member of the Constabulary Force.



Compelling
appearance of
accused
person.

3. Any Magistrate may issue a summons or warrant as hereinafter mentioned to compel the appearance before him, for the purpose of preliminary examination, of any person accused of having committed in any place, whether within or without the Colony, any indictable offence triable, according to the law for the time being in force, in the Colony.

Magistrate
may enquire
into suspected
offence.

4.—(1) Any Magistrate who has reason to believe that any indictable offence has been committed within the limits of his jurisdiction, or that there is reasonable ground for inquiring whether such an offence has been committed, or, in either case, that there is reasonable ground for enquiring by whom such suspected offence has been committed, may, (whether any particular person is charged or not) summon to appear before him any person whom he has reason to believe to be capable of giving material evidence concerning such offence, and may examine such person upon oath concerning such offence, and, if he sees cause, bind such person by recognizance to attend and give evidence, if called upon by any Magistrate or by the Court, at any time within the twelve months then next ensuing, unless such person can show some reasonable excuse to the contrary.

(2.) In case any person so summoned neglects to attend, or refuses without lawful excuse to take such oath, or, having taken such oath, to answer any question concerning the said offence which may then be put to him, or to enter into such recognizance as aforesaid, he may be dealt with in the same manner as a witness may be dealt with who neglects or refuses to attend or give evidence, or to be bound by recognizance to do so, after having been served with a summons for that purpose.

Search Warrant.

Power to issue
search
warrant.

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

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

- (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 indictable offence against the person for which, according to any Ordinance for the time being in force, the offender may be arrested without warrant;

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

(2.) Every such 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, he may detain or cause it to be detained, taking reasonable care that it is preserved until the conclusion of the inquiry; and if any person is committed for trial, he may order it further to be detained for the purpose of evidence on the trial. If no person is committed, the Magistrate 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.

(4.) If, under any such warrant, there is brought before any Magistrate any forged bank note, bank note paper, instrument or other thing, the possession of which, in the absence of lawful excuse, is an indictable offence according to any enactment for the time being in force, the Court, if such person is committed for trial, or if there is no commitment for trial, the Magistrate, may cause such thing to be defaced or destroyed.

(5.) If, under any such warrant, there is brought before any Magistrate any counterfeit coin or other thing, the possession of which with knowledge of its nature and without lawful excuse, is an indictable offence according to any Ordinance for the time being in force, every such thing shall

be delivered up to the Inspector-General of Constabulary, or to any person authorised 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.

(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 authorised 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 of Constabulary may order.

Complaint or Information.

Reception of
complaint or
information.

6. Upon any complaint or information given to a Magistrate that an indictable offence has been committed by any person whose appearance he has power to compel, such Magistrate shall consider the allegations of the complainant or informant, and if he is of opinion that a case for so doing is made out, he shall issue a summons or warrant, as the case may be, in the manner hereinafter mentioned; and such Magistrate shall not refuse to issue such summons or warrant only because the alleged offence is one for which an offender may be arrested without warrant.

Summons to Accused Persons.

Issue,
contents and
service of
summons.

7.—(1.) A Magistrate may issue a summons although there is not any complaint or information in writing or upon oath.

(2.) The summons shall be directed to the accused person, and shall require him to appear at a certain time and place to be therein mentioned.

(3.) No such summons shall be signed in blank.

(4.) Every such summons shall be served by a Constable upon the accused person, either by delivering it to him personally, or, if he cannot be met with, by leaving it with some person for him at his last or most usual place of abode.

(5.) The Constable by whom the summons is served shall attend at the time and place specified therein for the appearance of the accused person, in order, if necessary, to prove the service: Provided that the Magistrate before whom the accused person ought to appear may, in his discretion, receive proof of such service by affidavit, and such affidavit may be made before any Magistrate.

Warrant for apprehension of accused person.

8.—(1.) If there is an information in writing and upon oath, a Magistrate may, if he is of opinion that a case for so doing is made out, issue a warrant for the apprehension of the accused person. Issue of warrant of apprehension in first instance.

(2.) The fact that a summons has been issued shall not prevent any Magistrate from issuing such warrant at any time before or after the time mentioned in the summons for the appearance of the accused person; and where the service of the summons for the appearance of the accused person has been proved and the accused person does not appear, or where it appears that the summons cannot be served, the warrant may issue.

(3.) The Magistrate who would have heard the charge if the person summoned had appeared may issue the warrant, either on information in writing and upon oath taken before himself, or on information in writing and upon oath taken before another Magistrate, either before or after the summons was issued.

Proceedings on Appearance of Accused Person.

9. When any person is apprehended upon a warrant, he shall be brought before a Magistrate as soon as may be practicable after he is so arrested, and such Magistrate shall either proceed with the preliminary inquiry or postpone such inquiry to a future time, in which latter case he shall either commit the accused person to prison, or admit him to bail, or permit him to be at large on his own recognizance, according to the provisions hereinafter contained. Disposal of person apprehended upon warrant.

10. Every accused person shall be entitled as of right to the presence and assistance of his legal adviser, and while under remand shall be allowed the access of his legal adviser at all reasonable times. Accused may have assistance of legal adviser.

Irregularities.

Irregularity
in summons,
warrant,
service, or
arrest.

11.—(1.) No irregularity or defect in the substance or form of the complaint, information, summons or warrant, and no variance between the charge contained in the summons or warrant and the charge contained in the complaint or information, or between any of them and the evidence adduced on the part of the prosecution at the preliminary enquiry, shall affect the validity of any proceeding at or subsequent to the hearing.

(2.) When any accused person is before a Magistrate whether voluntarily, or upon summons, or after being apprehended with or without warrant, or while in custody for the same or any other offence, the preliminary enquiry may be held notwithstanding any irregularity, illegality, defect or error in the summons or warrant, or the issuing, service or execution of the same, and notwithstanding the want of any information upon oath, and notwithstanding any defect in the information, or any irregularity or illegality in the arrest or custody of the accused person: Provided that it shall be lawful for such Magistrate, if he thinks that the ends of justice require it, to adjourn the hearing of the case, at the request of the accused person, to some future day, and in the meantime to remand the accused person, or admit him to bail: Provided also that upon such adjournment, the accused person shall not be committed to prison unless, before his committal, an information in writing and upon oath has been taken.

Witnesses.

Application
of law with
respect to
summoning,
etc., of
witnesses.

12. Subject to the provisions of this Ordinance, the provisions of law for the time being in force with respect to witnesses on the hearing of a complaint for an offence punishable on summary conviction in a Magistrate's court shall, *mutatis mutandis*, apply to witnesses on the holding of a preliminary enquiry before a Magistrate with respect to an indictable offence, with the addition that any such witness shall be liable to be dealt with as hereinafter provided for refusing, without reasonable excuse, to sign his deposition or to enter into a recognizance.

Local examination and Medical inspection.

13.—(1.) It shall be the duty of the Magistrate holding any preliminary enquiry to make or cause to be made such local inspection as the circumstances of the case may require; and, in any case of homicide or serious injury to the person, to cause the body of the person killed or injured to be examined by some duly qualified medical practitioner, if any such can be had, and if not, then by the most competent person that can be obtained, and the deposition of such medical practitioner or other person shall afterwards, if necessary, be taken.

Making of local inspection and examination of injured person.

(2.) Every medical practitioner or other person as aforesaid who refuses or neglects, without reasonable excuse, to comply with any order or direction of a Magistrate given under this section shall, on summary conviction before a Magistrate, be liable to a penalty not exceeding £10.

Proceedings at preliminary enquiry.

14.—(1.) A Magistrate may, from time to time, adjourn a preliminary enquiry if he considers it expedient to do so.

Adjournment.

(2.) An adjournment ordered shall be made to a certain time and place: Provided always that, except with the consent of the person remanded and the prosecutor, such adjournment shall be for a period not exceeding ten clear days or until the next day on which the Magistrate holds a Court at the place where such order is made if a Court is not to be held there within such ten days.

(3.) If a Magistrate is satisfied that an accused person who has been remanded is by reason of illness or accident unable to appear personally before the Court at such adjournment as is in the last preceding sub-section mentioned, such Magistrate may, in the absence of the accused person, order him to be further remanded for such time as may be deemed reasonable.

15. During such adjournment the Magistrate may, subject to the provisions as to bail hereinafter contained, commit the accused person by warrant to prison.

Custody of accused during adjournment.

Taking of
evidence for
prosecution.

16.—(1.) When an accused person is before a Magistrate holding a preliminary enquiry, the Magistrate shall take or cause to be taken down in writing the evidence of the witnesses on the part of the prosecutor apart from each other, unless the Magistrate thinks it is necessary or conducive to the ends of justice that any particular witness should be permitted or required to be present during the whole or any part of the examination of any other of the witnesses.

(2.) The evidence of such witnesses shall be given in the presence of the accused person, or if taken in the absence of the accused, shall be read over to him in the presence of the witness; and the accused person shall be entitled to cross-examine them.

(3.) The evidence of every such witness shall be taken down in writing in the form of a deposition.

(4.) Such deposition shall be read over to the witness and shall be signed by the witness and the Magistrate; or if the witness refuses to sign or is incapable of signing, then by the Magistrate; the accused person, the witness, and the Magistrate being all present together at the time of such reading and signing.

(5.) Any witness who refuses, without reasonable excuse, to sign his deposition may be committed by the Magistrate holding the enquiry by a warrant to prison, there to be kept until after the trial, or until the witness signs his deposition before a Magistrate: Provided that, if the accused person is afterwards discharged, any Magistrate may order any such witness to be discharged.

(6.) The signature of the Magistrate shall be at the end of the deposition of each witness, in such a form as to show that it is meant to authenticate the deposition.

Charging of
accused
person.

17.—(1.) After the examination of the witnesses called on the part of the prosecutor has been completed, and after the depositions have been signed as aforesaid, the Magistrate shall, unless he discharges the accused person, address him in these words, or to the like effect:—

“Having heard the evidence, do you wish to say anything in answer to the charge? Do you wish to give evidence? You are not obliged to say

anything, unless you wish, but if you say anything, your statement will be taken down in writing, and may be used against you at your trial. And I give you clearly to understand, that you have nothing to hope from any promise of favour, and nothing to fear from any threat which may have been holden out to you to induce you to make any admission or confession of your guilt. But that whatever you shall now say may be given in evidence against you, notwithstanding such promise or threat."

(2.) Whatever the accused person then says in answer thereto shall be taken down in writing, as nearly as possible in the accused person's own words, and shall be read over to him, and shall be signed by the accused person, if he will, and by the Magistrate and kept with the depositions of the witnesses and dealt with as hereinafter mentioned.

(3.) Notwithstanding anything in this or in the next succeeding section contained, the Magistrate may, if he thinks fit and although the case for the prosecution has been closed, take the evidence of further witnesses for the prosecution or recall any witness for further examination.

18. After the proceedings required by the last preceding section are completed, the Magistrate shall ask the accused person if he wishes to call any witnesses. Every witness called by the accused person who testifies to any fact relevant to the case shall be heard, and his deposition shall be taken, signed and authenticated in the same manner as the deposition of a witness for the prosecution. Taking of evidence for defence.

19. The Magistrate shall cause all writings and other articles exhibited by the witnesses, or any of them, to be inventoried and labelled, or otherwise marked, in the presence of the person producing the same, so that the same may be identified at the trial. Marking of exhibits.

20.—(1.) Where any person able to give material evidence in respect of an indictable offence is from illness unable to attend at the place where the Magistrate usually sits, a Magistrate shall have power to take the deposition of such person at the place where such person is. Deposition of witness unable to attend.

(2.) The Magistrate taking the deposition may, by an order in writing under his hand, direct the Keeper of the Prison having the custody of an accused person to cause him to be conveyed to the place where the examination is to be taken, for the purpose of being present when it is taken, and to be taken back to prison afterwards.

(3.) The provisions of Section 16 of this Ordinance shall, so far as the same are applicable, apply to depositions taken under this section.

(4.) Every deposition taken under this section shall be forwarded to the Magistrate by whom the preliminary enquiry into such indictable offence is being, or has been, held, if such deposition was taken by some other Magistrate, and such deposition shall, subject to the provisions of Sub-section (2) of Section 36 of this Ordinance, be treated in all respects in the same way, and shall be considered for all purposes as a deposition taken upon the preliminary enquiry.

Binding over
to give
evidence.

21.—(1.) The Magistrate holding the preliminary inquiry shall bind over every witness for the prosecution whose deposition has been taken, and every witness for the defence not being merely a witness to the character of the accused whose evidence is, in his opinion, material, to give evidence at the trial of the accused person before the Court.

(2.) Every recognizance so entered into shall specify the name and surname of the person entering into it, his occupation or profession, if any, the place of his residence, and the name and number, if any, of any street in which it may be.

(3.) Such recognizance may be either at the foot of the deposition or separate therefrom, and shall be acknowledged by the person entering into it, and be subscribed by the Magistrate before whom it is acknowledged.

(4.) Any witness who refuses, without reasonable excuse, to enter into such recognizance may be committed by the Magistrate holding the enquiry by a warrant to prison, there to be kept until after the trial, or until the witness enters into such recognizance before a Magistrate: Provided that, if the accused person is afterwards discharged, any Magistrate may order any such witness to be discharged.

22. If a Magistrate is, during a preliminary enquiry, in doubt as to any matter arising during the enquiry, he may commit the accused person until he has consulted, and received the opinion of, the Attorney-General in such matter.

Magistrate
may consult
Attorney-
General.

Discharge ; Committal for Trial.

23.—(1.) When all the witnesses on the part of the prosecutor and of the accused person, if any, have been heard, the Magistrate shall, if, upon the whole of the evidence, he is of opinion that no sufficient case is made out to put the accused person upon his trial, discharge him ; and in such case any recognizance taken in respect of the charge shall become void.

Discharge or
commitment
for trial of
accused.

(2.) If, upon the whole of the evidence, the Magistrate is of opinion that a sufficient case is made out to put the accused person upon his trial, he shall grant his warrant for the commitment of such accused person to prison, there to be detained until brought to trial upon any indictment which may be preferred against him, or until discharged in due course of law.

(3.) The commitment shall be in the form in Schedule I hereto.

(4.) Provided always that nothing herein shall be construed to prevent the Magistrate from admitting the accused person to bail if the offence charged be of a bailable nature.

Proceedings subsequent to Committal.

24.—(1.) After the preliminary enquiry has been concluded and the warrant of commitment for trial has been made out, the Magistrate shall, without delay, transmit the depositions and the statement of the accused, if any, to the Attorney-General, who shall take such measures and give such directions as he may deem advisable for the trial or liberation of the prisoner, or for the taking of further evidence.

Transmission
and custody
of documents
and exhibits
relating to a
case.

(2.) If a case is referred back to the Magistrate for the taking of further evidence, the case shall be reopened and dealt with in all respects as if the accused person had been remanded and not committed for trial.

(3.) When the accused person is in custody, the Magistrate may, by an order in writing under his hand, direct the Keeper of the Prison having the custody of such accused person to convey him or cause him to be conveyed to the place named in such order for the purpose of being dealt with as the Magistrate may direct.

(4.) When the accused person is on bail, the Magistrate shall issue a summons for his attendance at a time and place named in the summons. If the accused person does not attend in obedience to such summons, the provisions of Sub-sections (2) and (3) of Section 8 of this Ordinance shall apply.

(5.) The depositions and statement shall be kept by the Attorney-General until the indictment to which they relate is filed and shall then be transmitted to the Registrar of the Court.

(6.) The Registrar shall keep such depositions and statement and produce them to the Court at the trial of the cause if so directed.

(7.) All recognizances taken before any Magistrate under this Ordinance shall be forwarded to the Attorney-General together with such depositions and statement, or as soon as may be after they are taken, and shall be dealt with in the same manner as such depositions and statements.

Bail.

Right of
accused to
bail.

25.—(1.) With respect to bail, the following provisions shall have effect :—

- (a.) Where the offence with which an accused person is charged is a misdemeanour, he shall be admitted to bail, as is hereinafter mentioned ;
- (b.) Where the offence with which an accused person is charged is a felony, not being treason, murder or piracy, the Magistrate may in his discretion, admit him to bail as is hereinafter mentioned ; and
- (c.) A Magistrate shall not admit to bail any person charged with treason, murder or piracy, or who has been twice previously convicted of felony, whether summarily or on indictment.

(2.) Every accused person, whether he has been committed to prison or not, shall or may, as the case may be, be admitted to bail, upon providing a surety or sureties sufficient, in the opinion of the Magistrate, to secure his appearance, or, except in a case of felony, upon his own recognizance, if the Magistrate thinks fit. Where bail may be allowed or refused in the discretion of the Magistrate, such discretion may be exercised at any stage of the proceedings.

26.—(1.) Whenever the preliminary enquiry is for any cause adjourned or interrupted, the Magistrate holding it shall or may, as the case may be, instead of remanding the accused person to prison, admit him to bail on condition of his appearing at the time and place to which the enquiry is adjourned, or at an earlier day if so required or without prejudice to the power of the Magistrate to vary the order at any subsequent hearing, on condition of his appearing at every time and place to which during the course of the proceedings the enquiry may be from time to time adjourned. ^{Bail on adjournment.}

(2.) If an accused person who has appeared and has been admitted to bail (either on the recognizance of sureties or on his own recognizance) to appear at any adjournment, fails to appear according to the condition of such recognizance, the Magistrate before whom he ought to have appeared may issue a warrant for his apprehension, whether there has been any information in writing and upon oath or not, and may also declare the recognizance to be forfeited.

(3.) Where a recognizance is declared to be forfeited, any Magistrate may forthwith or at any time after such declaration issue a warrant committing any person liable, whether as principal or surety, under such recognizance to prison for any term not exceeding two months unless the amount due under such recognizance and also, if the Magistrate thinks fit, the costs of the commitment and conveying of such person to prison, (the amount of such costs being ascertained and stated in the warrant) are sooner paid.

Committal of
accused
pending
preliminary
inquiry.

27.—(1.) An accused person who is not admitted to bail shall be committed for safe custody to prison, or as the case may require.

(2.) If the Magistrate adjourns the preliminary enquiry and remands the accused person, such remand shall be by warrant.

(3.) The Magistrate may, whilst the accused person is under remand and before the expiration of the period for which he has been remanded, order the accused person to be brought before him, and the Keeper of the prison shall obey the order, or, if the accused person is on bail, the Magistrate may summon him to appear at an earlier day than that to which he was remanded. If such summons is not obeyed, a warrant may issue to enforce his attendance, and may be executed like any other warrant.

Bail on
committal for
trial.

28.—(1.) If an accused person who is committed for trial is admitted to bail, the recognizance of bail shall be taken in writing either from the accused person and one or more surety or sureties or from the accused person alone, in the discretion of the Magistrate, according to the nature and circumstances of the case, and shall be signed by the accused person and his surety or sureties, if any.

(2.) The condition of such recognizance shall be that the accused person shall personally appear before the Supreme Court at any time within twelve months from the date of the recognizance, to answer to any indictment that may be filed against him in the said Court, and that he will not depart the said Court without leave of the Court, and that he will accept service of any such indictment at some place to be named in such condition.

(3.) The recognizance may be in the form in Schedule II to this Ordinance.

Conveying
accused to
prison after
committal.

29.—(1.) If an accused person who is committed for trial is not released on bail, a constable shall convey him to the prison, and shall there deliver him, together with the warrant of commitment, to the Keeper of the Prison, who shall thereupon give such Constable a receipt for the accused person, which shall set forth the condition in which such accused person was when he was delivered into the custody of such Keeper.

(2.) It shall not be necessary to address any warrant of commitment under this or any other section of this Ordinance to the Keeper of the Prison, but upon delivery of any such warrant to such Keeper by the person charged with the execution thereof, such Keeper shall receive and detain the person named therein (or detain him, if already in his custody) for such period and for such purpose as the warrant directs. In case of adjournments or remands, the Keeper shall bring the said person, or cause him to be brought at the time and place fixed by the warrant for that purpose, before the Magistrate.

(3.) The provisions of this section shall apply to every person who is committed to prison under any provision of this Ordinance.

30.—(1.) If an accused person who is entitled to be admitted to bail, or if an accused person whom the Magistrate has power to bail and who, in his opinion, ought to be bailed, is committed to prison only because he does not, at the time of his committal for trial, procure a sufficient surety or sureties for appearing to take his trial, the Magistrate shall endorse on the warrant of commitment, or on a separate paper, a certificate of his consent to the accused person being bailed, and shall state the amount of bail which ought to be required.

Bailing of
accused after
committal.

(2.) Any Magistrate attending or being at the prison whilst such accused person is confined therein, shall, on the production of such certificate, admit him to bail accordingly, and shall order him to be discharged by a warrant of deliverance.

(3.)—(a.) If it is inconvenient for a surety or sureties to attend at the prison to join the accused in the recognizance of bail, the committing Magistrate may make a duplicate of such certificate.

(b.) Upon the production to any Magistrate of any such duplicate certificate, such Magistrate may take the recognizance of the surety or sureties in conformity with such certificate, and shall transmit the recognizance, if and when so taken, to the Keeper of the Prison.

(c.) Upon such recognizance and such certificate as is mentioned in (a) of this sub-section being produced to any Magistrate attending or being at such prison, it shall be lawful for him to take the recognizance of the accused party, and thereupon such Magistrate shall order him to be discharged by a warrant of deliverance.

Court or Judge
may bail
accused.

31. The Court or a Judge may at any time, on the petition of any accused person, order such person, whether he has been committed for trial or not, to be admitted to bail, and the recognizance of bail may, if the order so directs, be taken before any Magistrate.

Apprehension
of accused
person on bail
but about to
abscond.

32. Where an accused person has been bailed in manner aforesaid, it shall be lawful for the Magistrate by whom he has been bailed, or for any other Magistrate, if he sees fit, on the application of the surety, or of either of the sureties of such person, and on information being laid in writing and upon oath by such surety, or by some person in his behalf, that there is reason to believe that the person so bailed is about to abscond for the purpose of evading justice, to issue his warrant for the apprehension of the person so bailed, and afterwards, on being satisfied that the ends of justice would otherwise be defeated, to commit such person when so arrested to prison until his trial, or until he produces another sufficient surety or other sufficient sureties, as the case may be, in like manner as before.

Amount of
bail.

33. The amount of bail to be taken in any case shall be in the discretion of the Magistrate, or of the Court or the Judge by whom the order for the taking of such bail is made, but no accused person shall be required to give excessive bail.

Bail of married
woman or
infant.

34. If an accused person who is admitted to bail is a married woman or infant, the recognizance of bail shall be taken only from the surety or sureties.

Place of Commitment.

Place of
commitment.

35. All persons committed to prison under this Ordinance shall be committed to the Royal Gaol in the City of Port-of-Spain, or to such other prison within the district in which they have been committed as may have been appointed by the Governor.

Evidence.

36.—(1.) A deposition taken under this Ordinance against or for any person accused of an indictable offence may be produced and given in evidence at the trial of the person against or for whom it was taken, if it is proved, to the satisfaction of the Court—

When depositions may be given in evidence.

- (a.) That the deponent is absent from the Colony ; or
- (b.) That the deponent is dead, or so ill as not to be able to travel, although there may be a prospect of his recovery ; or
- (c.) That the deponent is kept out of the way by the prosecutor or the Crown or by the accused person ; or
- (d.) That the deponent is in consequence of his condition of mind, incapable of giving evidence ; and
- (e.) That the deposition purports to be signed by the Magistrate by whom it purports to have been taken ; and
- (f.) That it was taken in the presence of the accused person or the prosecutor, as the case may be, and that he, or his legal adviser, had a full opportunity of cross-examining the deponent.

(2.) In the case of a deposition taken under Section 20 of this Ordinance, the provisions of the last preceding sub-section other than paragraph (f) thereof shall apply on its being proved to the satisfaction of the Court—

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

(3.) If the deposition purports to have been taken and signed as aforesaid, it shall be presumed, in the absence of evidence to the contrary, to have been duly taken and signed.

No. 12. *Indictable Offences—Preliminary Enquiry.* 1917.

Report of
Government
Analyst.

37.—(1.) At any preliminary examination any document purporting to be a report from the Government Analyst upon any matter or thing submitted to him for examination, analysis or report may if it bears his signature be used as evidence.

(2.) The Magistrate may presume that the signature to any such document is genuine, and that the person signing it held the office which he professed to hold at the time when he signed it.

Saving as to
No. 42 of 1914.

38. Nothing in this Ordinance contained shall affect the provisions of the Reformatory and Industrial Schools Ordinance, 1914.

Repeal.

39. The enactments mentioned in Schedule III hereto are hereby repealed to the extent specified in the third column of such schedule.

Passed in Council this Eleventh day of May, in the year of Our Lord one thousand nine hundred and seventeen.

J. M. FARFAN,
Acting Clerk of the Council.

SCHEDULE I.

Warrant of Commitment.

Section 23.

To
and to
Gaol.(Constable),
, Keeper of the Royal

WHEREAS A.B. was this day charged before me the undersigned Magistrate on the information of

, for that (*state shortly the offence*):

These are therefore to command you, the said to take the said A.B. and him safely to convey to the Royal Gaol in the Town of Port-of-Spain, and there to deliver him to the Keeper thereof, together with this precept: and I do hereby command you, the said Keeper of the said Royal Gaol to receive the said A.B. into your custody in the said Royal Gaol and there safely keep him until he shall be thence delivered by due course of law.

Date _____

Magistrate.

SCHEDULE II.

Recognizance of Bail on Committal.

Section 23.

OUR SOVEREIGN LORD THE KING

Against

A.B. on the charge of C.D. for [*state offence briefly.*]

At _____ in the said Colony, on this _____ day of _____ in the year of our Lord one thousand _____ of _____ in the said Colony, acknowledges himself to be indebted to our Sovereign Lord the King, in the sum of _____ British sterling money, and _____ of _____ acknowledges himself to be indebted to our Sovereign Lord the King, in the sum of _____ pounds, like money; upon condition that, if the said _____ do personally appear before the Supreme Court, in the town of _____ to answer to any indictment that shall be presented against him in the said Court in or about the premises, within the term of twelve calendar months from the date of this acknowledgment, and do not depart the Court without leave, and do accept service of any such indictment at the residence of _____ situate in _____ in the town of _____ and that the said _____ in the meantime be of good behaviour, and keep the peace towards the King and all his liege subjects, and especially towards _____ then this recognizance to be void; or else to remain in full force. And the said _____ severally acknowledge themselves debtors in solidum to our Sovereign Lord the King in the sums hereinbefore respectively acknowledged by them upon the property of them and each of them, to the use of our said Lord the King, to be levied in due form of law, in case of default made in the condition of this recognizance or obligation.

Acknowledged by the said _____ on the _____ day of _____ one thousand _____

Witness. _____ Before me,

SCHEDULE III.

Enactments Repealed.

No. or No. and year.	Title or Short Title.	Extent of Repeal.
2	The Indictable Offences (Magistrates Procedure) Ordinance	Sections 2, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24 and 25.
13	The Criminal Procedure Ordinance ...	Section 86.
53	An Ordinance to amend the Indictable Offences (Magistrates' Procedure) Ordinance (No. 2.)	The whole.
14 of 1908	The Indictable Offences (Procedure) Ordinance, 1908.	The whole.
5 of 1909	The Criminal Procedure (Amendment) Ordinance, 1909.	The whole.
50 of 1912	The Indictable Offences (Magistrates' Procedure) Ordinance, 1912.	The whole.