Act No. 27, 1902.

JUSTICES.

An Act to consolidate the Statutes relating to Magistrates and Justices of the Peace, to proceedings before and in the nature of appeal from and to proceedings against such Magistrates and Justices; and to other matters in connection therewith. [14*th August*, 1902.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

Short title and division into Parts.

1. This Act may be cited as the "Justices Act, 1902," and is divided into Parts as follows :—

PART I.—PRELIMINARY—*ss.* 1–4.

PART II.—COURT OF PETTY SESSIONS—ESTABLISHMENT, &C., AND JURISDICTION—*s.* 5.

PART III.—APPOINTMENT, &C., OF STIPENDIARY MAGISTRATES—POWERS OF POLICE MAGISTRATES AND JUSTICES ENABLING—ALLEGATION OF JURISDICTION—*ss.* 6–20.

PART IV.—PROCEDURE BEFORE JUSTICES—

DIVISION 1.—*Indictable offences*—*ss.* 21–51.

DIVISION 2.—*Offences punishable on summary conviction and complaint*—*ss.* 52–100.

PART V.—PROCEEDINGS IN THE NATURE OF APPEAL FROM THE DECISIONS OF JUSTICES—*ss.* 101–133.

PART VI.—PROCEEDINGS AGAINST JUSTICES—*ss.* 134–145.

PART VII.—MISCELLANEOUS—*ss.* 146–151.

Repeals and savings.

2. (1) The Acts mentioned in the First Schedule hereto are, to the extent therein expressed, hereby repealed, provided that no such repeal shall invalidate or affect any proceeding, act, or thing done or commenced before the passing of this Act.

(2)

(2) All proceedings initiated before the passing of this Act shall be carried on as far as practicable according to the provisions of this Act, and, subject thereto, according to the provisions of the said Acts, which for that purpose shall be deemed to continue in force notwithstanding the repeal thereof.

(3) All persons lawfully in custody, or bound by recognizances, at the time of the passing of this Act, under the provisions of any Act hereby repealed, shall be deemed to be in lawful custody, or to be so bound as aforesaid, under the provisions of this Act, and may be dealt with accordingly.

(4) All persons appointed under any Act hereby repealed, and holding office at the time of the passing of this Act, shall be deemed to have been appointed under this Act.

(5) All proclamations, notifications, rules, regulations and forms made or prescribed under the authority of any Act hereby repealed, and being in force at the time of the passing of this Act, shall, unless expressly altered by the provisions of this Act, be deemed to have been made or prescribed under the authority of this Act.

Interpretation.

3. In this Act, unless the context or subject-matter otherwise indicates or requires,—

"Justice" means a Justice of the Peace.

Acts creating liability to fine, &c., on conviction or order of Justice, to be deemed to provide that matters shall be dealt with summarily under provisions of Acts regulating proceedings before Justices.

No. 71, 1900, s. 4.

4. (1) Where by any Act, past or future, or by any rule, regulation, or by-law made under or by virtue of any such Act, any person is made liable to imprisonment or other punishment, or to any fine, penalty, or forfeiture, or to pay any sum of money or costs, for any offence, act, or omission, upon the conviction or order of a Justice or Justices, it shall be deemed to be provided that the matter shall be heard and determined by a Justice or by two or more Justices, as the Act dealing with the matter may prescribe, in a summary manner, according to the provisions of the Act or Acts for the time being regulating proceedings before Justices, although no such provision be expressly made in the Act dealing with the matter; and the matter shall be so heard and determined accordingly.

The like where no provision made for trial and offence, &c., not treason, felony, or misdemeanour.

Ibid.

(2) Where by any Act, past or future, any person is made liable as aforesaid, and no provision is made for the trial of such person, and such offence, act, or omission, is not by the Act declared to be treason, felony, or misdemeanour, the matter shall be heard and determined in a summary manner as aforesaid by two or more Justices or by a Stipendiary or Police Magistrate.

PART

PART II.

COURTS OF PETTY SESSIONS—ESTABLISHMENT, &C., AND JURISDICTION.

Existing Courts of Petty Sessions saved.

5. (1) Every Court of Petty Sessions now existing, established under any Act hereby repealed, shall be deemed to have been established under the authority of this Act.

Establishment, &c., of Courts of Petty Sessions.
46 Vic. No. 17, s. 459.

(2) The Governor may, by proclamation,—

(i) establish additional Courts of Petty Sessions;

(ii) abolish any such Court, whether now existing or hereafter established;

(iii) appoint the places at and the district for which such Courts shall be held.

Jurisdiction of Courts of Petty Sessions.
Ibid.

(3) Every Court of Petty Sessions shall have the same jurisdiction, civil and criminal, as Courts of Petty Sessions now possess in New South Wales.

PART III.

APPOINTMENT, &C., OF STIPENDIARY MAGISTRATES—POWERS OF POLICE MAGISTRATES AND JUSTICES ENABLING—ALLEGATION OF JURISDICTION.

Definition of police districts.
cf. 45 Vic. No. 17, s. 3.
60 Vic. No. 18, s. 7.

6. "Police district" in this Part means police district as constituted for the time being by notification in the Gazette or otherwise.

Number and manner of appointment of Stipendiary Magistrates.
45 Vic. No. 17, s. 2.
60 Vic. No. 18, ss. 1, 2.

7. (1) The Governor may appoint as Stipendiary Magistrates—

(*a*) not more than six persons to have jurisdiction within the metropolitan police district;

(*b*) not more than three persons to have jurisdiction within the police district of Newcastle and any adjoining police district to which this Part of this Act may be extended;

(*c*) not more than two persons to have jurisdiction within any police district to which this Part of this Act may be extended.

Appointment of Deputy Stipendiary Magistrates.
47 Vic. No. 14, s. 1.
60 Vic. No. 18, s. 4.

(2) The Governor may appoint a deputy to act for any Stipendiary Magistrate appointed under this Act, who is unable to attend to his duties by reason of absence or illness, during such absence or illness, and every Deputy Stipendiary Magistrate shall, while acting as such, have the same jurisdiction and power and perform the same duties and be liable to all the provisions of this Act as if he were a Stipendiary Magistrate.

Extension of this Part of this Act.
60 Vic. No. 18, ss. 1, 2.

8. The Governor may, by proclamation in the Gazette,—

(*a*) extend this Part of this Act to any police district, adjoining the police district of Newcastle, named in such proclamation;

(*b*)

(*b*) extend this Part of this Act to any police district named in such proclamation;

(*c*) revoke or vary any proclamation made under this section.

Qualification and oath o Stipendiary Magistrates. 45 Vic. No, 17, s 3. 60 Vic. No. 18, s. 3.

9. Every such Stipendiary Magistrate shall be a Justice for New South Wales, and shall take the oath of office required of Justices.

Jurisdiction of Stipendiary Magistrates. 45 Vic. No. 17, ss. 3, 4. 60 Vic. No. 18, s. 3. cf. 11 & 12 Vic. c. 42, s. 29; and 11 & 12 Vic., c. 43, s. 33.

10. (1) Every such Stipendiary Magistrate may do alone any act and exercise alone any jurisdiction which, under any law now in force, or under any law not containing an express enactment to the contrary hereafter made, may be done or exercised by any Police Magistrate, Justice or Justices howsoever sitting and adjudicating or acting; and all the provisions of this or any other Act auxiliary to the jurisdiction of such Justice or Justices shall be applicable also to the jurisdiction of such Stipendiary Magistrate.

(2) Such authority and jurisdiction shall extend and apply to cases where the act or jurisdiction is, or hereafter may be, required to be done or exercised by Justices sitting or acting in Petty Sessions within the district to which such Stipendiary Magistrate is appointed, as well as to cases where the act or jurisdiction is not so required to be done or exercised.

(3) Any enactment authorising or requiring persons to be summoned or to appear at such Petty Sessions shall in the like cases be deemed to authorise or require persons to be summoned or to appear before the Stipendiary Magistrate having jurisdiction at the Court or place appointed for his sitting.

Duties, &c., of Stipendiary Magistrates, as to stating cases, depositions, &c. 45 Vic. No. 17, s. 7. 60 Vic. No. 18, s. 3.

11. The provisions and requirements of every statute, regulation, general rule, or order of any Court, by which any liability, duty, obligation, or authority in respect of any case stated, depositions, conviction, order, warrant, or other document, instrument, matter, or proceeding of what kind soever is now or may hereafter be cast upon, incurred, or exercisable by any one or more than one Justice, shall be equally applicable to every Stipendiary Magistrate sitting or acting within the district to which he has been appointed under this Act.

Appointment of Courts where Stipendiary Magistrates to sit and of duties to be performed by Stipendiary Magistrates. 45 Vic. No. 17, s. 5. 60 Vic. No. 18, s. 3.

12. The Governor may, by notification in the Gazette,—

(*a*) appoint the places where Stipendiary Magistrates appointed under this Act shall hold Courts or sit in the exercise of the jurisdiction conferred by this Act;

(*b*) assign and apportion their duties to all such Stipendiary Magistrates;

(*c*) define the area within which any ordinary or special jurisdiction shall or may be exercised by such Stipendiary Magistrates.

Limitation of powers of other Justices within areas to which Stipendiary Magistrates appointed. 45 Vic. No. 17, s. 6. 60 Vic. No. 18, s. 5.

13. No Justice other than a Stipendiary Magistrate or, within the metropolitan police district the Mayor of Sydney, shall—

(*a*) within the metropolitan police district or the police district of Newcastle, or

(*b*)

(*b*) within any police district to which this Act is extended from and after the expiration of thirty days from the day on which such extension takes effect and until such extension is revoked,

sit either alone or with other Justices at any Petty or other Sessions of Peace for the purpose of adjudicating in a summary way, in respect of any information, complaint, or matter, or of making any order or of deciding any matter on appeal which by law Justices are now empowered to hear and determine, deal with, or decide:

Provided that nothing in this Part of this Act shall abridge or prejudice the ministerial powers of Justices in committal cases, or the powers of Justices to take any information or issue any summons or grant, issue, or endorse any warrant or admit to bail in any case in which Justices might by law have exercised any such power if this section had not been enacted.

Stipendiary Magistrates to constitute Courts of Petty Sessions.
45 Vic. No. 17, s. 8.
60 Vic. No. 18, s. 3.

14. Every Stipendiary Magistrate, while sitting in the exercise of his jurisdiction under this or any other Act, shall, except in cases where he is acting ministerially, be deemed to be a Court of Petty Sessions with all powers and authorities incident by law to such a Court.

Stipendiary Magistrates to frame rules.
45 Vic. No. 17, s. 8.
60 Vic. No. 18, s. 3.

15. The Stipendiary Magistrates appointed under this Act shall frame general rules of Court for the regulation of the practice, procedure, and all matters of detail to be observed and carried out in their respective Courts, and may make provision in such rules for the infliction of a fine not exceeding twenty pounds or for imprisonment for a period not exceeding fourteen days, or for both fine and imprisonment within the limits aforesaid upon any breach thereof. All such rules shall be subject to the approval of the Governor.

Provisions relating to Justices and their duties in this and other Acts to apply to Stipendiary Magistrates.
45 Vic. No. 17, s. 9.
60 Vic. No. 18, s. 3.

16. All the provisions of this Act and of all other Acts relating to Justices and their duties, so far as the same may be applicable, shall be applicable to Stipendiary Magistrates appointed under this Act.

Powers of Police Magistrates.

Any Police Magistrate may do whatever two Justices may do in Petty Sessions.
cf. 11 & 12 Vic. c. 42, s. 29.
11 & 12 Vic. c. 43, s. 33.
14 Vic. No. 43, s. 6.
17 Vic. No. 39, s. 11.
20 Vic. No. 32, s. 2.

17. Any Police Magistrate may do alone, in the absence of other Justices, at any time and place appointed for the holding of a Court of Petty Sessions, whatever might be done by two or more Justices sitting in such Petty Sessions.

Police Magistrate may perform duties of Clerk of Petty Sessions where no such clerk appointed.
20 Vic. No. 32, s. 1.

18. In any police district for which a Clerk of Petty Sessions is not appointed, the Police Magistrate (if any) appointed for such district may discharge all or any of the duties which now do or may hereafter pertain to the office of Clerk of Petty Sessions; and all acts done by such Magistrate in pursuance hereof shall be as valid and effectual in law as if done by such clerk, and all notices required to be given to such clerk, and all other matters and things required to be done with, or in reference to, such clerk, may be given to, or done with, or in reference to, such Magistrate, and shall have the like force and effect.

Justices

Justices enabling.

19. No Justice shall be incapable of acting as a Justice at any Petty or Quarter Sessions on the trial of any person for an offence under any Act or by-law to be put in execution by a municipal corporation, or by trustees, or by any other local authority, by reason only of his being a ratepayer or one of a class of persons who are liable in common with others to contribute to, or who may be benefited by any fund to the account of which any penalty or any portion thereof payable in respect of such offence is directed to be carried, or of which it will form part, or who are liable to contribute to any rate or expenses in diminution of which such penalty or any portion thereof will go:

Justices not incapable of acting in cases under Acts or by-laws by reason only of penalty going to fund in which they are interested in common with others.
36 Vic. No. 1, s. 2.

Provided that no Justice, being a mayor, or an alderman, or officer of any municipality, shall act as aforesaid in any case affecting such municipality or touching any matter in which the municipality shall as such be directly or indirectly interested.

No alderman, &c., to act in cases affecting the municipality.
Ibid.

Allegation of jurisdiction.

20. In all cases every act done or purporting to have been done by or before any Justice shall be taken to have been within his jurisdiction, without an allegation to that effect, until the contrary is shown.

Act done by Justice to be taken to be within his jurisdiction.
17 Vic. No. 39, s. 12.

PART IV.

Procedure before Justices.

Division 1.—*Indictable offences.*

Informations.

21. An information may be laid before a Justice in any case where any person has committed or is suspected to have committed any treason or other indictable offence—

When information may be laid.
11 & 12 Vic. c. 42, ss. 1, 2.

(*a*) in New South Wales;

(*b*) on the high seas, or in any creek, harbour, or other place in which the Admiralty of England have or claim to have jurisdiction;

(*c*) on land beyond the seas, when for such offence an indictment may legally be preferred in New South Wales.

22. Any such information may be by parol and without any oath unless it is intended that a warrant in the first instance shall be issued as hereinafter provided, in which case the information shall be laid in writing and the matter thereof substantiated by the oath of the informant or of a witness.

How information to be laid.
Ibid. s. 8.

Issue

ISSUE OF WARRANTS AND SUMMONSES.

(*a*) *for appearance of defendant.*

Issue of warrant in first instance.
11 & 12 Vic. c. 42, ss. 1, 2, 8, 9.

23. Whenever any such information is laid before a Justice against any person and the matter thereof substantiated by the oath of the informant or a witness, such Justice may, if such person is not then in custody, issue his warrant in the first instance for the apprehension of such person.

Issue of summons.
Ibid. ss. 1, 9.

24. Whenever an information in respect of an indictable offence other than one within paragraphs (*b*) and (*c*) of section twenty-one is laid before a Justice against any person as hereinbefore provided, such Justice may, if such person is not then in custody, issue his summons for the appearance of such person:

Ibid.

Provided that nothing herein contained shall prevent any Justice from issuing his warrant before or after the time appointed in a summons for the appearance of a defendant against whom an information for an indictable offence has been duly laid and substantiated as hereinbefore provided.

(*b*) *where indictment filed.*

Issue of warrant where indictment filed.
Ibid. s. 3.

25. (1) Where an indictment has been filed by the Attorney-General or other officer duly appointed in that behalf at any Court of Oyer and Terminer Gaol Delivery or Quarter Sessions, against any person then at large, whether on recognizances or not, the Clerk of Arraigns or Clerk of the Peace, as the case may be, at such Court shall, at any time after the end of the then sittings of such Court, if the person so indicted has not already appeared and pleaded to such indictment, upon application by or on behalf of the prosecutor, and upon payment of a fee of one shilling, grant to the prosecutor or person applying on his behalf a certificate that such indictment has been filed.

(2) Upon production of such certificate to any Justice such Justice shall—

(*a*) in every case where the person so indicted is, at the time of the application for the said certificate, and of such production thereof, confined in prison for any other offence than that charged in the said indictment, upon proof upon oath that the person so confined in prison is the person charged and named in such indictment, issue his warrant directed to the gaoler of the prison in which such person is so confined, commanding him to detain such person in his custody until, by His Majesty's writ of habeas corpus, he is removed therefrom for the purpose of being tried upon the said indictment, or until he is otherwise removed or discharged out of custody by due course of law.

(*b*)

(*b*) in other cases issue his warrant to apprehend the person so indicted, and to cause him to be brought before him or any other Justice to be dealt with according to law, and he or any other Justice, when any person apprehended under such warrant is brought before him, shall, upon proof upon oath that such person is the person charged and named in such indictment, and without further inquiry, commit him for trial or admit him to bail in manner hereinafter mentioned.

(*c*) *for attendance of witness, &c.*

Summons to give evidence or to produce document, &c.
11 & 12 Vic. c. 42, s. 16.
17 Vic. No. 39, s. 8.
46 Vic. No. 17, s. 347.

26. Whenever by the oath of a credible person it is made to appear to a Justice—

(*a*) that any person in New South Wales is likely to be able to give material evidence, or to have in his possession or power any document or writing required for the purposes of evidence; and

(*b*) that such person will not appear voluntarily to be examined as a witness, or to produce such document or writing at the time and place appointed for the hearing of the information,

such Justice shall issue his summons for the appearance of such person to be examined as a witness or to produce such document or writing, as the case may be:

Provided that if such Justice is satisfied by evidence upon oath that it is probable that such person will not appear to be examined or to produce such document or writing unless compelled to do so, he may issue his warrant in the first instance for the apprehension of such person:

Provided that no person shall be bound to produce any document or writing not specified or otherwise sufficiently described in the summons or warrant or which he would not be bound to produce upon a subpœna duces tecum in the Supreme Court.

FORM OF SUMMONS AND WARRANT—SERVICE OF SUMMONS.

Form of summons.
11 and 12 Vic. c. 42, ss. 9, 16.
17 Vic. No. 39, s. 8.

27. Every summons for the appearance of any person shall—

(*a*) be under the hand and seal of the Justice issuing it, and

(*b*) be directed to such person, and

(*c*) state shortly the matter of the information, and

(*d*) require such person to appear at a certain time and place before such Justice as shall then be there to answer to the information and be dealt with according to law, or to testify what he knows concerning the matter of the information, or to produce the document or writing, as the case may be.

28.

Manner of service of summons.
11 and 12 Vic. c. 42, s. 9.

28. (1) Every summons shall be served by a constable upon the person to whom it is directed by delivering it to him personally, or if he cannot conveniently be met with then by leaving it with some person for him at his last or most usual place of abode.

Proof of service.
46 Vic. No. 17, s. 434.
55 Vic. No. 5, s. 17.

(2) Service of a summons in manner aforesaid may be proved by the oath of the police constable who served it, or by affidavit or otherwise.

11 and 12 Vic. c. 42, ss. 10, 16.
17 Vic. No. 39, s. 5.

29. (1) Every warrant for the apprehension of any person shall—

(*a*) be under the hand and seal of the Justice issuing it; and

(*b*) be directed to a police constable or other person by name; or generally to the senior officer of police of the district or place where it is to be executed, or to such officer of police and to all other police constables in New South Wales, or generally to all police constables in New South Wales; and

(*c*) name or otherwise describe the person whose appearance is required; and

(*d*) state shortly the matter of the information; and

(*e*) order the police constable or person to whom it is directed to apprehend the person whose appearance is required, and cause him to be brought before such Justice, or any other Justice, to answer to the information and be dealt with according to law, or to testify what he knows concerning the matter of the information, or to produce the document or writing, as the case may be.

(2) (i) It shall not be necessary to make any such warrant for the apprehension of a defendant returnable at any particular time, but every such warrant may continue in force till it is executed.

(ii) Every other such warrant shall be returnable at a time and place to be stated therein.

(3) Every such warrant may be executed by apprehending the person against whom it is directed at any place in New South Wales.

11 and 12 Vic. c. 42, s. 4.

(4) Any such warrant or any search warrant may be issued on a Sunday as well as on any other day.

Defects in form and variances.

What alleged defects or variances immaterial.
Ibid. ss. 8, 9, 10.

30. (1) No objection shall be taken or allowed to any information, summons, or warrant in respect of—

(*a*) any alleged defect therein in substance or in form; or of

(*b*) any variance between any information, summons, or warrant and the evidence adduced in support of the information at the hearing.

(2)

(2) Where in the case of a summons or warrant any such defect or variance appears to the Justice or Justices present and acting at the hearing to be such that the defendant has been thereby deceived or misled such Justice or Justices may, at the request of the defendant, adjourn the hearing of the case to some future day.

Adjournment where defendant deceived or misled. 11 & 12 Vic. c. 42, ss. 9, 10.

PROCEEDINGS ON DEFAULT IN APPEARANCE TO SUMMONS.

31. Wherever any person for whose appearance a summons has been issued does not appear at the time and place appointed thereby any Justice may, upon proof of the due service of the summons upon such person, and where such person is required to be examined as a witness or to produce a document or writing if no just excuse is offered for his non-appearance, issue his warrant for the apprehension of such person.

On non-appearance to summons, warrants may be issued. *Ibid.* ss. 9, 16. 46 Vic. No. 17, s. 434.

PUBLICITY OF PROCEEDINGS.

32. The room or building in which a Justice or Justices takes or take the examination and statements in any case where a person is charged with an indictable offence shall not be deemed an open Court for that purpose, and the Justice or Justices may, if it appears to him or them that the ends of justice will be best answered by so doing, order that no person shall have access to, or be, or remain, in such room or building without his or their permission.

Place of hearing not to be deemed an open Court. 11 & 12 Vic. c. 42, s. 19.

ADJOURNMENT.

33. (1) The Justice or Justices before whom a defendant appears or is brought may adjourn the hearing of any information in any case, whether before or during the hearing, where from the absence of witnesses or from any reasonable cause it is necessary or advisable to defer the hearing or further hearing;

(2) Such adjournment shall be to a time and place to be appointed by the Justice or Justices adjourning the hearing:
Provided that such adjournment shall not exceed eight clear days.

When adjournment allowed. *Ibid.* s. 21.

34. Where the hearing is adjourned under section thirty, or under the last preceding section the Justice or Justices may—

(*a*) by warrant remand the defendant to a prison, watch-house, or lock-up during such adjournment; or

(*b*) if the adjournment is for a period not exceeding three clear days, verbally order any constable or other person by name to to keep the defendant in his custody, and bring him before the Justice or Justices acting at the time and place to which the hearing is adjourned; or

(*c*) discharge the defendant upon his entering into a recognizance, with or without sureties, conditioned that he shall appear at the time and place to which the hearing is adjourned:

How defendant to be dealt with during period of adjournment. *Ibid.* s. 21.

Provided

Provided that the Justice or Justices may order the defendant to be brought before him or them or any other Justice or Justices at any time before the expiration of the time for which the hearing was adjourned, and the gaoler or officer in whose custody the defendant then is shall duly obey such order:

Provided also that any one of such Justices or other Justices may at any time before the expiration of the time for which the hearing was adjourned discharge the defendant upon his entering into a recognizance, with or without sureties, conditioned that he shall appear at the time and place to which the hearing is adjourned.

REMITTAL TO JUSTICES WHERE OFFENCE COMMITTED.

Where principal witnesses reside at some other place, Justices may, by warrant, cause defendant to be taken there.

cf. 11 & 12 Vic. c. 42, s. 22, and Sch. R (1).

35. (1) The Justice or Justices before whom a defendant appears or is brought, on being informed that the principal witnesses to prove the offence with which the defendant is charged reside in some other place where the offence is alleged to have been committed, may, by warrant, cause him to be conveyed to such place and taken before a Justice or Justices to further answer to the charge, and to be further dealt with according to law.

(2) In every such case the Justice or Justices issuing such warrant shall cause the information and the depositions taken before them to be delivered to the Justice or Justices before whom he is taken under such warrant.

WITNESSES AND EVIDENCE.

How evidence to be taken.

11 & 12 Vic. c. 42, s. 17.

36. (1) Every witness shall have the usual oath administered to him before he is examined.

(2) The prosecutor may himself, or by his counsel or attorney, conduct his case, and may examine and cross-examine the witnesses giving evidence for or against him.

46 Vic. No. 17, s. 342. cf. No. 11, 1898, s. 5, & No. 40, 1900, s. 407.

(3) The defendant may himself, or by his counsel or attorney, make full answer and defence, and may give evidence himself, and may examine and cross-examine the witnesses giving evidence for or against him respectively.

11 & 12 Vic. c. 42, s. 17.

(4) The deposition of every witness shall be taken down in writing in the presence of the defendant, and shall be read over to such witness and be signed by him and by the Justice or Justices.

How witness refusing to give evidence to be dealt with.

Ibid. s. 16.

17 Vic. No. 59, s. 8.

37. Any Justice before whom a person appears or is brought, upon summons or warrant, to give evidence or to produce any document or writing may, if such person, without offering any just excuse, refuses—

(*a*) to be examined upon oath; or

(*b*) to take the oath; or

(*c*)

(*c*) to answer, after having taken an oath, such questions concerning the matter of the information as are then put to him; or

(*d*) to bring or produce any such document or writing;

by warrant under his hand and seal commit such person to prison, there to remain for a period not exceeding seven days, unless in the meantime he consents to be examined upon oath and to answer concerning such matter or to bring or produce such document or writing.

Witnesses to be bound over to give evidence at trial.

38. (1) The Justice or Justices before whom the witnesses are examined may—

11 & 12 Vic. c. 42, s. 20.

(*a*) bind by recognizance the prosecutor and every witness for the prosecution to appear at the Court at which the defendant is to be tried, then and there to prosecute and give evidence, or to give evidence, as the case may be; and

46 Vic. No. 17, s. 346.

(*b*) (i) bind by recognizance in like manner all such witnesses for the defence, not being to character merely, as in the opinion of the Justice or Justices have given material evidence; or

Ibid. s. 347.

(ii) certify that any such witness has given material evidence and that such witness is, in the belief of the Justice or Justices, willing to attend at the trial of the defendant, but is unable to bear the expense of such attendance:

cf. 17 Vic. No. 39, s. 13, and No. 40, 1900, s. 409 (2).

Provided that such certificate shall be made before the defendant is committed for trial.

11 and 12 Vic. c. 42, s. 20.

(2) Every such recognizance shall particularly specify the profession or trade of the person who enters into it, and his Christian name and surname, and the place of his residence, and if he resides in a town the name of the street and the number of the house, and whether he is the owner or tenant thereof or a lodger therein.

Expenses of witnesses for defence so bound.

(3) Every witness for the defence attending at the trial of the defendant in obedience to any such recognizance shall be entitled to his expenses as if he were a witness for the Crown.

46 Vic. No. 17, s. 346.

How witness refusing to be bound over to be dealt with.

(4) If any witness refuses to enter into or acknowledge such recognizance the Justice or Justices may, by warrant, commit him to prison, there to be safely kept until after the trial of the defendant, unless, in the meantime, he duly enters into a recognizance before a Justice.

11 & 12 Vic. c. 42, s. 20.

(5) If, where a witness is so committed to prison, the defendant is not committed for trial for the offence with which he is charged, or the Attorney-General or other prosecuting officer declines to file an indictment against the defendant, any Justice may, by his order in that behalf, direct the keeper of the prison where such witness is in custody to discharge him from the same, and such keeper shall forthwith discharge him accordingly as to that warrant.

Ibid.

On committal for trial information, depositions, recognizances, &c., to be transmitted to the Attorney-General.
11 & 12 Vic. c. 42, ss. 18, 20.
14 Vic. No. 43, s. 2.

39. (1) Where a person is committed for trial the committing Justice or Justices shall, as soon as possible after the conclusion of the case, transmit to the Attorney-General or, if he so requires, to the Solicitor-General the information (if any), the depositions of the witnesses, the statement of the defendant, the recognizances entered into by the prosecutor and witnesses, the certificate mentioned in section thirty-eight (1) (*b*) (ii) (if any), and if the defendant is admitted to bail the recognizances of the defendant and of his surety or sureties.

Ibid.

(2) The Attorney-General and Solicitor-General shall, after such transmission and before the day of trial, have the same duties and be subject to the same liabilities in respect of the said several documents upon a *certiorari* directed to them or upon a rule or order directed to them in lieu of that writ as the Justice or Justices would have had and been subject to, upon a *certiorari* to him or them if such documents had not been so transmitted.

Ibid.

(3) The Attorney-General or Solicitor-General or officer in any case prosecuting for him shall at any time after the opening of the Court, at the sittings at which the trial is to be had, deliver the said several documents, or any of them, to the proper officer of the Court, if and when the Judge presiding thereat so directs.

How person committed for trial may obtain copy of depositions.
11 and 12 Vic. c. 42, s. 27.
14 Vic. No. 43, s. 3.
46 Vic. No. 17, s. 347.

40. (1) Every person committed for trial by any Justice or Justices or by a Coroner may, after the examinations of all the witnesses have been completed, and before the first day of the sitting of the Court at which he is to be tried, obtain copies of the depositions on which he was committed, and of the depositions of every witness who has been cross-examined or has been called and examined by him or on his behalf.

(2) Such copies shall be supplied—

(*a*) before transmission of the depositions as hereinbefore provided, by the Clerk of the Justice or Justices or Coroner, or

(*b*) after such transmission, by the Clerk of the Attorney-General or Solicitor-General,

upon payment of such sum, not exceeding four pence per folio, as the Judges of the Supreme Court from time to time determine.

HEARING.

Procedure on hearing of charge of indictable offence.
11 and 12 Vic. c. 42, s. 17.

41. (1) Whenever a person charged with an offence upon an information under section twenty-one of this Act appears or is brought before a Justice or Justices voluntarily upon summons or upon apprehension under or without warrant or in custody for such or any other offence, the Justice or Justices shall, in the presence of the defendant, take the evidence for the prosecution in manner hereinbefore provided.

Ibid. s. 25.

(2) After all the evidence for the prosecution has been taken the Justice or Justices shall—

(*a*) if he or they is or are of opinion that such evidence is not sufficient to warrant the defendant being put upon his trial for

for an indictable offence, forthwith order the defendant, if in custody, to be discharged as to the information then under inquiry.

(*b*) if he or they is or are of opinion that a prima facie case has been made out, proceed as hereinafter provided.

(3) Where the evidence for the prosecution has, in the opinion of the Justice or Justices, established a prima facie case he shall, if the defendant so desires, without requiring the attendance of the witnesses, read, or cause to be read, to the defendant the depositions of the witnesses who have given such evidence. 11 and 12 Vic. c. 42, s. 18. 46 Vic. No. 17, s. 346.

(4) (i) After such depositions have been read, or if the defendant does not desire them to be read, the Justice or Justices shall— *Ibid.* s. 18.

(*a*) say to the defendant: "Having heard the evidence, do you wish to say anything in answer to the charge? You are not obliged to say anything unless you desire to do so, but whatever you say will be taken down in writing and may be given against you in evidence at your trial"; and

(*b*) before the defendant makes any statement in answer, inform the defendant and give him clearly to understand that he has nothing to hope from any promise of favour and nothing to fear from any threat which may have been holden out to him to induce him to make any admission or confession of his guilt, but that whatever he then says may be given in evidence against him upon his trial notwithstanding such promise or threat.

(ii) Whatever the defendant then says shall be taken down in writing.

(iii) Such statement shall be read over to the defendant and shall be signed by the Justice or Justices.

(iv) Such statement may be given in evidence at the trial of the defendant without further proof unless it be proved that the Justice or Justices by whom it purports to be signed did not in fact sign it.

(v) Nothing herein shall prevent the prosecutor in any case from giving in evidence any admission or confession or other statement of the defendant, made at any time, which by law would be admissible as evidence against him.

(5) (i) After the defendant has made such statement, or if he makes no such statement, the Justice or Justices shall ask him if he desires to give evidence himself or to call any witness on his behalf. 46 Vic. No. 17, s. 346. c.f. No. 40, 1900, s. 407.

(ii) Any evidence then given by or on behalf of the defendant shall be taken by the Justice or Justices in manner hereinbefore provided in respect of evidence for the prosecution.

(6)

11 & 12 Vic. c. 42, s. 25.

(6) When all the evidence for the prosecution and for the defence has been taken the Justice or Justices shall—

(*a*) if he or they is or are of opinion that on such evidence the defendant ought not to be put upon his trial for an indictable offence, forthwith order the defendant, if in custody, to be discharged as to the information then under inquiry,

(*b*) if he or they is or are of opinion that the evidence is sufficient to warrant the defendant being put on his trial for an indictable offence, or if the evidence raises a strong or probable presumption of the guilt of the accused, commit the defendant for trial.

Person committed for trial to be committed to prison or admitted to bail.

Ibid.

42. When a person is committed for trial the committing Justice or Justices shall either—

(*a*) by warrant commit him to prison, there to be safely kept until the sittings of the Court before which he is to be tried or until he is delivered by due course of law or is admitted to bail as hereinafter provided; or

(*b*) at once admit him to bail as hereinafter provided.

EXECUTION OF WARRANT OF COMMITMENT.

Conveying person committed for trial to gaol.

Ibid. s. 26.

43. (1) The constable or other person to whom the warrant of commitment is directed shall convey the person committed therein named or described to the prison therein mentioned, and there deliver him and the warrant to the keeper or governor of such prison, who shall thereupon give the constable or other person delivering such person into his custody a receipt for such person, setting forth the state and condition in which such person was then delivered into the custody of such gaoler, keeper, or governor.

(2) If it appears to the Justice or Justices by whom a warrant of commitment is granted as aforesaid that the person committed has money sufficient to pay the expenses or some part thereof of conveying him to such prison, the Justice or Justices may order the whole or a sufficient part of such money to be applied to that purpose.

BAIL AND RECOGNIZANCES.

Justices not to admit to bail in cases of treason.

Ibid. s. 23.

44. No person charged with treason shall be admitted to bail by any Justice, or except by order of the Supreme Court, or, in vacation, of a Judge thereof.

When bail may and when it must be allowed on committal for trial.

Ibid.

45. (1) When any person is committed for trial the committing Justice or Justices:—

(A) *may*, if such person is charged with any of the following offences, namely:—

(*a*) any felony or assault with intent to commit a felony, or attempt to commit a felony, or

(*b*) concealing the birth of a child, or

(*c*)

(*c*) wilful or indecent exposure of the person, or
(*d*) riot, or
(*e*) assault in pursuance of a conspiracy to raise wages, or
(*f*) assault upon a police officer in the execution of his duty or upon any person acting in his aid, or
(*g*) neglect or breach of duty as a constable,

(B) *shall*, if such person is charged with any other indictable misdemeanour,

either (i) if he procures and produces a surety or sureties sufficient, in the opinion of the Justice or Justices, to ensure his appearance at the time and place of trial, admit him to bail, or

(ii) if he cannot then and there procure and produce such surety or sureties, certify on the back of the warrant of commitment his or their consent that he be admitted to bail, stating the amount of bail that ought to be required.

If sureties not then available, certificate that bail should be allowed.
11 & 12 Vic. c. 42, s. 23.

(2) When the committing Justice or Justices admits or admit a person to bail as aforesaid they shall take the recognizance of such person and of the surety or sureties, conditioned that such person shall appear at the time and place of trial, and shall then surrender and take his trial, and not depart the Court without leave:

Procedure on admitting to bail.
Ibid.

Provided that whenever any person charged with misdemeanour is entitled to a traverse at the next Assizes or Quarter Sessions, and is not bound to take his trial until the second Assizes or Sessions, the recognizance of bail shall be conditioned that he shall appear and plead at the next Assizes or Sessions and then traverse the indictment, and that he shall surrender and take his trial at such second Assizes or Sessions, unless he chooses and consents before entering into such recognizance to take his trial at such first Assizes or Sessions, in which case the recognizance may be conditioned in the ordinary form hereinbefore mentioned.

Where accused is entitled to traverse.
Ibid.
(See Crimes Act, 1900 s. 364.)

(3) When the committing Justice or Justices has or have given a certificate as in subsection (1) B (ii) aforesaid, any Justice being at the prison where such person is in custody, may on production of such certificate admit such person to bail in the manner in the last subsection mentioned.

(4) Where the committing Justice or Justices, has or have given a certificate as aforesaid, and the surety or sureties cannot attend at the prison to join with the person in custody in the recognizances, the committing Justice or Justices may make a duplicate of such certificate, and any Justice may, at any time and place, on production of such duplicate, take the recognizance of the surety or sureties in conformity therewith, and having done so, shall transmit such recognizance to the keeper of the prison where such person is in custody, and thereupon any Justice being at such prison may on production of such recognizance and of the original certificate take the recognizance of such person and admit him to bail.

Admission to bail where not granted or provided for on committal for trial.
11 & 12 Vic. c. 42, s. 23.

46. When any person committed for trial has been committed to prison to await such trial,

(*a*) where the offence charged is an indictable offence, other than treason, the committing Justice or Justices;

(*b*) where the offence charged is an indictable misdemeanour, other than the one mentioned in section forty-five (1) (A), any Justice to whom such person has applied,

may, at any time before the first sitting of the Court at which such person is to be tried, or before the day to which such sittings is adjourned, admit such person to bail in the manner in section forty-five (2) provided.

Transmission of recognizance.
Ibid.

47. In all cases where any person in prison is admitted to bail by a Justice other than the committing Justice or Justices the Justice so admitting him to bail shall forthwith transmit the recognizance or recognizances of bail to the committing Justice or Justices, who shall transmit them with the depositions to the Attorney-General.

On admission to bail, warrant of deliverance to be sent to keeper of prison.
Ibid. s. 24.

48. In all cases where a Justice admits to bail any person then in prison, accused of the offence for which he is so admitted to bail, such Justice shall send to the keeper of the prison a warrant of deliverance under his hand and seal requiring the said keeper to discharge such person if he is detained for no other offence, and upon such warrant being delivered to the keeper he shall forthwith obey the same.

49. (1) Where a Justice or Justices is or are by this Division of this Part of this Act authorised to discharge any person on recognizance, he or they may do so only upon such person entering into such recognizance, with or without a surety or sureties as such Justice or Justices may direct, conditioned that he shall appear at the time and place appointed or named in such recognizance.

Acknowledgment and subscribing of recognizances.

(2) Every recognizance shall be duly acknowledged by the person who enters into it, and shall be subscribed by the Justice or Justices before whom it is acknowledged.

Notice of recognizances.
2 Vic. No. 8, s. 4, cf. 11 & 12 Vic. c 42, Sch.

(3) A notice of every recognizance signed by the Justice or Justices shall at the same time be given by the Justice or Justices to each person bound thereby.

Procedure on non-appearance of person discharged on recognizances.
11 & 12 Vic. c. 42, s. 21.
No. 71, 1900, s. 5 (2).

50. (1) Where a person discharged on recognizance does not appear at the time and place appointed or named in such recognizance, the Justice or Justices then and there present shall transmit the recognizance to the Clerk of the Peace to be proceeded upon according to law.

(2) The Justice or Justices so transmitting any such recognizance shall certify on the back thereof the non-appearance of the person bound thereby.

(3) Such certificate shall be prima facie evidence of the non-appearance of such person.

FORMS.

FORMS.

51. The several Forms in the Second Schedule hereto, or Forms to the like effect, shall be deemed good, valid and sufficient in law.

Forms in Schedule, or to like effect, to be valid.
11 & 12 Vic. c. 42, s. 28.

DIVISION 2.—*Offences punishable on summary conviction and complaints.*

INFORMATIONS AND COMPLAINTS.

52. An information may be laid before a Justice in any case where any person has committed or is suspected to have committed an offence or act in New South Wales for which he is liable upon summary conviction before a Justice or Justices to be punished by fine, imprisonment, or otherwise.

When information may be laid.
11 & 12 Vic. c. 43, s. 1.

53. A complaint may be made to a Justice in any case where a Justice or Justices has or have authority by law to make an order for the payment of money, or otherwise.

When complaint may be made.
Ibid.

54. An information or complaint may be laid or made by the informant or complainant in person, or by his counsel, attorney, or other person authorised in that behalf.

Who may lay or make information or complaint.
Ibid. s. 10.

55. An information or complaint may be laid or made without oath, unless it is otherwise required by the provisions of any Act. A complaint need not be in writing unless it is required to be so by the Act upon which it is founded.

How information or complaint may be laid or made.
Ibid. ss. 8, 10.

56. An information or complaint may, unless some other time is specially limited by the Act dealing with the matter, be laid or made at any time within six months from the time when the matter of the information or complaint arose.

Time within which information or complaints may be laid or made.
Ibid. s. 11.

57. Every information shall be for one offence only, and not for two or more offences. Every such complaint shall be for one matter only and not for two or more matters.

Informations or complaints to be for one matter only.
Ibid. s. 10.

58. (1) Whenever it is necessary in any information or complaint or in any proceedings thereon to state the ownership of any property belonging to, or in the possession of partners, joint tenants, parceners or tenants in common, it shall be sufficient to name one of such persons, and to allege the property to belong to the person so named, and "another" or "others," as the case may be.

How partners, &c., property of partners, &c., to be described in information or complaint.
Ibid. s. 4.

(2) Whenever it is necessary in any information or complaint or in any proceedings thereon, to mention for any purpose any partners, joint tenants, parceners or tenants in common, it shall be sufficient to describe them by naming one of such persons, and referring to the rest as "another" or "others," as the case may be.

ISSUE

ISSUE OF WARRANTS AND SUMMONSES.

(*a*) *for appearance of defendant.*

Issue of warrant in first instance. 11 & 12 Vic. c. 43, s. 2.

59. Whenever an information is laid before a Justice, against any person, and the matter thereof substantiated by the oath of the informant or a witness, such Justice may issue his warrant in the first instance for the apprehension of such person.

Issue of summons. *Ibid.* s. 1.

60. Whenever an information or complaint is laid or made before a Justice, against any person as hereinbefore provided, such Justice may issue his summons for the appearance of such person:

Provided that nothing herein contained shall oblige a Justice to issue his summons in any case where a complaint is by law to be made ex parte.

(*b*) *for attendance of witness, &c.*

Summons to give evidence or to produce documents, &c. *Ibid.* s. 7. 17 Vic. No. 39, s. 8.

61. Whenever by the oath of a credible person it is made to appear to a Justice—

(*a*) that any person in New South Wales is likely to be able to give material evidence, or to have in his possession or power any document or writing required for the purposes of evidence; and

(*b*) that such person will not appear voluntarily to be examined as a witness, or to produce such document or writing at the time and place appointed for the hearing of the information or complaint,

such Justice shall issue his summons for the appearance of such person to be examined as a witness or to produce such document or writing as the case may be:

Provided that if such Justice is satisfied by evidence upon oath that it is probable that such person will not appear to be examined or to produce such document or writing unless compelled to do so, he may issue his warrant in the first instance for the apprehension of such person:

Provided that no person shall be bound to produce any document or writing not specified or otherwise sufficiently described in the summons or warrant or which he would not be bound to produce upon a subpœna duces tecum in the Supreme Court.

FORMS OF SUMMONS AND WARRANT.

Form of summons. 11 and 12 Vic. c. 43, ss, 1, 7.

62. Every summons for the appearance of any person shall—

(*a*) be under the hand and seal of the Justice issuing it, and

(*b*) be directed to such person, and

(*c*) state shortly the matter of the information or complaint, and

(*d*)

(*d*) require such person to appear at a certain time and place before such Justice as shall then be there to answer to the information or complaint, and be dealt with according to law or to testify what he knows concerning the matter of the information or complaint, or to produce the document or writing, as the case may be.

Manner of service of summons. 11 & 12 Vic. c. 43, s. 1.

63. (1) Every summons shall be served by a constable or other person upon the person to whom it is directed by delivering it to him personally, or if he cannot conveniently be met with then, by leaving it with some person for him at his last or most usual place of abode.

Proof of service. 46 Vic. No. 17, s. 434.

(2) Service of a summons in manner aforesaid may be proved by the oath of the police constable or other person who served it, or by affidavit or otherwise.

11 and 12 Vic. c. 43 ss. 3, 7.

64. (1) Every warrant for the apprehension of any person shall—

(*a*) be under the hand and seal of the Justice issuing it; and

(*b*) be directed to a police constable or other person by name, or generally to the senior officer of police of the district or place where it is to be executed, or to such officer of police and to all other police constables in New South Wales, or generally to all police constables in New South Wales; and

(*c*) name or otherwise describe the person whose appearance is required, as the case may be; and

(*d*) state shortly the matter of the information or complaint; and

(*e*) order the police constable or person to whom it is directed to apprehend the person whose appearance is required, and cause him to be brought before such Justice, or any other one or more than one Justice, as the Act dealing with the matter may require, to answer to the information or complaint, and be dealt with according to law, or to testify what he knows concerning the matter of the information or complaint, or to produce the document or writing as the case may be.

(2) (i) It shall not be necessary to make any such warrant for the apprehension of a defendant returnable at any particular time, but every such warrant shall continue in force till it is executed.

(ii) Every other such warrant shall be returnable at a time and place to be stated therein.

(3) Every such warrant may be executed by apprehending the person against whom it is directed at any place in New South Wales.

(4) Any such warrant or any search warrant may be issued on a Sunday as well as on any other day.

DEFECTS IN FORM AND VARIANCES.

No objection for defect or variance.
11 & 12 Vic. c. 43, ss. 1, 3, 9.

65. (1) No objection shall be taken or allowed to any information, complaint, summons, or warrant in respect of—

(*a*) any alleged defect therein in substance or in form; or

(*b*) any variance between any information, complaint, summons, or warrant and the evidence adduced in support of the information or complaint at the hearing.

(2) No variance between any information and the evidence adduced in support thereof at the hearing in respect of the time or place at which the offence or act is alleged to have been committed shall be deemed material if it is proved that the information was in fact laid within the time limited by law in that behalf or that the offence or act was committed in New South Wales, as the case may be.

Adjournment where defendant deceived or misled.
Ibid.

(3) Where any such defect or variance appears to the Justice or Justices present and acting at the hearing to be such that the defendant has been thereby deceived or misled such Justice or Justices may upon such terms as he or they may think fit adjourn the hearing of the case to some future day.

PROCEEDINGS ON DEFAULT IN APPEARANCE TO SUMMONS.

On non-appearance to summons warrants may be issued.
11 & 12 Vic. c. 43, ss. 2, 7.
46 Vic. No. 17, s. 434.

66. (1) Whenever any person for whose appearance a summons has been issued does not appear at the time and place appointed thereby,

(*a*) in the case of offences punishable on summary conviction under the Crimes Act, 1900, any two Justices,

(*b*) in all other cases, any Justice,

may, upon proof of the due service of the summons upon such person at a reasonable time before the time appointed for his appearance and

(i) where such person is the defendant—

upon the matter of the information or complaint being substantiated upon oath,

(ii) where such person is a witness—

(*a*) if no just excuse is offered for his non-appearance, and

(*b*) upon proof that a reasonable sum was tendered to him for his costs and expenses in that behalf,

issue his warrant for the apprehension of such person.

How defendants in summary cases to be dealt with when arrested.
11 & 12 Vic. c. 43, s. 13.

(2) Whenever the defendant is apprehended under any such warrant the Justice or Justices before whom he is brought shall thereupon either

(*a*) commit him (i) by warrant to prison, or some lock-up, or place of security, or

(ii) verbally to such safe custody as such Justice or Justices may think fit,

and order him to be brought up at a time and place to be appointed by such Justice or Justices, or (*b*)

(*b*) discharge him upon his entering into a recognizance, and in either case shall give due notice of the time and place so appointed to the informant or complainant.

No. 71, 1900, s. 5 (1).

PUBLICITY OF PROCEEDINGS.

67. The room or place in which a Justice or Justices sits or sit to hear and determine any information or a complaint shall be deemed an open and public court, to which all persons may have access so far as the same can conveniently contain them.

Place of hearing to be an open Court.
11 and 12 Vic., c. 43, s. 12.

ADJOURNMENT.

68. The Justice or Justices may adjourn the hearing of any information or complaint—

When hearing may be adjourned, and how time and place of adjourned hearing appointed and notified.
Ibid. ss. 3, 13, 16.

(*a*) in any case, in his or their discretion, whether before or during the hearing.

Such adjournment shall be to a time and place to be appointed by such Justice or Justices who shall state the same in the presence of the defendant, party or parties.

(*b*) in any case where the defendant has failed to appear in obedience to a summons and a warrant has been issued for his apprehension.

Such adjournment shall be to a time and place to be appointed by the Justice or Justices before whom the defendant is brought when he is apprehended. Notice of the time and place so appointed shall be given by such Justice or Justices to the informant or complainant.

(*c*) in any case where the informant or complainant has failed to appear by himself or his counsel or attorney at the time and place appointed in the summons or of which he has had notice as hereinbefore provided and the defendant has appeared or has been brought up on any warrant.

Such adjournment—

(i) shall be to a time and place to be appointed by such Justice or Justices who shall state the same in the presence of the defendant, party or parties, and

(ii) may be upon such terms as to the Justice or Justices seem fit.

69. Where the hearing is adjourned under section sixty-five, or under the last preceding section the Justice or Justices may—

How defendant to be dealt with during period of adjournment.
Ibid. s. 16.

(*a*) commit the defendant to a prison or lock-up, or to some other safe custody; or

(*b*) discharge the defendant upon his entering into a recognizance, or

(*c*) suffer the defendant to go at large.

WITNESSES

WITNESSES AND EVIDENCE.

How evidence to be taken.
11 & 12 Vic. c. 43, ss. 12, 14, 15.

70. (1) Every witness shall have the usual oath administered to him before he is examined.

(2) The prosecutor or complainant may himself, or by his counsel or attorney, conduct his case, and may examine and cross-examine the witnesses giving evidence for or against him, and may, if the defendant gives any evidence or examines any witness as to any matter other than as to his general character, call and examine witnesses in reply.

46 Vic. No. 17, s. 342.
c.f. No. 11, 1898, s. 5, and No. 40, 1900, s. 407.

(3) The defendant may himself, or by his counsel or attorney, make full answer and defence, and may give evidence himself, and may examine and cross-examine the witnesses giving evidence for or against him respectively.

How witness refusing to give evidence to be dealt with.
11 & 12 Vic. c. 43, s. 7.
17 Vic. No. 39, s. 8.

71. Any Justice before whom a person appears or is brought, upon summons or warrant, to give evidence or to produce any document or writing may, if such person, without offering any just excuse, refuses—

(*a*) to be examined upon oath; or

(*b*) to take the oath; or

(*c*) to answer, after having taken an oath, such questions concerning the matter of the information or complaint as are then put to him; or

(*d*) to bring or produce any such document or writing;

by warrant under his hand and seal commit such person to prison, there to remain for a period not exceeding seven days, unless in the meantime he consents to be examined upon oath and to answer concerning such matter or to bring or produce such document or writing.

Where exemption negatived in information, or complaint, need not be proved.
11 & 12 Vic. c. 43, s. 14.

72. If the information or complaint negatives any exemption, exception, proviso, or condition in the Act upon which it is framed, it shall not be necessary for the prosecutor or complainant to prove such negative, but the defendant may prove the affirmative in his defence if he wishes to take advantage thereof.

Person interested in conviction or order may obtain copies thereof and of the information, depositions, &c.
14 Vic. No. 43, ss. 3, 15.

73. (1) Every person interested in any summary conviction or order made by any Justice or Justices shall be entitled to demand and have copies of the information or of the complaint and of the depositions or evidence, and of such conviction or order.

(2) Such copies shall be supplied by the clerk of the Justice or Justices upon payment of such sum, not exceeding four pence per folio, as the Judges of the Supreme Court from time to time determine.

HEARING.

HEARING.

74. If, upon the day and at the time and place appointed by the summons, or by the order of the Justice or Justices before whom the defendant was brought upon apprehension under a warrant, the informant or complainant does not appear in person or by his counsel or attorney, but the defendant attends voluntarily in obedience to such summons, or is brought up on the order aforesaid, and the informant or complainant has received notice of such order, the Justice or Justices shall dismiss the information or complaint unless for some reason he or they think proper to adjourn the hearing as hereinbefore provided.

Procedure where informant or complainant does not, but defendant does appear. 11 & 12 Vic. c. 43, s. 13.

75. If, upon the day and at the time and place appointed by the summons, the defendant does not appear, then upon proof in manner hereinbefore prescribed of the due service of the summons upon him a reasonable time before the time appointed for his appearance the Justice or Justices may either—

(*a*) proceed to hear and determine the case and adjudicate thereon in the absence of the defendant; or

(*b*) adjourn the hearing and issue a warrant for the apprehension of the defendant as hereinbefore provided.

Procedure where defendant does not appear to summons. *Ibid.* ss. 2, 13.

76. If, upon the day and at the time and place to which the hearing or further hearing of the information or complaint has been adjourned, either or both of the parties does, or do, not appear in person or by his or their counsel or attorney, the Justice or Justices, then and there present, may proceed with the hearing as if such party or parties were present, and in cases where it is the informant or complainant who does not so appear may dismiss the information or complaint with or without costs.

Procedure where either party does not appear at adjourned hearing. *Ibid.* s. 16.

77. If, upon the day and at the time and place appointed for hearing or to which the hearing or further hearing has been adjourned, both parties appear in person or by their respective counsel or attorneys the Justice or Justices shall proceed to hear the case.

Where both parties appear Justices to hear and determine the case. *Ibid.* s. 13.

78. (1) Where the defendant appears at the hearing the substance of the information or complaint shall be stated to him, and he shall be asked if he has any cause to show why he should not be convicted or why an order should not be made against him, as the case may be.

Defendant to plead, *Ibid.* s. 14.

(2) If he thereupon admits the truth of the information or complaint and shows no sufficient cause why he should not be convicted or why an order should not be made against him then the Justice or Justices present at the hearing shall convict him or make an order against him accordingly.

If he admits, conviction or order to be made. *Ibid.*

(3) If he does not admit the truth of the information or complaint then the said Justice or Justices shall proceed to hear the prosecutor or complainant and the witnesses whom he examines and such

If he denies, evidence to be taken. *Ibid.*

such other evidence as he adduces in support of the information or complaint and to hear the defendant and the witnesses whom he examines and such other evidence as he adduces in his defence.

Addresses of parties. 17 Vic. No. 39, s. 15.

79. The practice upon the hearing of any information or complaint shall, in respect of the examination and cross-examination of witnesses and the right of addressing the Justice or Justices upon the case in reply or otherwise, be as nearly as possible in accordance with that of the Supreme Court upon the trial of an issue of fact in an action at law.

After hearing case Justices to convict or make an order or dismiss case.

80. After hearing what each party has to say and the witnesses and the evidence adduced, the said Justice or Justices shall consider and determine the whole matter, and convict or make an order upon the defendant or dismiss the information or complaint, as the case may require:

Provided that person charged with offence may be committed for trial. 46 Vic. No. 17, ss. 445, 471.

Provided that in the case of an information if upon the close of the case for the prosecution it appears to the Justice or Justices that the offence ought to be dealt with by indictment he or they shall abstain from adjudication thereon and shall deal with the case for the purpose of committal for trial only.

Justice may order costs to be paid by defendant, or, on order of dismissal, by plaintiff. 11 & 12 Vic. c. 43, s. 18.

81. (1) The Justice or Justices making any conviction or order may in and by such conviction or order adjudge that the defendant shall pay to the prosecutor or complainant, or, in the case of an order of dismissal, that the prosecutor or complainant shall pay to the defendant such costs as to such Justice or Justices seem just and reasonable.

(2) The amount so allowed for costs shall in all cases be specified in the conviction or order.

Abolition in all cases of recovery of fine, &c., by levy and distress. No. 71, 1900, s. 7 (1)

82. (1) In no case shall any fine, or penalty, or any sum of money, or costs, adjudged to be paid by any conviction or order made by any Justice or Justices founded on this or any other Act past or future, be or be adjudged to be levied by distress.

Imprisonment to be alternative of non-payment, &c., and to be adjudged in all cases in the same conviction or order. *Ibid.* subs. (2).

(2) Whenever by any conviction or order it is adjudged that any fine, or penalty, or any sum of money, or costs, shall be paid, the Justice or Justices making the conviction or order shall therein and thereby adjudge that, in default of payment, in accordance with, the terms of the conviction or order, of the amount thereby adjudged to be paid as ascertained thereby, the person against whom the conviction or order is made shall be imprisoned and so kept for such period, within the limits hereinafter prescribed, as to such Justice or Justices seems fit, unless the said amount and, if to such Justice or Justices it seems fit, the costs and charges of conveying him to prison be sooner paid:

c.f. 11 and 12 Vic. c. 43, s. 17 and Sch.

Provided that this subsection shall not affect the provisions relating to periodical payments contained in the "*Deserted Wives and Children's Act*, 1901" and in the "*Lunacy Act of* 1898."

Where

Where the said amount—	Such period shall not exceed—
Does not exceed ten shillings	Seven days.
Exceeds ten shillings, but does not exceed one pound	Fourteen days.
Exceeds one pound, but does not exceed two pounds	One month.
Exceeds two pounds, but does not exceed five pounds	Two months.
Exceeds five pounds, but does not exceed twenty pounds	Four months.
Exceeds twenty pounds, but does not exceed fifty pounds	Six months.
Exceeds fifty pounds, but does not exceed one hundred pounds	Nine months.
Exceeds one hundred pounds	Twelve months.

Such imprisonment shall be with either hard labour or light labour, as the Justice or Justices in and by the conviction or order adjudge.

(3) Every enactment inconsistent with the provisions of this section is hereby repealed.

Repeal of all enactments inconsistent with this section. No. 71, 1909, ss. 2, 7.

83. (1) The Justice or Justices, by whose conviction or order any such amount as aforesaid is adjudged to be paid, may in and by such conviction or order do all or any of the following things, namely—

Payment by instalments of, or security taken for payment of money. No. 50, 1899, s, 1. (42 and 43 Vic. c. 49, s. 7.)

(*a*) allow time for the payment of the said amount; and

(*b*) direct payment to be made of the said amount by instalments; and

(*c*) direct that the person liable to pay the said amount shall be at liberty to give to the satisfaction of the Justice or Justices, or such other Justice or Justices, or such person as may be specified by the first-mentioned Justice or Justices, security, with or without a surety or sureties, for the payment of the said amount or of any instalment thereof; and such security may be given and endorsed in manner provided by this Act.

(2) Where any such amount 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 payment of all the instalments then remaining unpaid.

(3) Any Justice or Justices directing the payment of any such amount, or of an instalment of any such amount, may direct such payment to be made at such time or times, and in such place or places, and to such person or persons as may be specified by the Justice or Justices; and every person to whom any such amount or instalment is paid, when not the clerk of the Court presided over by the said Justice or Justices, shall, as soon as may be, account for and pay over the same to that clerk.

Security taken in pursuance of preceding section.
No. 50, 1899, s. 2. (42 & 43 Vic., c. 49, s. 23.)

84. (1) A person shall give the security mentioned in the last preceding section, whether as principal or surety, either by the deposit of money with the clerk of the Court presided over by the Justice or Justices authorising the security, or by an oral or written acknowledgment of the undertaking or condition by which, and of the sum for which, he is bound, in such manner and form as may be directed by rules made under this section, and evidence of such security may be provided by such entry thereof as may be directed by a rule made as aforesaid.

(2) Any sum which may become due in pursuance of a security under this Act from a surety may be recovered as a debt due to His Majesty in any Court of competent jurisdiction at the suit of any person appointed by and under the hands and seals of the Justice or Justices authorising the security.

(3) Any Justice or Justices may enforce payment of any sum due by a principal in pursuance of a security under this Act, which appears to such Justice or Justices to be forfeited, in like manner as if that sum were adjudged by a Justice or Justices to be paid as a fine, provided that before a warrant of commitment is issued, as hereinafter provided, such notice of the forfeiture shall be served on the said principal, and in such manner as may be directed by rules made under this section, and subject thereto by the Justice or Justices authorising the security, or by any Justice or Justices to whom application is made for the issue of the warrant.

(4) Any sum paid by a surety on behalf of his principal in respect of a security given in pursuance of this Act, together with all costs, charges, and expenses incurred by such surety in respect of that security, shall be deemed a civil debt due to him from the principal, and may be recovered in any Court of competent jurisdiction.

(5) Where security is given under this Act for the payment of a sum of money, the payment of such sum shall be enforced by means of such security in substitution for other means of enforcing such payment.

(6) The Governor may make rules as to any matter which this section provides shall be done as directed by rules made thereunder, and any rule purporting to be made under this section shall, on publication in the Gazette, have the force of law, and shall be laid before both Houses of Parliament within one month after such publication, if Parliament is then sitting, or if not then sitting, within one month after the commencement of the next session of Parliament.

Minute or memorandum of conviction or order to be made at the same time.
11 & 12 Vic. c. 43, s. 14.
Ibid. s. 17.

85. (1) If the Justice or Justices convict or make an order against the defendant a minute or memorandum of the conviction or order shall be made at the same time.

No fee shall be paid for any such minute or memorandum.

(2)

(2) Where the order adjudges that in default of compliance therewith the defendant shall be imprisoned, a copy of such minute or memorandum shall be served upon the defendant before any warrant of commitment is issued.

No such order or minute shall form part of the warrant of commitment.

(3) Every conviction or order shall afterwards be drawn up by the Justice or Justices who made the same, in the appropriate form, under his or their hand and seal, or hands and seals, and, in the case of a conviction, on parchment or paper.

And afterwards drawn up in appropriate form. 11 & 12 Vic. c. 43, s. 14.

(4) Such Justice or Justices shall cause every conviction or order when so drawn up to be lodged with the Clerk of the Peace, who shall file the same with the records of the Quarter Sessions.

And lodged with Clerk of the Peace and filed with records. *Ibid.* s. 14.

86. (1) If the Justice or Justices dismiss an information or complaint he or they may, on being required to do so, and if they think fit, draw up an order of dismissal and give the defendant a certificate thereof.

Order and certificate of dismissal. *Ibid.* s. 14.

(2) A certificate of dismissal shall, upon production and without further proof, be a bar to any subsequent information or complaint for the same matter against the same person.

Such certificate to be a bar to subsequent proceedings from same matter. *Ibid.*

Enforcement of convictions and orders.

Warrant of commitment.

87. Where, by any conviction or order, it is adjudged that any fine, or penalty, or any sum of money or costs shall be paid, any Justice may, if the person against whom such conviction or order is made does not pay in accordance with the terms of the conviction or order the amount thereby adjudged to be paid as ascertained thereby, by warrant commit such person to prison, there to be kept according to the terms of the conviction or order, unless he sooner pays such amount and, if the Justice or Justices who made the conviction or order have so ordered, the costs and charges of conveying such person to prison.

Warrant of commitment on non-payment. No. 71, 1900, s. 7 (5) 11 & 12 Vic. c. 43, s 23.

88. (1) Where—

(*a*) a conviction does not order the payment of any fine or penalty, but that the defendant be imprisoned, or imprisoned and kept to hard labour for his offence,

(*b*) an order is not for the payment of money but for the doing of some other act, and directs that if he neglects or refuses to do such act the defendant shall be imprisoned, or imprisoned and kept to hard labour, and the defendant neglects or refuses to do such act,

any Justice may by warrant commit the defendant to prison, there to be kept according to the terms in that behalf of the conviction or order.

Warrant of commitment in other cases. *Ibid.* s. 24.

(2) Where it is ordered by any such conviction or order as in subsection (1) mentioned that the defendant shall pay any costs to the prosecutor or complainant, and the defendant does not pay the same in accordance with the terms of the conviction or order, any Justice may, by warrant, commit him to prison, there to be kept according to the terms in that behalf of the conviction or order, unless he sooner pays such costs and, if the Justice or Justices who made the conviction or order have so ordered, the costs and charges of conveying him to prison.

(3) If the defendant has been committed to prison in respect of his offence, or neglect or refusal, as aforesaid, the imprisonment under subsection (2) shall commence at the termination of his imprisonment under subsection (1).

Form and contents of warrant.
11 & 12 Vic. c. 43, s. 24.

89. Every such warrant of commitment shall be under the hand and seal or hands and seals of the Justice or Justices issuing it, and shall require the constable or constables to whom it is directed to take and convey the person named therein to a prison therein mentioned, and there deliver him to the keeper of such prison, and shall further require such keeper to receive such person into the said prison, and there imprison him, or imprison him and keep him to light or hard labour according to the terms of the warrant of commitment.

Issue of warrant of commitment for non-payment may be postponed.
No. 50, 1899, s. 4. (42 & 43 Vic. c. 49, s. 21).

90. (1) The Justice or Justices to whom application is made to issue a warrant of commitment for non-payment of an amount adjudged to be paid by a conviction or order may, if he or they deem it expedient so to do, postpone the issue of such warrant until such time and on such conditions, if any, as to him or them may seem just.

Where part payment commitment to be for period applicable to unpaid balance only.
No. 50, 1899, s. 4. (42 & 43 Vic. c. 49, s. 21.)

(2) Where, upon an application to a Justice or Justices to issue any such warrant of commitment, it appears to the Justice or Justices to whom the application is made that by payment of part of the said amount, whether by instalments or otherwise, the amount has been reduced to such an extent that the unsatisfied balance, if it had constituted the original amount adjudged to be paid by the conviction or order, would have subjected the defendant to a maximum term of imprisonment less than the term of imprisonment in which he is liable under such conviction or order, the Justice or Justices shall, by his or their warrant of commitment, revoke the term of imprisonment and order the defendant to be imprisoned for a term not exceeding such less maximum term, instead of for the term originally mentioned in the conviction or order.

Where defendant already in prison under prior conviction.
11 & 12 Vic. c. 43, s. 25.

91. (1) Where by any conviction or order it is adjudged that the defendant be imprisoned, and such defendant is then undergoing imprisonment upon a conviction for another offence the warrant of commitment in respect of the subsequent offence shall be forthwith delivered to the gaoler to whom it is directed.

(2)

(2) The Justice or Justices issuing such warrant of commitment may order thereby that the imprisonment for the subsequent offence shall commence at the termination of the imprisonment which the defendant is then undergoing.

Payment—Discharge.

92. If a person adjudged by the conviction or order of a Justice or Justices to pay an amount of money pays the same to any constable or other person, such constable or other person shall forthwith pay the same to the clerk of the division in which the Justice or Justices making the conviction or order usually act.

If payment made by defendnat, amount to be paid over to clerk of the Justices.
11 and 12 Vic. c. 43, s. 31.

93. In all cases where a warrant of commitment has been issued if the defendant pays or tenders to the constable having the execution thereof the sum or sums mentioned therein together with charges and expenses for which he is liable, the constable shall cease to execute the same.

On payment warrant if issued not to be executed.
Ibid. s. 28.

94. (1) Where a person is imprisoned for non-payment of an amount adjudged to be paid by the conviction or order of a Justice or Justices, he may pay or cause to be paid to the keeper of the prison in which he is imprisoned, and the keeper shall receive—

Discharge on payment in full.
Ibid. ss. 28, 31.

(*a*) the sum mentioned in the warrant of commitment together with any costs, charges, and expenses therein mentioned, and the said keeper shall thereupon discharge such person unless he is in his custody for some other matter;

(*b*) under conditions prescribed by prison rules, any sum in part satisfaction of the sum so adjudged to be paid, and of any charges for which he is liable, and thereupon the term of his imprisonment shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days for which he was committed as the sum so paid bears to the sum for which he is so liable, and the said keeper shall, on the expiration of the term so reduced, discharge such person unless he is in his custody for some other matter.

Reduction of term of imprisonment on part payment.
No. 50, 1899, s. 5.

(2) The said keeper shall forthwith pay all sums received by him as aforesaid to the clerk of the division in which the Justice or Justices issuing the warrant of commitment usually act.

Sums so received to be paid over by keeper of prison to clerk of the Justices.
11 & 12 Vic. c. 43, s. 31.

95. (1) All sums so received by any such clerk as aforesaid shall forthwith be paid by him to the party or parties to whom they are directed to be paid by the Act on which the particular information or complaint was framed.

How clerk of Justices to deal with sums so received.
Ibid.

RECOGNIZANCES.

96. (1) Where a Justice or Justices is or are by this Division of this Part of this Act authorised to discharge any person on recognizance, they may do so only upon such person entering into such recognizance,

General condition of recognizances.
No. 71, 1900, s. 5 (2).

recognizance, with or without a surety or sureties, as such Justice or Justices may direct, conditioned that he shall appear at the time and place appointed or named in such recognizance.

Acknowledged subscribers of recognizance.

(2) Every recognizance shall be duly acknowledged by the person who enters into it, and shall be subscribed by the Justice or Justices before whom it is acknowledged.

Notice of recognizance. 2 Vic. No. 8, s. 4. c.f. 11 & 12 Vic. c. 43, Sch.

(3) A notice of every recognizance, signed by the Justice or Justices, shall at the same time be given by the Justice or Justices to each person bound thereby.

Procedure on non-appearance of person discharged on recognizances. 11 & 12 Vic. c. 43, s. 20. No. 71, 1900, s. 5 (2).

97. (1) Where a person discharged on recognizance does not appear at the time and place appointed or named in such recognizance, the Justice or Justices then and there present shall transmit the recognizance to the Clerk of the Peace to be proceeded upon according to law.

(2) The Justice or Justices so transmitting any such recognizance shall certify on the back thereof the non-appearance of the person bound thereby.

(3) Such certificate shall be prima facie evidence of the non-appearance of such person.

Powers of one Justice.

One Justice may receive information, &c., and issue summonses and warrants. 11 & 12 Vic. c. 43, s. 29.

98. (1) One Justice out of Sessions may receive an information or complaint and grant a summons or warrant thereon, and may issue his summons or warrant to compel the attendance of any witness, and do all other necessary acts and matters preliminary to the hearing, notwithstanding that by this Act or by the statute dealing with the matter, the information or complaint must be heard and determined by two or more Justices.

(2) One Justice may after any such case has been heard and determined issue a warrant of commitment thereon.

(3) The Justice who so acts as in the two preceding sub-sections mentioned need not be one of the Justices by and before whom the case is heard and determined.

Forms.

Forms in Schedule to like effect to be valid. *Ibid.* s. 32. 14 Vic. No. 43, s. 7.

99. The several Forms in the Second Schedule hereto, or forms to the like effect, shall be deemed good, valid, and sufficient in law.

Aiders and abettors.

Aiders and abettors punishable as principals. 11 & 12 Vic. c. 43, s. 5.

100. (1) Every person who aids, abets, counsels, or procures the commission of any offence, now or hereafter made punishable on summary conviction, may be proceeded against and convicted, together with or before or after the conviction of the principal offender.

(2)

(2) On conviction such person shall be liable to the penalty and punishment to which the principal offender is liable.

PART V.

PROCEEDINGS IN THE NATURE OF APPEAL FROM THE DECISIONS OF JUSTICES.

1. *Appeal to Supreme Court by way of special case.*

Party dissatisfied with determination of Justices on point of law may apply to have a case stated for opinion of Supreme Court. 45 Vic. No. 4, s. 1.

101. (1) Any party to the proceedings, if dissatisfied with the determination by any Justice or Justices in the exercise of their summary jurisdiction of any information or complaint as being erroneous in point of law may, within—

(*a*) eight days, where the information or complaint was determined in the county of Cumberland, or under one hundred miles from Sydney; or

(*b*) sixteen days, where determined over one hundred and under two hundred miles from Sydney; or

(*c*) twenty-four days, where determined over two hundred miles from Sydney,

after such determination, apply in writing to the said Justice or Justices to state and sign a case, which may be in the form in the Third Schedule to this Act, setting forth the facts and grounds of such determination for the opinion thereon of the Supreme Court.

(2) The party so applying shall be called the appellant, and the other party to the proceeding shall be called the respondent.

Before case is stated appellant to give security. *Ibid.* s. 2.

102. (1) Before any such case is stated and delivered to the appellant, he shall enter into a recognizance before a Justice or Justices, with or without sureties, and in such sum as to such Justice or Justices may seem meet, conditioned to prosecute such appeal without delay, and to submit to the judgment of the Supreme Court and pay such costs as may be awarded by such Court.

Before case delivered appellant to pay fees. *Ibid.*

(2) Before any such appellant shall be entitled to have the case delivered to him he shall pay to the clerk of petty sessions his fees for and in respect of such case and recognizances, and all other fees to which such clerk is entitled.

Such fees, where not otherwise provided for by law, shall be according to the Fourth Schedule to this Act.

Appellant if in custody to be liberated on further condition. *Ibid.*

(3) If the appellant is in custody he shall be liberated upon the recognizance mentioned in subsection (i) being further conditioned for his appearance before the same or such other Justice or Justices as may

may then be sitting within ten days after judgment has been given by the Supreme Court to abide such judgment, unless the determination appealed against is reversed.

Justices may refuse to state case where application frivolous. 45 Vic. No. 4, s. 3.

103. (1) If the Justice or Justices is or are of opinion that the application is merely frivolous, he or they may then, but shall not otherwise, refuse to state a case:

Provided that the Justice or Justices shall not in any instance refuse to state a case where the application is made to them by or under the direction of the Attorney-General.

Certificate of such refusal to be given. *Ibid.*

(2) Where the Justice or Justices refuses or refuse to state a case he or they shall, on the request of the appellant, sign and deliver to him a certificate of such refusal.

Where case refused Supreme Court may direct case to be stated. *Ibid.* s. 4.

104. (1) Where the Justice or Justices refuses or refuse to state a case, the appellant may apply to the Supreme Court upon an affidavit of the facts for a rule calling upon the Justice or Justices and the respondent to show cause why such case should not be stated.

(2) The Court may make absolute or discharge such rule with or without costs.

(3) Where such rule is made absolute, the Justice or Justices, upon being served with a copy thereof, shall state a case accordingly, upon the appellant entering into the recognizance hereinbefore provided.

Appellant to give notice. *Ibid.* s. 5.

105. The appellant shall, within five days of receiving the case, give notice in writing of such appeal, together with a copy of the case as stated and signed, to the respondent, and shall thereafter and within the said time transmit such case to the Prothonotary of the Supreme Court.

Powers of the Court in dealing with cases so stated. *Ibid.*

106. (1) The Court shall hear and determine the question or questions of law arising on such case; and shall—

(*a*) reverse, affirm, or amend the determination in respect of which the case was stated; or

(*b*) remit the matter to the Justice or Justices with the opinion of the Court thereon; or

(*c*) make such other order in relation to the matter as seems fit:

Case may be sent back for amendment. *Ibid.* s. 6.

Provided that the Court may cause the case to be sent back for amendment, and thereupon it shall be amended accordingly, and judgment shall be delivered after it has been so amended.

Costs. *Ibid.* s. 5.

(2) The Court may make such order as to costs as seems fit, provided that no Justice or Justices who has or have stated and delivered a case in pursuance of this Act shall be liable to any costs in respect of such appeal.

Decisions of Court to be final. *Ibid.*

(3) All such orders shall be final and conclusive on all parties.

107.

107. (1) The authority and jurisdiction hereby vested in the Supreme Court may, subject to any rules and orders of the said Court in relation thereto, be exercised by a Judge of the said Court sitting in Chambers as well in vacation as in term.

Powers of Court may be exercised by Judge in chambers. 45 Vic. No. 4, s. 7.

(2) The Supreme Court may make and alter rules and orders to regulate the practice and proceedings in reference to the stating of cases as herein provided.

Court may make rules of practice. *Ibid.* s. 10.

108. (1) Any Justice or Justices may enforce any conviction or order affirmed, amended, or made by the Supreme Court on the determination of any such case in the same manner as the Justice or Justices who originally decided the matter might have enforced his or their determination if there had been no appeal.

After decision of Court, Justices to enforce conviction or order. *Ibid.* s. 8.

(2) No action or proceeding whatever shall be commenced or had against any Justice or Justices for enforcing any such conviction or order by reason of any defect therein.

109. No writ of certiorari or other writ shall be required for the removal of any conviction, order, or other determination in relation to which a case is stated under this Act, or otherwise, in order to obtain the judgment or determination of the said Court on such case under this Act.

Certiorari not requisite where case stated. *Ibid.* s. 9.

110. (1) Where any condition in any recognizance entered into under the provisions of section one hundred and two has not been complied with, any Justice or Justices may transmit the recognizance to the Clerk of the Peace to be proceeded upon in like manner as other recognizances.

Forfeiture of recognizance to be certified to the Clerk of the Peace. *Ibid.* s. 11.

Such Justice shall certify on the back of the recognizance in what respects the conditions thereof have not been observed, and such certificate shall be deemed prima facie evidence that the recognizance has been forfeited;

(2) Any person aggrieved by the forfeiture of any recognizance under the last preceding subsection, may appeal to the next Court of Quarter Sessions held nearest to the place where the information or complaint was determined, provided that he gives to the Clerk of the Peace and to the respondent five days' notice of such appeal.

Appeal against such forfeiture. *Ibid.* s. 13.

(3) Upon such appeal the said Court may deal with such recognizance as such Courts may deal with recognizances when forfeited in such Courts, and may make such order thereon as to the Judge seems meet.

111. (1) Any person who appeals under the provisions of this Part of this Act against any determination of a Justice or Justices from which he might appeal to the Court of Quarter Sessions, shall be taken to have abandoned such last-mentioned right of appeal.

Persons appealing under this Act not to be allowed to appeal to Quarter Sessions, *Ibid.* s. 12.

(2) Nothing herein shall in any way interfere with, curtail or limit the powers of any person to apply for a writ of prohibition against the determination of any Justice or Justices.

but nothing to prevent applications for prohibition. *Ibid.* s. 14.

2.

2. *Prohibition.*

Any person aggrieved by conviction or order of Justice may apply for prohibition to Court or Judge in certain cases to a Judge.
17 Vic. No. 39, ss. 3, 4, 5.
14 Vic. No. 43, s. 12.

112. (1) Any person aggrieved by any summary conviction or order of any Justice or Justices may, within twenty days, or, if his place of residence is one hundred and fifty miles or upwards from Sydney, within sixty days, after the conviction or order, apply—

(*a*) in all cases to the Supreme Court, or, in vacation, to a Judge thereof;

(*b*) in the following cases, whether in term or in vacation, to a Judge—

(i) where imprisonment has been directed;

(ii) where the fine imposed, or the amount ordered to be paid, or the value of the matter adjudicated upon does not exceed thirty pounds,

for a rule or order calling on the Justice or Justices, and the prosecutor or person interested in maintaining the conviction or order to show cause why a prohibition should not issue to restrain them from proceeding or further proceeding, as the case may be, upon or in respect of such conviction or order.

Time to run from adjudication.
17 Vic. No. 39, s. 9.

(2) The time within which such application may be made shall begin to run from the final adjudication as announced whether orally or in writing.

Ibid.

(3) The conviction or order need not be drawn up in form in order to entitle the applicant to the benefit of this section.

Provided that the Court or Judge may postpone the decision if justice appears so to require until the conviction or order shall have been so drawn up and in due form transmitted.

Power of Judge of Circuit Court.
Ibid. s. 7.

(4) The powers given to a Judge by this section may be exercised by any Judge of a Circuit Court.

When Supreme Court may be held by one Judge alone.
22 Vic. No. 14, s. 7.

(5) The Supreme Court may be held by one Judge alone for the disposal of such applications notwithstanding that it may be term time, or that the Court held before two or more Judges may at the same time be sitting in Banco.

Saving of powers of single Judge under No. 35, 1900, s. 20.

(6) Nothing herein shall affect the powers of a single Judge in vacation or in cases of exigency in term time contained in section twenty of the "Supreme Court and Circuit Courts Act, 1900."

Saving of prohibition at Common Law.

(7) Nothing herein shall affect prohibitions at Common Law.

No rule except on affidavit showing prima facie case.
14 Vic. No. 43, s. 13.

113. No such rule or order to show cause shall be granted or made except on an affidavit or on affidavits showing a prima facie case of error or mistake on the part of the Justice or Justices.

Before whom rule to be returnable.
Ibid. s. 12.
17 Vic. No. 39, s. 5.

114. (1) In any case where imprisonment has been directed or the fine imposed, or the amount ordered to be paid, or the value of the matter adjudicated upon does not exceed thirty pounds, any such rule or order granted or made by the Court or a Judge may be made returnable before the Court or any such Judge.

(2)

(2) In all other cases all such rules and orders made under or by virtue of section one hundred and twelve shall be made returnable before the Supreme Court in term or on any day in vacation on which the Court sits as in Banco. 14 Vic. No. 43, s. 12. 22 Vic. No. 14, s. 7.

115. If upon the return day, or day to which the hearing has been adjourned, no cause be shown, or if, in the opinion of the Court or Judge after inquiry and consideration of the evidence adduced before the Justice or Justices, the conviction or order cannot be supported, the Court or Judge may direct that the writ applied for be issued, and may make such further order as may be just and necessary : Powers of Court or Judge. 17 Vic. No. 39, s. 5.

Provided that— Power of amendment. 14 Vic. No. 43, s. 13.

(i) if any mistake or error made by the Justice or Justices appears to be amendable, the Court or Judge shall allow the conviction or order to be forthwith amended accordingly, and from and after such amendment the conviction or order may be enforced or dealt with in all respects as if the same had so stood originally.

Such power of amendment shall or may be exercised in every case where— 17 Vic. No. 39, s. 10.

(*a*) the facts or evidence appearing by the depositions in substance support the adjudication of the Justice or Justices, and such adjudication does not extend beyond the charge or complaint ;

(*b*) such facts or evidence would have justified or justify any necessary allegation or finding omitted in such adjudication or in the formal conviction or order, or any warrant issued in pursuance of such adjudication.

(ii) Where a conviction is bad in respect of some excess which may consistently with the merits of the case be corrected, the conviction shall be amended accordingly, and shall stand good for the remainder.

116. Any rule, order, or writ made by a Judge in a case where imprisonment has been directed, or the fine imposed, or the amount ordered to be paid, or the value of the matter adjudicated upon does not exceed thirty pounds, may be discharged or varied or set aside by the Court in term, and such further order may thereupon be made as the case may require. Certain rules, orders, and writs made by a Judge may be reviewed by the Court. *Ibid.* s. 5.

117. The costs of all proceedings and of all amendments under the last five preceding sections shall be in the discretion of the Court or Judge. Costs. 14 Vic. No. 43, s. 13. 17 Vic. No. 39, s. 10.

3. *Special provisions regarding appeals by way of writ of habeas corpus or of certiorari.*

118. (1) Where any person or any conviction or order of a Justice or of Justices is brought before the Supreme Court or a Judge thereof, Conviction or order not to be set aside on habeas or certiorari

for error therein or in warrant of commitment until the Justices or prosecutor, &c., have had notice of application, and the opportunity of transmitting the information, depositions, and conviction, or order, or copies thereof.
14 Vic. No. 43, ss. 9, 10.
17 Vic. No. 39, s. 7.

thereof, or a Judge of a Circuit Court, on writ of habeas corpus or by writ of certiorari respectively, such person shall not be discharged from custody, and such conviction or order shall not be set aside by reason of any defect or error in the warrant of commitment or in such conviction or order until such Justice or Justices or any one of them or the prosecutor or party interested in supporting such warrant or such conviction or order—

(*a*) has or have had notice of the intention to apply for the discharge of such person or the setting aside of such conviction or order;

(*b*) has or have been required to transmit, or has or have had the opportunity of transmitting or causing to be transmitted to the Court or Judge the conviction or order on which the commitment was founded or which is in question, and the information, if any, and depositions intended to be relied on in support of such conviction or order or certified copies thereof.

Notice may be given before or after writ.
14 Vic. No. 43, s. 11.

(2) The notice aforesaid may be given either before or after the issue of the writ.

When notice may be dispensed with.
Ibid.

(3) Where copies of the conviction or order and depositions are produced at the time of application for the writ, the Court or Judge may dispense with such notice.

When amendment may be made.
Ibid. ss. 9, 10.

119. (1) Where any conviction or order and depositions have been transmitted to the Court or Judge, as in the last-preceding section provided, and the offence or matter charged or intended to have been charged thereby appears to have been established and the judgment of the Justice or Justices thereupon to have been warranted in substance, the Court or Judge shall allow the warrant of commitment and the conviction or order if necessary, or the conviction or order as the case may be, to be forthwith amended in all necessary particulars in accordance with the facts.

(2) After such amendment the person committed shall be remanded to his former custody, or the conviction or order may be enforced in the proper manner, and shall be regarded and dealt with as if it had originally stood as so amended.

Bail pending decision of Court.
17 Vic. No. 39, s. 6.

120. Where any person committed to prison by virtue of any summary conviction or order of a Justice or Justices has been brought up by writ of habeas corpus, and the Court or Judge postpones the final decision of the case, the Court or Judge may admit such person to bail with or without sureties for his appearance at such time and place and upon such conditions as the Court or Judge may appoint.

On judgment against him person to be remanded to former custody.
Ibid.

121. Where the judgment of the Court or Judge is against any such person, the Court or Judge may remand him to his former custody, there to serve the rest of the term for which he was committed.

4. *Appeal to Quarter Sessions.*

122. (1) Every person who, for any offence, act, or omission, has, by the conviction or order of a Justice or Justices, founded on this or any other Act past or future, been adjudged to be imprisoned or otherwise punished, or to pay any fine or penalty, or to suffer any forfeiture, or to pay any sum of money, and every person who, under the provisions of any Act past or future, is entitled to appeal against any order of a Justice or Justices founded on such Act, may appeal to a Court of Quarter Sessions against such conviction or order, provided that a notice in writing stating his intention to appeal and the general grounds of such appeal is given by him or on his behalf to the clerk of the Court where the conviction or order was made within seven days from the making of such conviction or order; and the said clerk shall at once send to the Clerk of the Peace and to the prosecutor, or other party, a copy of such notice:

Appeal allowed in every case of conviction or order made by Justices on notice within seven days.
No. 71, 1900, s. 9.

Provided—

(*a*) that there shall be no appeal against an adjudication to imprisonment for failure to comply with an order for the payment of money, for the finding of sureties, for the entering into recognizances or for giving of security; and

(*b*) that nothing herein shall give any right of appeal against an order for the payment of wages, or of any sum recoverable in the same manner as wages, under the Seamen's Act, 1898, or against a conviction for an offence under Part IX of the said Act.

Not to give right of appeal against certain orders under the Seamen's Act, 1898.
Ibid. s. 20.

(2) Every such appeal shall be heard at the Court of Quarter Sessions, for the district where the conviction or order was made, holden next after the expiration of fourteen days after the day on which notice of appeal was given, or at such other Court of Quarter Sessions, holden after the expiration of the said period, as the Attorney-General may direct.

At what Court of Quarter Sessions appeal to be heard.
Ibid. s. 9 (2).

Notice of the time and place of hearing of the appeal shall be given, as early as possible, by the Clerk of the Peace, to the appellant, and to all parties interested or concerned in such appeal.

(3) No application to quash or vary any conviction or order of a Justice or Justices shall be made to any Court of Quarter Sessions except by way of appeal as herein provided.

(4) Notice of appeal and all other notices herein required to be given may be sent by registered letter, and in the case of the prosecutor or other party to the address given at the hearing, and if so sent shall be taken to have been served on the day on which such letter would be delivered in the ordinary course of post.

(5)

(5) Upon receipt of such notice of appeal, the clerk of the Court shall forthwith inform the Justice or Justices who made the conviction or order, or, in their absence, any other Justice or Justices, of the same, and he or they shall then and there determine the amount in which the appellant and his surety or sureties are to be bound by recognizance or which he is to deposit in respect of the costs of the appeal under the provisions of the next following section, if in his or their opinion the sum of ten pounds would be insufficient or excessive for that purpose; and such clerk shall inform the appellant of such determination and shall also transmit the conviction or order to the Clerk of the Peace to be kept among the records of such Court.

Conditions on which execution of conviction or order stayed.
No. 71, 1900, s. 10.

123. If (*a*) notice of appeal has been duly given as hereinbefore provided, and

(*b*) the appellant either—

(i) remains in custody till the hearing of the appeal, or

(ii) within three days after the day on which notice of appeal was given, enters before a Justice into a recognizance, with a surety, or sureties, in the sum of ten pounds, or in such sum as the Justice or Justices have determined, conditioned to appear at the Court of Quarter Sessions and prosecute the appeal, and abide the judgment of the Court thereon and pay such costs as may be awarded by such Court, or

where money only has been adjudged to be paid—

(iii) deposits with the clerk of the Court, where the conviction or order was made, the sum and costs (if any) thereby adjudged to be paid, and the further sum of ten pounds or such less sum as the Justice or Justices have determined in respect of the costs of the appeal,

then the execution of the conviction or order shall be stayed.

Conditions on which appellant may be liberated.
Ibid. s. 11.

124. After notice of appeal and compliance with the provisions of the last preceding section as to recognizances or deposit, the appellant, if in custody, may be liberated by the order of any Justice.

Powers of Court appealed to.
Ibid. s. 12.

125. (1) The Court hearing the appeal shall determine the matter of every such appeal, and may adjourn the hearing thereof, and may by its order confirm, quash, set aside, vary, or reduce, the conviction, order, sentence, or adjudication appealed against, or make such other order in the matter, and as to costs to be paid by either party, including the Crown, as to the Court seems just; and may, in and by any such order, exercise any power which the Justice or Justices who made the conviction or order might have exercised; and any order so made shall have the same effect and shall be enforced in the same manner as if it had been made by such Justice or Justices.

(2) When the appellant has made a deposit in accordance with the provisions of section one hundred and twenty-three, the Court

Court may order the money so deposited to be applied, so far as it will extend, in payment of the sum adjudged by the Court to be paid, and of the costs, both of the conviction or order and of the appeal; and the residue, if any, or, if the conviction or order be quashed or set aside, the whole, of such money shall be repaid to the appellant.

Conditions subject to which depositions may be read as evidence on appeal. No. 71, 1900, s. 13.

126. The deposition of any witness called and examined before the Justice or Justices who made the conviction or order appealed against may be read as evidence for either party at the hearing of the appeal if—

(1) the other party consents; or

(2) it is proved on oath

(*a*) that the deposition was taken in the presence of the other party; and

(*b*) that the other party or his counsel or attorney had full opportunity of cross-examining the witness; and

(*c*) that—

(i) the witness is dead, or so ill as to be unable to travel; or,

(ii) cannot, after such search or for such reason as to the Court seems sufficient, be produced by the party tendering the deposition.

Appeal not to be defeated for defect in notice, &c., if amendable. *Ibid.* s. 14.

127. No appeal shall be defeated merely by reason of any defect, whether of substance or of form, in any notice or statement of grounds of appeal.

The Court hearing the appeal, if of opinion that any such notice or statement is capable of amendment and ought to be amended, may amend the same accordingly, upon such terms, as to postponement or costs, or both, as to the Court seems just.

Defects in warrant of commitment. *Ibid.* s. 16.

128. No warrant of commitment shall be held void, by reason of any defect therein, if it is therein alleged that the person named therein has been convicted, and if there is a valid conviction to sustain such commitment.

Quashing of conviction, &c., to be endorsed thereon. *Ibid.* s. 17.

129. Whenever any conviction or order is quashed or set aside on appeal, the Clerk of the Peace or other proper officer shall forthwith endorse on the conviction or order a memorandum to that effect; and, whenever any certificate of such conviction or order is given, a copy of such memorandum shall be added; and, in every case where such certificate would be evidence of such conviction or order, it shall be sufficient evidence that such conviction or order has been quashed or set aside.

If appeal dismissed Justice may issue warrant of commitment. 11 & 12 Vic. c. 43, s. 27.

130. Where any such appeal has been decided in favour of the respondent any Justice may issue his warrant of commitment as if no appeal had been brought.

Costs of appeal how recovered. *Ibid.* s. 27. No. 71, 1900, s. 19.

131. (1) Where the Court orders either party to pay costs, such order shall direct that such costs be paid to the Clerk of the Peace to be by him paid over to the party entitled to the same, and shall state a time within which such costs shall be paid.

(2)

(2) If such costs are not paid within the time stated in such order, whether the party ordered to pay the same is or is not bound by recognizance to pay the same, the Clerk of the Peace or his deputy shall, upon the application of the party entitled to such costs or of any person on his behalf and payment of a fee of one shilling, grant to the party so applying a certificate that such costs have not been paid.

(3) Upon the production of such certificate to any Justice, such Justice may commit the person named therein as having been adjudged to pay the costs mentioned therein to prison in the same manner and for the same period as if such certificate had been a conviction or order made by such Justice by which such person had been adjudged to pay such costs forthwith, and such person had failed to pay the same according to the terms of such conviction or order.

5. *General provisions applicable to all proceedings by way of appeal.*

(*a*) *As to amendment.*

Conviction or order not to be quashed, &c., by reason of error in form or in the sentence.
No. 71, 1900, s. 15.

132. No conviction or order of any Justice or Justices shall be quashed, set aside, or avoided in any proceeding by way of appeal in the Supreme Court or before a Judge thereof, or on appeal to Quarter Session, merely by reason of some omission or mistake in the form of the conviction or order, or for any error in law in the sentence imposed or order made, if it appears to the Supreme Court or Judge or to the Court of Quarter Sessions that sufficient grounds were in proof before the Justice or Justices who made the conviction or order to have authorised a conviction or order free from such omission, mistake, or error; but the Court or Judge may, upon such terms as to costs as seems fit, amend the conviction or order, and adjudicate thereupon as if no such omission, mistake, or error had existed, or may remit the case to the Justice or Justices to pronounce such judgment and sentence, or make such order as is authorised by law, and to amend the conviction or order accordingly.

(*b*) *As to want of information or of distribution of penalty.*

Conviction not to be set aside for want of information, &c., if party present at hearing and does not object;
17 Vic. No. 39, s. 16.

133. (1) Where the party convicted, or any party whose goods have been condemned or directed to be sold as forfeited, was present at the hearing of the case, the conviction or order shall be sustained, although there may have been no information or summons, unless such party objected at such hearing that there was no information or summons.

or for want of or wrong distribution of penalty.
Ibid.

(2) No conviction or order shall be defeated for the want of any distribution, or for a wrong distribution, of the penalty or forfeiture.

PART

PART VI.

Proceedings against Justices.

134. (1) Where a Justice refuses to do any act relating to the duties of his office as such Justice, the person requiring such act to be done may apply to the Supreme Court, upon an affidavit of the facts, for a rule calling upon such Justice and the person to be affected by such act to show cause why such act should not be done.

Proceeding in nature of mandamus. 11 & 12 Vic. c. 44, s. 5. 14 Vic. No. 43, s. 8.

(2) If after due service of such rule good cause is not shown against it, the Court may make the same absolute with or without or upon payment of costs.

(3) Upon being served with the rule absolute, the Justice shall obey the same and do the act by it required to be done.

(4) No action or proceeding shall be commenced or prosecuted against such Justice for having obeyed such rule and done the act thereby required.

(5) The Supreme Court may be held by one Judge alone for the disposal of such applications, notwithstanding that it may be Term time or that the Court held before two or more Judges may at the same time be sitting in Banco.

22 Vic. No. 14, s. 7.

135. (1) Every action brought against a Justice for an act done by him in the execution of his duty as a Justice with respect to a matter within his jurisdiction as a Justice shall be an action on the case as for a tort.

Action for act done within jurisdiction as a Justice. 11 & 12 Vic. c. 44, s. 1.

(2) In the declaration it shall be expressly alleged that the act was done maliciously and without reasonable and probable cause.

(3) If at the trial, upon the general issue being pleaded, the plaintiff fails to prove the allegation aforesaid, he shall be nonsuit, or a verdict shall be given for the defendant.

136. (1) An action against a Justice for an act done by him in a matter of which by law he has not jurisdiction, or in which he has exceeded his jurisdiction, may be maintained by any person injured by such act or by any act done under any conviction or order made, or any warrant issued by such Justice in such matter, in the same form and in the same case as such an action might have been maintained before the passing of this Act.

Action for act done without or in excess of jurisdiction. *Ibid.* s. 2.

(2) In the declaration it shall not be necessary to allege that the act was done maliciously and without reasonable and probable cause.

(3) No such action shall be brought—

Where not maintainable. *Ibid.*

(*a*) for anything done under such conviction or order until after such conviction or order has been quashed upon appeal or upon application to the Supreme Court;

(*b*) for anything done under any warrant issued by the Justice to procure the appearance of such person if such warrant has been

been followed by a conviction or order in the same matter until after such conviction or order has been quashed on appeal or on application to the Supreme Court;

(*c*) for anything done under any warrant issued by the Justice to procure the appearance of such person if—

(i) such warrant has not been followed by a conviction or order in the same matter; or

(ii) such warrant was upon an information for an alleged indictable offence and a summons had been issued previously to such warrant and duly served, and such person had not appeared according to the exigency thereof.

No action maintainable—for exercise of discretion; 11 & 12 Vic. c. 44, s. 4.

137. No action shall be brought against a Justice—

(*a*) for or by reason of the manner in which he has exercised his discretion in the execution of a discretionary power conferred on him by Statute;

or for anything done under warrant of commitment where conviction affirmed; *Ibid.* s. 6.

(*b*) for anything done under any warrant of commitment on the ground of any defect in the conviction or order on which it was founded if, either before or after the granting of such warrant, such conviction or order has been confirmed upon appeal;

or by reason of defect in conviction or of another Justice; *Ibid.* s. 3.

(*c*) by reason of any defect in a conviction or order made by some other Justice or Justices on which he has bona fide and without collusion granted a warrant of commitment;

or of want of jurisdiction in other Justice; *Ibid.*

(*d*) by reason of any want of jurisdiction in any other Justice or Justices by whom a conviction or order has been made on which he has bona fide and without collusion granted a warrant of commitment;

or where rule nisi for prohibition granted in respect of the conviction. 14 Vic. No. 43, s. 14.

(*e*) in respect of any proceeding taken under or matter arising out of a conviction or order made by him where a rule nisi for a prohibition in respect of such conviction or order has been granted.

When prohibited action brought, proceedings may be set aside; 11 & 12 Vic. c. 44, s. 7.

138. (1) Where an action is brought against a Justice in respect of any matter in respect of which it is by this Act enacted that no action shall be brought, a Judge of the Court in which such action is brought may, upon the application of the defendant, and upon an affidavit of the facts, set aside the proceedings in such action, with or without costs.

or, if rule nisi granted in respect of the conviction, &c., the action may be stayed. 14 Vic. c. 43, s. 14.

(2) Where an action is brought in respect of any proceeding taken, or matter arising out of a conviction or order in respect of which a rule nisi for a prohibition has been granted, the Supreme Court, or a Judge thereof, may by order summarily stay the same with costs, to be taxed as between solicitor and client, to be paid by the plaintiff.

Limitations—as to commencement of action. 11 & 12 Vic. c. 44, s. 8.

139. (1) No action shall be brought against any Justice for anything done by him in the execution of his office unless the same is commenced within six months after the Act complained of was committed.

(2)

(2) No such action shall be commenced until one month after a notice in writing of the intended action has been delivered to such Justice or left for him at his usual place of abode by the party intending to commence the same or by his attorney or agent.

As to notice of action. 11 & 12 Vic. c. 44, s. 9.

Such notice shall state clearly and explicitly the cause of action and the Court in which it is intended to bring the action.

Such notice shall be endorsed with the name and place of abode of the party intending to bring the action and, if it is served by his attorney or agent, with the name and place of abode or of business of such attorney or agent.

140. An action against a Justice for anything done by him in the execution of his office may be brought in the Supreme Court, or in the Circuit Court nearest to which the act complained of was committed, or in the District Court, but not in a Court of Petty Sessions.

Where action may be brought. *Ibid.* s. 10. 14 Vic. No. 43, s. 8.

Provided that—

(1) no such action shall be brought in a District Court if the Justice objects thereto;

(2) if the Justice or his attorney or agent within six days after being served with a summons in any such action gives notice in writing to the plaintiff in such action that he objects to being sued in the District Court for such cause of action all proceedings afterwards had in the District Court in such action shall be null and void.

141. (1) In every case after notice of action has been given and before the action is commenced the Justice may tender to the party intending to commence the same or to his attorney or agent such sum as he thinks fit as amends for the injury complained of in such notice.

Tender of amends and payment into court. 11 & 12 Vic. c. 44, s. 11.

(2) After any such action has been commenced at any time before issue joined, the Justice may, if he has not made any tender as aforesaid or in addition to such tender, pay into Court such sum as he thinks fit.

(3) If the plaintiff, where money has been so paid into Court, elects to accept the same in satisfaction of his damages in the action, he may obtain from any Judge of the Court in which the action is brought an order that such money be paid out of Court to him, and that the defendant pay his costs when taxed, and thereupon the action shall be determined, and such order shall be a bar to any other action for the same cause.

Where amount paid is accepted by plaintiff. *Ibid.*

142. A Justice against whom any such action is brought may plead the general issue.

Plea of general issue and evidence thereunder. *Ibid.* ss. 11, 12.

Evidence of any such tender or payment into Court as aforesaid, and of any special matter of defence, excuse, or justification, may be given at the trial under such plea.

143. (1) If at the trial of any such action the plaintiff does not prove—

In what cases there shall be a nonsuit or verdict for the defendant.

(*a*) that notice of action was given as hereinbefore provided; or

11 & 12 Vic. c. 44, s. 11.

(*b*) that the action was brought within the time heinbefore limited in that behalf; or

(*c*) the cause of action stated in his notice of action; or

(*d*) that the cause of action arose within the jurisdiction of the Court,

he shall be nonsuit, or the jury shall return a verdict for the defendant.

Ibid. s. 12.

(2) If at the trial of any such action the jury find that the plaintiff is not entitled to damages beyond the amount (if any) tendered or paid into Court—

(*a*) they shall return a verdict for the defendant; and

(*b*) the plaintiff shall not be at liberty to elect to be nonsuit; and

(*c*) so much of the amount (if any) paid into Court as is sufficient to pay the defendant's costs, shall be paid out of Court to the defendant, and the residue (if any) to the plaintiff.

What damages may be recovered where plaintiff proved guilty of the offence of which he was convicted, &c.

Ibid. s. 13.

144. If the plaintiff in any such action is entitled to recover and—

(*a*) proves the payment of any penalty or sum of money under the conviction or order as part of the damages he seeks to recover, or

(*b*) proves that he was imprisoned under the conviction or order and seeks to recover damages for such imprisonment,

and it is further proved—

(*c*) that he was actually guilty of the offence of which he was convicted, or

(*d*) that he was liable by law to pay the sum he was ordered to pay, and

(*e*) that he had undergone no greater punishment in the way of imprisonment than that assigned by law for the offence of which he was convicted, or for non-payment of the sum he was ordered to pay,

he shall not be entitled to recover the amount of the penalty or sum so paid by him, or any sum beyond the sum of twopence as damages for such imprisonment or any costs of suit.

Costs.

Ibid. s. 14.

145. (1) If the plaintiff in any such action recovers a verdict, or obtains judgment by default, he shall be entitled—

(*a*) to costs in the same manner as if this Act had not been passed, or

(*b*) if he has alleged in the declaration or plaint that the act complained of was done maliciously and without reasonable and probable cause, to his full costs as between solicitor and client.

(2) If the defendant in any such action obtains judgment by verdict or otherwise he shall be entitled to his full costs as between solicitor and client.

PART

PART VII.

MISCELLANEOUS.

146. No conviction or order of a Justice or Justices, or adjudication upon appeal of a Court of Quarter Sessions, shall be removed by any writ or order into the Supreme Court.

No certiorari.
No 71, 1900, s. 18.

147. In every case where a person, charged before a Justice or Justices with an indictable offence mentioned in section four hundred and seventy-seven of the Crimes Act, 1900, has consented to the case being disposed of summarily under the provisions of the said Act the Justice or Justices shall have the same power to award costs to or against him as such Justice or Justices would have if he had been charged before such Justice or Justices with an offence, not indictable, punishable upon summary conviction.

Justices to have power to deal with costs where persons convicted summarily of indictable offences under the Crimes Act.
Ibid. s. 6.

148. In the police district of Newcastle on the passing of this Act, and in any police district to which the provisions of Part III of this Act have been extended, on and after the expiration of thirty days from the day on which such provisions apply to such district, and until such provisions cease so to apply, the jurisdiction under the Liquor Act, 1898, of any Licensing Court or Licensing Magistrate constituted or appointed, or deemed to be constituted or appointed, under that Act shall cease and determine, anything in the said Act to the contrary notwithstanding.

Constitution of Licensing Courts at Newcastle and in police districts to which Part III is extended.
60 Vic. No. 18, s. 6.

149. Thereupon a Licensing Court for a licensing district within which or some part of which a Stipendiary Magistrate has jurisdiction shall be composed of three members, being the Stipendiary Magistrate or Magistrates as official members and such other persons or person as the Governor may appoint.

Ibid.

150. The Stipendiary Magistrate or senior Stipendiary Magistrate present shall preside at meetings of the Licensing Court; but in the absence of any Stipendiary Magistrate the members of the Court present at any such meeting shall elect one of their number to act as chairman at and for such meeting.

Chairman.
Ibid.

151. Every Stipendiary Magistrate shall within such licensing district exercise the powers vested in, and perform the duties imposed upon, a Licensing Magistrate by the Liquor Act, 1898, and the provisions of that Act and of any Act amending the same shall, except as herein modified, apply to any licensing district, Court, and Magistrate aforesaid.

Ibid.

SCHEDULES.

SCHEDULES.

FIRST SCHEDULE.

Repeal of Acts.

Reference to Act.	Title or short title.	Extent of repeal.
7 Vic. No. 25 ...	An Act to indemnify and render valid the acts of certain Justices of the Peace for the territory of New South Wales, and to enable territorial Justices of the Peace to act as such within the boundaries of the City of Sydney and Town of Melbourne respectively.	The whole.
10 Vic. No. 6 ...	An Act to extend the provisions of an Act of Parliament, passed in the seventh year of the reign of His late Majesty King George the Fourth, as to taking Bail in cases of Felony and Misdemeanour.	The whole.
11 Vic. No. 41 ...	An Act to enable the the Governor of the Colony to cancel appointments of places for holding Courts of Petty Sessions.	The whole.
13 Vic. No. 1 ...	An Act to confer upon all Justices of the Peace for the City of Sydney certain powers heretofore vested in the Police Magistrates of the said City.	The whole.
14 Vic. No. 43 ...	The Justices Act of 1850	The whole.
11 & 12 Vic. c. 42	An Act to facilitate the performance of the Duties of Justices of the Peace out of Sessions within England and Wales with respect to persons charged with Indictable Offences.	The whole.
11 & 12 Vic. c. 43	An Act to facilitate the performance of the Duties of Justices of the Peace out of Session within England and Wales with respect to summary Convictions and Orders.	The whole.
11 & 12 Vic. c. 44	An Act to protect Justices of the Peace from vexatious Actions for acts done by them in execution of their office.	The whole.
16 Vic. No. 1 ...	An Act for shortening Acts of the Legislative Council.	Section 14.
17 Vic. No. 39 ...	The Justices Act Amendment Act of 1853.	The whole.
20 Vic. No. 32 ...	An Act to provide for the discharge of the duties of Clerks of Petty Sessions in districts for which no such officer shall be appointed, and to withdraw certain special powers now possessed by Police Magistrates.	The whole.
22 Vic. No. 14 ..	An Act to expedite Suits and Proceedings in Equity, and to facilitate the despatch of Business in the Supreme Court in Banco	All not hitherto repealed.
32 Vic. No. 6 ...	An Act to amend the Act 11 and 12 Vic., c. 43	The whole.

FIRST SCHEDULE—*continued.*

Reference to Act.	Title or short title.	Extent of repeal.
36 Vic. No. 1 ..	An Act to remove the Disqualifications of Justices of the Peace in certain cases.	The whole.
45 Vic. No. 4 ...	Justices Appeal Act of 1881.	The whole, except sec. 13.
45 Vic. No. 17 ...	Metropolitan Magistrates Act, 1881 ...	The whole.
46 Vic. No. 17 ..	Criminal Law Amendment Act of 1883 ...	Sections 342, 346, 347, 434, 445 (last clause), 459, 471.
47 Vic. No. 14 ...	Metropolitan Magistrates Act Amendment Act, 1884.	The whole.
52 Vic. No. 6 ...	Criminal Law Amendment Act of 1888 ...	Section 2.
55 Vic. No. 5 ...	Criminal Law and Evidence Amendment Act of 1891.	All not hitherto repealed.
60 Vic. No. 18 ...	Newcastle Magistrates Act, 1896	The whole.
No. 50, 1899 ...	Justices (Fines) Act, 1899	The whole.
No. 71, 1900 ...	Justices Acts Amendment Act of 1900 ...	All not hitherto repealed.

SECOND SCHEDULE.

DIVISION 1.—*Forms in the case of indictable offences.*

INFORMATIONS, &c.

(A 1.)

Information for an indictable offence.

to wit. }

THE information of C. D. of in the State of New South Wales [*yeoman*] taken this day of , in the year of our Lord one thousand nine hundred and before the undersigned [*one or two*] of His Majesty's Justices of the Peace in and for the said State who saith that [*&c., stating the offence*].

Sworn before [*me or us*] the day and year first above mentioned at in the said State.

J. S.

(A 2.)

Certificate of indictment being found.

I HEREBY certify That at [a Court of Oyer and Terminer and General Gaol Delivery Circuit Court *or* a Court of Quarter Sessions] holden in and for the State of New South Wales at in the said State on the day of an information was presented against A. B., therein described as A. B., late of in the said State [*labourer*] for that he [*&c., stating shortly the offence*], and that the said A. B. hath not appeared or pleaded to the said information.

Dated this day of , one thousand nine hundred and .

J. D.
Clerk of Arraigns at the Circuit Court holden at in the said State,

or

Clerk of the Peace at the Court of Quarter Sessions holden at in and for the said State.

SUMMONSES.

SUMMONSES.

(B 1.)

Summons to a person charged with an indictable offence.

To A. B., of , in the State of New South Wales [*labourer*]

WHEREAS you have this day been charged before the undersigned [*one or two*] of His Majesty's Justices of the Peace in and for the said State of for that you on the day of at in the said State [*&c., stating shortly the offence*]. These are therefore to command you in His Majesty's name to be and appear before [*me or us*] on the day of at o'clock in the forenoon at or before such other Justice or Justices of the Peace for the said State as may then be there to answer to the said charge, and to be further dealt with according to law. Herein fail not.

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)

(B 2.)

Summons to a witness.

To E. F., of , in the State of New South Wales [*labourer*].

WHEREAS information hath been laid before the undersigned [*one or two*] of His Majesty's Justices of the Peace in and for the said State of that A. B. [*&c., as in the summons or warrant against the accused*], and it hath been made to appear to [*me or us*] upon [*oath*] that you are likely to give material evidence for the [*prosecution*]. These are therefore to require you to be and to appear before [*me or us*] on the day of [*now instant or now next*] at o'clock in the forenoon at in the said State, or before such other Justice or Justices of the Peace for the said State as may then be there to testify what you shall know concerning the said charge so made against the said A. B. as aforesaid. Herein fail not

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)

WARRANTS TO APPREHEND.

(C 1.)

Warrant to apprehend a person charged with an indictable offence.

To the Chief Constable of in the State of New South Wales, and to all other Peace Officers in the said State.

WHEREAS A. B, of , in the said State [*labourer*], hath this day been charged upon oath before the undersigned [*one or two*] of His Majesty's Justices of the Peace in and for the said State, for that [*he or she*] on the day of at in the said State did [*&c., stating shortly the offence*]. These are therefore to command you in His Majesty's name forthwith to apprehend the said A. B., and to bring [*him or her*] before [*me or us*] or some other of His Majesty's Justices of the Peace in and for the said State to answer unto the said charge, and to be further dealt with according to law.

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)

(C 2.)

(C 2.)

Warrant to apprehend a person charged with an indictable offence committed on the high seas or abroad.

For offences committed on the high seas the warrant may be the same as in ordinary cases, but describing the offence to have been committed "on the high seas out of the body of any county of this realm and within the jurisdiction of the Admiralty of England."

For offences committed abroad for which the parties may be indicted in this country the warrant also may be the same as in ordinary cases, but describing the offence to have been committed "on land out of the State—to wit, at in the Indian or Pacific Ocean," as the case may be.

(C 3.)

Warrant to apprehend a person indicted.

To the Chief Constable of in the State of New South Wales, and to all Peace Officers in the said State.

Whereas it hath been duly certified by [*J. D., Clerk of Arraigns at the Circuit Court or Clerk of the Peace at the Court of Quarter Sessions*], holden at in and for the said State [that *&c., stating the certificate*]. These are therefore to command you in His Majesty's name forthwith to apprehend the said A. B., and to bring [*him or her*] before [*me or us*] or some other Justice or Justices of the Peace in and for the said State to be dealt with according to law.

Given under [*my*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)

(C 4.)

Warrant to apprehend a person charged who has not obeyed a summons.

To the Chief Constable of in the State of New South Wales and to all other Peace Officers in the said State.

Whereas on the day of [*last past*] A. B. of in the said State [*labourer*] was charged before the undersigned [*one or two*] of His Majesty's Justices of the Peace in and for the said State of for that [*&c., as in the summons*]. And whereas [*I or we*] then issued [*my or our*] summons to the said A. B. commanding [*him or her*] in His Majesty's name to be and appear before [*me or us*] on the day of at o'clock in the forenoon at in the said State, or before such other Justice or Justices of the Peace for the said State as might then be there to answer to the said charge, and to be further dealt with according to law. And whereas the said A. B. hath neglected to be or appear at the time and place appointed in and by the said summons, although it hath now been proved to [*me or us*] upon oath that the said summons was duly served upon the said A. B. These are therefore to command you in His Majesty's name forthwith to apprehend the said A. B., and to bring [*him or her*] before me or some other of His Majesty's Justices of the Peace in and for the said State to answer to the said charge, and to be further dealt with according to law.

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)

(C 5.)

(C 5.)

Warrant to apprehend a witness who has not obeyed a summons.

To the Chief Constable of in the State of New South Wales and to all other Peace Officers in the said State.

WHEREAS information having been laid before the undersigned [*one or two*] of His Majesty's Justices of the Peace in and for the said State of that A. B. [*&c., as in the summons*] and it having been made to appear to [*me or us*] upon oath that E. F. of in the said State [*labourer*] was likely to give material evidence for the prosecution [*I or we*] did duly issue [*my or our*] summons to the said E. F. requiring [*him or her*] to be and appear before [*me or us*] on day of at in the said State, or before such other Justice or Justices of the Peace for the said State as might then be there to testify what [*he or she*] should know respecting the said charge so made against the said A. B. as aforesaid. And whereas proof hath this day been made before [*me or us*] upon oath of such summons having been duly served upon the said E. F. And whereas the said E. F. hath neglected to appear at the time and place appointed by the said summons and no just excuse has been offered for such neglect. These are therefore to command you to bring and have the said E. F. before [*me or us*] on the day of at o'clock in the forenoon at in the said State, or before such other Justice or Justices of the Peace for the said State as may then be there to testify what [*he or she*] shall know concerning the said charge so made against the said A. B. as aforesaid.

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at, in the said State.

J. S. (L.S.)

(C 6.)

Warrant for a witness in the first instance.

To the Chief Constable of in the State of New South Wales and to all other Peace Officers in the said State.

WHEREAS information hath been laid before the undersigned [*one or two*] of His Majesty's Justices of the Peace in and for the said State of that [*&c., as in summons*] and it having been made to appear to [*me or us*] upon oath that E. F. of in the said State [*labourer*] is likely to give material evidence for the prosecution, and that it is probable that the said E. F. will not attend to give evidence without being compelled so to do. These are, therefore, to command you to bring and have the said E. F. before [*me or us*] on the day of at o'clock in the forenoon at in the said State, or before such other Justice or Justices of the Peace for the said State as may then be there to testify what [*he or she*] shall know concerning the said charge so made against the said A. B. as aforesaid.

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)

WARRANTS TO DETAIN.

(D 1.)

Warrant to detain a person indicted who is already in custody for another offence.

To the Keeper of the [*Gaol*] at in the State of New South Wales.

WHEREAS it hath been duly certified by [*J. D., Clerk of Arraigns at the Circuit Court or Clerk of the Peace for the Sessions*] holden at in and for the said State that [*&c., stating the certificate*]. And whereas [*I am or we are*] informed that the said A. B. is in your custody in the said [*Gaol*] at , in the said State, charged with some

some offence or other matter, and it being now duly proved upon oath before [*me or us*] that the said A. B. so indicted as aforesaid, and the said A. B. in your custody as aforesaid are one and the same person. These are therefore to command you in His Majesty's name to detain the said A. B. in your custody in the [*Gaol*] aforesaid until by His Majesty's Writ of Habeas Corpus [*he or she*] shall be removed therefrom for the purpose of being tried upon the said information, or until [*he or she*] shall otherwise be removed or discharged out of your custody by due course of law.

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)

(D 2.)

Warrant on an adjournment remanding a person charged.

To the Chief Constable of in the State of New South Wales and to the [*Keeper of the Gaol*] at , in the said State.

WHEREAS A. B. was this day charged before the undersigned [*one or two*] of His Majesty's Justices of the Peace in and for the said State of for that [*&c., as in the warrant to apprehend*], and it appears to [*me or us*] to be necessary to remand the said A. B. These are, therefore, to command you, the said Constable in His Majesty's name, forthwith to convey the said A. B. to the [*Gaol*] at in the said State, and there to deliver [*him or her*] to the Keeper thereof together with this precept, and [*I or we*] hereby command you, the said Keeper, to receive the said A. B. into your custody in the said [*Gaol*], and there safely keep [*him or her*] until the day of [*instant*], when [*I or we*] hereby command you to have [*him or her*] at in the said State at o'clock in the forenoon of the same day before [*me or us*], or before such other Justice or Justices of the Peace for the said State as may then be there to answer further to the said charge, and to be further dealt with according to law, unless you shall be otherwise ordered in the meantime.

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)

WARRANT TO CONVEY BEFORE JUSTICES WHERE OFFENCE COMMITTED.

(E.)

Warrant to convey the person charged before a Justice near the place where the offence was committed.

To the Chief Constable of , and to all other Peace Officers in the State of New South Wales.

WHEREAS A. B. of in the said State [*labourer*] hath this day been charged before the undersigned [*one or two*] of His Majesty's Justices of the Peace in and for the said State for that [*&c., as in the warrant to apprehend*]. And whereas [*I or we*] have taken the deposition of C. D., a witness examined by [*me or us*] in this behalf, but inasmuch as [*I or we*] are informed that the principal witnesses to prove the said offence against the said A. B. reside at , in the said State, where the said offence is alleged to have been committed. These are, therefore, to command you the said Constable, in His Majesty's name, forthwith to take and convey the said A. B. to in the said State, and there carry [*him or her*] before some Justice or Justices of the Peace, in and near unto the place where the offence is alleged to have been

been committed, to answer further to the said charge before [*him or them*], and to be further dealt with according to law, and [*I or we*] hereby further command you, the said Constable, to deliver to the said Justice or Justices the information in this behalf, and also the said deposition of C. D. now given into your possession for that purpose, together with this precept.

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)

DEPOSITIONS, &c.

(F 1.)

Deposition of witnesses.

to wit. }

THE examination of C. D., of , in the State of New South Wales [*farmer*], and E. F., of , in the said State [*labourer*], taken on [*oath*] this day of in the year of our Lord one thousand nine hundred and at in the said State before the undersigned [*one or two*] of His Majesty's Justices of the Peace for the said State, in the presence and hearing of A. B., who is charged this day before [*me or us*], for that [*he or she*] the said A. B., on the day of in the said State [*&c., describing the offence as in a warrant of commitment*].

This deponent C. D. on [*his or her*] oath saith as follows [*&c., stating the deposition of the witness as nearly as possible in the words he uses. When his deposition is complete let him sign it.*]

And this deponent E. F. upon [*his or her*] oath saith as follows [*&c.*]

The above depositions of C. D. and E. F. were taken and [*sworn*] before [*me or us*] at in the said State on the day and year first above mentioned.

J. S.

(F 2.)

Statement of the accused.

to wit. }

A. B. stands charged before the undersigned [*one or two*] of His Majesty's Justices of the Peace in and for the State aforesaid this day of in the year of our Lord one thousand nine hundred and for that [*he or she*] the said A. B. on the day of at in the said State [*&c., as in the caption of the depositions*], and the said charge being read to the said A. B. and the witnesses for the prosecution C. D. and E. F. being severally examined in [*his or her*] presence the said A. B. is now addressed by [*me or us*] as follows—"Having heard the evidence do you wish to say anything in answer to the charge? You are not obliged to say anything unless you desire to do so, but whatever you say will be taken down in writing and may be given in evidence against you upon your trial," whereupon the said A. B. saith as follows—

[*Here state whatever the prisoner may say and in his very words as nearly as possible. Get him to sign it if he will.*]

A. B.

Taken before [*me or us*] at in the said State the day and year first above mentioned.

J. S.

RECOGNIZANCES

RECOGNIZANCES AND NOTICES THEREOF.

(G 1.)

Recognizance to give evidence.

to wit. }

BE it remembered that on the day of in the year of our Lord one thousand nine hundred and , C. D., of , in the State of New South Wales [*farmer*], or [*C. D.*, of *No. 2* street, in the [*City or Town*] of in the said State [*surgeon*], of which said house he is [tenant] personally came before [*me or us*] [*one or two*] of His Majesty's Justices of the Peace for the said State, and acknowledged [*himself or herself*] to owe to our Sovereign Lord the King the sum of of good and lawful money of Great Britain to be made and levied of [*his or her*] goods and chattels, lands, and tenements to the use of our said Lord the King His Heirs and Successors if [*he or she*] the said C. D. shall fail in the condition endorsed.

Taken and acknowledged the day and year first above mentioned at in the said State before [*me or us*].

J. S.

THE condition of the within-written recognizance is such That whereas one A. B. was this day charged before [*me or us*] J. S., Justice of the Peace within mentioned, for that [*&c., as in the caption of the depositions*] if therefore [*he or she*] the said C. D. shall appear at the next [*Court of Oyer and Terminer or General Gaol Delivery, or Circuit Court, or at the next Court of Quarter Sessions*] to be holden at in and for the State of New South Wales on the day of and then and there give such evidence as [*he or she*] knoweth upon an information to be then and there preferred against the said A. B. for the offence aforesaid to the jurors who shall pass upon the trial of the said A. B., then the said recognizance to be void or else to stand in full force and virtue.

(G 2.)

Notice of the said recognizance to be given to the witnesses.

TAKE notice that you, C. D., of , in the State of New South Wales, are bound in the sum of to appear at the next [*Court of Oyer and Terminer or General Gaol Delivery, or Circuit Court, or at the next Court of Quarter Sessions*] to be holden at in and for the said State on the day of and then and there give evidence against A. B., and unless you then appear there and give evidence accordingly the recognizance entered into by you will be forthwith levied on you.

Dated this day of one thousand nine hundred and

J. S.

(G 3.)

Recognizance of bail instead of remand on an adjournment.

Gaol }
to wit. }

BE it remembered That on the day of in the year of our Lord one thousand nine hundred and A. B., of , in the State of New South Wales [*labourer*], L. M., of , in the said State [*grocer*], and N. O., of , in the said State [*butcher*], personally came before [*me or us*] [*one or two*] of His Majesty's Justices of the Peace for the said State and severally acknowledged themselves to owe to our Lord the King the several sums following, that is

is to say, the said A. B., the sum of , and the said L. M. and N. O. the sum of , each of good and lawful money of Great Britain, to be made and levied of their several goods and chattels, lands, and tenements respectively to the use of our said Lord the King His Heirs and Successors if [*he or she*] the said A. B. fail in the condition endorsed.

Taken and acknowledged the day and year first above mentioned at in the said State before [*me or us*].

J. S.

Condition.

THE condition of the within-written recognizance is such That whereas the within-bounden A. B. was [*this day or on the day of last past*] charged before [*me or us*] for that [*&c., as in the warrant*]. And whereas the examination of the witnesses for the prosecution in this behalf is adjourned until the day of [*instant*] if therefore the said A. B. shall appear before [*me or us*] on the **said** day of [*instant*] at o'clock in the forenoon or before such other Justice or Justices of the Peace for the said State as may then be there to answer [*further*] to the said charge and to be further dealt with according to law then the said recognizance to be void or else to stand in full force and virtue.

(G 4.)

Notice of such recognizance to be given to the accused and his sureties.

TAKE notice That you A. B., of , in the State of New South Wales [*labourer*] are bound in the sum of and your sureties L. M. and N. O. in the sum of each that you A. B. appear before [*me or us*] J. S. [*one or two*] of His Majesty's Justices of the Peace for the said State on the day of [*instant or now next*] at o'clock in the forenoon at in the said State or before such other Justice or Justices of the Peace for the said State as may then be there to answer further to the charge made against you by C. D. and to be further dealt with according to law, and unless you A. B. personally appear accordingly the recognizance entered into by you and your sureties will be forthwith levied on you and them.

Dated this day of one thousand nine hundred and

J. S.

(G 5.)

Recognizance of bail on committal for trial.

to wit. }

BE it remembered That on the day of in the year of our Lord one thousand nine hundred and A. B., of in the State of New South Wales [*labourer*]; L. M., of in the said State [*grocer*]; and N. O., of in the said State [*butcher*], personally came before [*me or us*], the undersigned [*one or two*] of His Majesty's Justices of the Peace for the said State, and severally acknowledged themselves to owe to our Lord the King the several sums following (that is to say), the said A. B. the sum of , and the said L. M. and N. O. the sum of , each of good and lawful money of Great Britain, to be made and levied of their several goods and chattels, lands and tenements respectively to the use of our said Lord the King, His Heirs, and Successors if [*he*], the said A. B., fail in the condition endorsed.

Taken and acknowledged the day and year first above mentioned at in the said State before [*me or us*].

J. S.
J. N.

Condition

Condition in ordinary cases.

The condition of the within-written recognizance is such That whereas the said A. B. was this day charged before [*me or us*], the Justices within mentioned, for that [*&c., as in the warrant*], if therefore the said A. B. will appear at the next [*Court of Oyer and Terminer and General Gaol Delivery, or Circuit Court, or Court of Quarter Sessions*] to be holden at , in and for the State of New South Wales, on the day of and there surrender [*himself*] into the custody of the Keeper of the [*Common Gaol*] there and plead to such information as may be filed against [*him or her*] for or in respect of the charge aforesaid and take [*his or her*] trial upon the same and not depart the said Court without leave, then the said recognizance to be void or else to stand in full force and virtue.

Condition where the defendant is entitled to a traverse.

The condition of the within-written recognizance is such That whereas the said A. B. was this day charged before [*me or us*], the Justice within mentioned, for that [*&c., as in the warrant or summons*], if therefore the said A. B. will appear at the next [*Court of Oyer and Terminer and General Gaol Delivery or Circuit Court or Court of Quarter Sessions*] to be holden at , in and for the State of New South Wales on the day of , and there to plead to such information as may be filed against [*him or her*] for or in respect of the charge aforesaid, and shall afterwards at the then next [*Court of Oyer and Terminer and General Gaol Delivery, or Circuit Court, or Court of Quarter Sessions*] surrender [*himself or herself*] into the custody of the Keeper of the [*Gaol*] there and take [*his or her*] trial upon the said information, and not depart the said Court without leave, then the said recognizance to be void or else to stand in full force and virtue.

(G 6.)

Notice of the said recognizance to be given to the accused and his bail.

TAKE notice That you A. B, of in the State of New South Wales, [*labourer*], are bound in the sum of and your sureties L. M. and N. O. in the sum of each that you A. B. appear, &c. [*as in the condition of the recognizance*], and not depart the said Court without leave; and unless you the said A. B. personally appear and plead and take your trial accordingly the recognizance entered into by you and your sureties shall be forthwith levied on you and them.

Dated this day of one thousand nine hundred and

J. S.

CONSENT TO BAIL.

(H 1.)

Certificate of consent to bail by the committing Justice endorsed on the commitment.

[*I or we*] hereby certify That [*I or we*] consent to the within-named A. B. being bailed by recognizance himself in and [*two*] sureties in each.

J. S.

(H 2.)

The like on a separate paper.

WHEREAS A. B. was on the day of [*now instant or last past*] committed by [*me or us*] to the Gaol at in the State of New South Wales, charged with [*&c., naming the offence shortly*].

[*I or we*] hereby certify That [*I or we*] consent to the said A. B. being bailed by recognizance, himself in and [*two*] sureties in each.

Dated the day of one thousand nine hundred and

J. S.

CERTIFICATE

CERTIFICATE OF NON-APPEARANCE ACCORDING TO CONDITION OF RECOGNIZANCE.

(I.)

Certificate of non-appearance to be endorsed on the recognizance.

[*I or we*] hereby certify that the said A. B. hath not appeared at the time and place in the above condition mentioned, but therein hath made default by reason whereof the within-written recognizance is forfeited.

J. S.

WARRANTS OF COMMITMENT.

(J 1.)

Warrant of commitment of a person indicted.

To the Chief Constable of in the State of New South Wales, and to the Keeper of the [*Gaol*] at in the said State.

WHEREAS by [*my or our*] warrant under [*my or our*] hand and seal dated the day of after reciting that it had been certified by J. D. [*&c., as in the certificate*] [*I or we*] commanded the Chief Constable of , in the said State, and all other Peace Officers of the said State, in His Majesty's name forthwith to apprehend the said A. B., and to bring [*him or her*] before [*me or us*] the undersigned [*one or two*] of His Majesty's Justices of the Peace in and for the said State, or before some other Justice or Justices of the Peace in and for the said State to be dealt with according to law. And whereas the said A. B. hath been apprehended under and by virtue of the said warrant, and being now brought before [*me or us*] it is hereupon duly proved to [*me or us*] upon oath that the said A. B. is the same person who is named and charged in and by the said information. These are therefore to command you, the said Constable, in His Majesty's name, forthwith to take and safely convey the said A. B. to the said [*Gaol*] at in the said State, and there to deliver [*him or her*] to the Keeper thereof, together with this precept, and [*I or we*] hereby command you, the said Keeper, to receive the said A. B. into your custody in the said [*Gaol*], and [*him or her*] there safely to keep until [*he or she*] shall be thence delivered by due course of law.

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)

(J 2.)

Warrant of commitment of person committed for trial.

To the Chief Constable of and to the Keeper of the Gaol at in the State of New South Wales.

WHEREAS A. B. was this day charged before [*me or us*] J. S. [*one or two*] of His Majesty's Justices of the Peace in and for the said State of on the oath of C. D. of in the said State [*farmer*], and others for that [*&c., stating shortly the offence*]. These are therefore to command you, the said Constable of , to take the said A. B. and [*him or her*] safely to convey to the Gaol at aforesaid, and there to deliver [*him*] to the Keeper thereof, together with this precept, and [*I or we*] do hereby command you, the said Keeper of the said Gaol, to receive the said A. B. into your custody in the said Gaol, and there safely keep [*him or her*] until [*he or she*] shall be thence delivered by due course of law.

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)

(J 3.)

(J 3.)

Warrant of commitment of a witness for refusing to be sworn or to give evidence.

To the Chief Constable of in the State of New South Wales, and to the Keeper of the [*Gaol*] at in the said State.

WHEREAS A. B. was lately charged before the undersigned [*one*] of His Majesty's Justices of the Peace in and for the said State, for that [*&c., as in the summons*], and it having been made to appear to [*me*] upon oath that E. F., of , in the said State [*labourer*], was likely to give material evidence for the prosecution [*I*] duly issued [*my*] summons to the said E. F. requiring [*him*] to be and appear before [*me*] on the day of at in the said State, or before such other Justice or Justices of the Peace as should then be there to testify what [*he or she*] should know concerning the said charge so made against the said A. B. as aforesaid, and the said E. F. now appearing before [*me*], [*or* being brought before [*me*] by virtue of a warrant in that behalf to testify as aforesaid], and being required to make oath or affirmation as a witness in that behalf hath now refused so to do [*or* being duly sworn as a witness doth now refuse to answer certain questions concerning the premises which are here put to him] without offering any just excuse for such [*his*] refusal. These are therefore to command you, the said Constable, to take the said E. F. and [*him*] safely to convey to the [*Gaol*] at in the said State, and there deliver [*him*] to the said Keeper thereof, together with this precept, and [*I*] do hereby command you, the said Keeper of the said [*Gaol*], to receive the said E. F. into your custody in the said [*Gaol*], and [*him*] there safely keep for the space of days for [*his*] said contempt, unless [*he*] shall in the meantime consent to be examined and to answer concerning the premises, and for your so doing this shall be your sufficient warrant.

Given under [*my*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)

(J 4.)

Warrant of commitment of witness for refusing to enter into the recognizance.

To the Chief Constable of in the State of New South Wales, and to the Keeper of the [*Gaol*] at in the said State.

WHEREAS A. B. was lately charged before the undersigned [*one or two*] of His Majesty's Justices of the Peace in and for the said State] of for that [*&c., as in the summons to the witness*], and it having been made to appear to [*me or us*] upon oath that E. F., of in the said State [*labourer*], was likely to give material evidence for the prosecution [*I or we*] duly issued [*my or our*] summons to the said E. F., as requiring [*him or her*] to be and appear before [*me or us*], on the day of at or before such other Justice or Justices of the Peace in the said State as should then be there to testify what [*he or she*] should know concerning the said charge so made against the said A. B. as aforesaid, and the said E. F., now appearing before [*me or us*], or being brought before [*me or us*] by virtue of a warrant in that behalf to testify as aforesaid, hath been now examined by [*me or us*] touching the premises, but being by [*me or us*] required to enter into a recognizance conditioned to give evidence against the said A. B. hath now refused so to do. These are therefore to command you, the said Constable, to take the said E. F. and [*him or her*] safely to convey to the [*Gaol*] at in the said State and there deliver [*him or her*] to the said Keeper thereof, together with this precept, and [*I or we*] do hereby command you, the said Keeper of the said [*Gaol*], to receive the said E. F. into your custody in the said [*Gaol*], there to imprison and safely keep [*him or her*] until after the trial of the said A. B. for the offence aforesaid unless in the meantime such E. F. shall duly enter into such recognizance as aforesaid in the sum of pounds before some [*one or two*] Justices of the Peace for the said

said State, conditioned in the usual form to appear at the next [*Court of Oyer and Terminer or General Gaol Delivery, Circuit Court or Court of Quarter Sessions*] to be holden at in and for the State of New South Wales on the day of and there to give evidence upon any information which may be then and there preferred against the said A. B. for the offence aforesaid, and also to give evidence upon the trial of the said A. B. for the said offence.

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the State aforesaid.

J. S. (L.S.)

WARRANTS OR ORDER FOR DELIVERANCE.

(K 1.)

Warrant of deliverance on bail being given after commitment to prison for a person committed for trial.

To the Keeper of the Gaol at in the State of New South Wales.

WHEREAS A. B., late of in the said State [*labourer*], hath before [*me, one or us two*] of His Majesty's Justices of the Peace in and for the said State, entered into his own recognizance and found sufficient sureties for [*his or her*] appearance at the next [*Court of Oyer and Terminer and General Gaol Delivery, Circuit Court or Court of Quarter Sessions*] to be holden at in and for the said State to answer our Sovereign Lord the King for that [*&c., as in the commitment*] for which [*he or she*] was taken and committed to your said Gaol. These are therefore to command you in His said Majesty's name that if the said A. B. do remain in your custody in the said Gaol for the said cause and for no other you shall forthwith suffer [*him or her*] to go at large.

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)
J. N. (L.S.)

(K 2.)

Subsequent order to discharge the witness.

To the Keeper of the Gaol at in the State of New South Wales.

WHEREAS by [*my or our*] order dated the day of [*instant*] or [*last past*] reciting that A. B. was lately before them charged before [*me or us*] for a certain offence therein mentioned, and that E. F. having appeared before [*me or us*] and being examined as a witness for the prosecution in that behalf refused to enter into a recognizance to give evidence against the said A. B., [*I or we*] therefore thereby committed the said E. F. to your custody, and required you safely to keep [*him or her*] until after the trial of the said A. B. for the offence aforesaid unless in the meantime [*he or she*] should enter into such recognizance as aforesaid. And whereas for want of sufficient evidence against the said A. B. the said A. B. has not been committed or holden to bail for the said offence, but on the contrary thereof has been since discharged, and it is therefore not necessary that the said E. F. should be detained longer in your custody. These are therefore to order and direct you the said Keeper to discharge the said E. F. out of your custody as to the said commitment and suffer [*him or her*] to go at large.

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)

GAOLER'S

GAOLER'S RECEIPT.

(L.)

Gaoler's receipt to the constable for the prisoner.

I HEREBY certify That I have received from W. T., Constable of in the State of New South Wales, the body of A. B., together with a warrant under the hand and seal of [*T. S., Esquire*], [*one or two*] of His Majesty's Justices of the Peace in and for the State of New South Wales, and that the said A. B. was sober [*or as the case may be*] at the time [*he or she*] was so delivered into my custody.

P. K.,
Keeper of the House of Correction [*or Gaol*] at

DIVISION 2.—*Forms in the case of offences punishable on summary conviction and of complaints.*

SUMMONSES.

(M 1.)

Summons to the defendant upon an information or complaint.

To A. B., of , in the State of New South Wales [*labourer*].

WHEREAS information hath this day been laid [*or complaint hath this day been made*] before the undersigned [*one or two*] of His Majesty's Justices of the Peace in and for the said State, for that you [*here state shortly the matter of the information or complaint*]. These are therefore to command you in His Majesty's name to be and appear on the day of [*instant or next*] at o'clock in the forenoon at in the said State before such Justices of the Peace for the said State as may then be there to answer to the said [*information or complaint*], and to be further dealt with according to law.

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)

(M 2.)

Summons of a witness.

To E. F., of , in the State of New South Wales [*labourer*].

WHEREAS information was laid [*or complaint was made*] before the undersigned [*one or two*] of His Majesty's Justices of the Peace in and for the said State of for that [*&c., as in the summons*], and it hath been made to appear to [*me or us*] upon [*oath*] that you are likely to give material evidence on behalf of the [*prosecutor or complainant or defendant*] in this behalf. These are therefore to require you to be and appear on the day of [*instant or next*] at o'clock in the forenoon at in the said State before such Justices of the Peace for the said State as may then be there to testify what you shall know concerning the matter of the said [*information or complaint*].

Given under [*my*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)

WARRANTS TO APPREHEND.

(N 1.)

Warrant in the first instance to apprehend a defendant.

To the Senior Officer of Police at in the State of New South Wales, and to all other Police Constables in the said State.

WHEREAS information hath this day been laid before the undersigned [*one or two*] of His Majesty's Justices of the Peace in and for the said State, for that A. B. [*here state shortly the matter of the information*] and oath being now made before [*me or us*] substantiating the matter of such information. These are, therefore, to command you in His Majesty's name forthwith to apprehend the said A. B., and to bring [*him or her*] before some one or more of His Majesty's Justices of the Peace in and for the said State to answer to the said information, and to be further dealt with according to law.

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)

(N 2.)

Warrant for a witness in the first instance.

To the Senior Officer of Police at in the State of New South Wales, and to all other Police Constables in the said State.

WHEREAS [*information was laid or complaint made*] before the undersigned [*one or two*] of His Majesty's Justices of the Peace in and for the said State, for that [*&c., as in the summons*], and it being made to appear before [*me or us*] upon oath that E. F., of in the said State [*labourer*] is likely to give material evidence on behalf of the [*prosecutor*] in this matter, and it is probable that the said E. F. will not attend to give evidence without being compelled so to do. These are therefore to command you to bring and have the said E. F. before [*me or us*] on the day of [*instant or next*] at o'clock in the forenoon at in the said State, or before such other Justices of the Peace for the said State as may then be there to testify what [*he or she*] shall know concerning the matter of the said [*information or complaint*].

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S (L.S.)

(N 3.)

Warrant where a defendant has not obeyed a summons.

To the Senior Officer of Police at in the State of New South Wales, and to all other Police Constables in the said State.

WHEREAS on the day of [*instant or last past*] information was laid [*or complaint was made*] before the undersigned [*one or two*] of His Majesty's Justices of the Peace in and for the said State of for that A. B. [*&c., as in the summons*]. And whereas [*I or we*] then issued [*my or our*] summons unto the said A. B. commanding [*him or her*] in His Majesty's name to be and appear on the day of [*instant or next*] at o'clock in the forenoon at in the said State, before such Justices of the Peace for the said State as might then be there, to answer to the said [*information or complaint*], and to be further dealt with according to law. And whereas the said A. B. hath neglected to be or appear at the time and place so appointed in and by the said summons, although it hath

hath now been proved to [*me or us*] upon oath that the said summons hath been duly served upon the said A. B. These are therefore to command you in His Majesty's name forthwith to apprehend the said A. B. and to bring [*him or her*] before some one or more of His Majesty's Justices of the Peace in and for the said State to answer to the said [*information or complaint*], and to be further dealt with according to law.

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)

(No. 4.)

Warrant where a witness has not obeyed a summons.

To the Senior Officer of Police at in the State of New South Wales, and to all other Police Constables in the said State.

WHEREAS [*information was laid or complaint made*] before the undersigned [*one or two*] of His Majesty's Justices of the Peace in and for the said State, for that [*&c., as in the summons*] and it having been made to appear to [*me or us*] upon oath that E. F., of in the said State [*labourer*], was likely to give material evidence on behalf of the [*prosecutor*] [*I or we*] did duly issue [*my or our*] summons to the said E.F. requiring [*him or her*] to be and appear on the day of [*instant or next*] at o'clock in the forenoon of the same day, at in the said State, before such Justices of the Peace for the said State as might then be there, to testify what [*he or she*] should know concerning the said A. B. or the matter of the said [*information or complaint*]. And whereas proof hath this day been made before [*me or us*] upon oath of such summons having been duly served upon the said E. F. and of a reasonable sum having been [*paid or tendered*] to [*him or her*] for [*his or her*] costs and expenses in that behalf. And whereas the said E. F. had neglected to appear at the time and place appointed by the said summons and no just excuse hath been offered for such neglect. These are therefore to command you to take the said E. F. and to bring and have [*him or her*] on the day of [*instant or next*] at o'clock in the forenoon at in the said State, before such Justices of the Peace for the said State as may then be there, to testify what [*he or she*] shall know concerning the matter of the said [*information or complaint*].

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)

WARRANTS TO KEEP IN SAFE CUSTODY.

(O 1.)

Warrant to keep in gaol till the hearing a defendant who has been apprehended.

To the Senior Officer of Police at in the State of New South Wales, and to the Keeper of the [Gaol] at in the said State.

WHEREAS [*information was laid or complaint made*] before the undersigned [*one or two*] of His Majesty's Justices of the Peace in and for the said State of for that [*&c., as in the summons or warrant*]. And whereas the said A. B. hath been apprehended under and by virtue of a warrant upon such [*information or complaint*], and is now brought before [*me or us*] as such Justice as aforesaid. These are therefore to command you the said Officer of Police in His Majesty's name forthwith to convey the said A. B. to the [Gaol] at in the said State, and there to deliver [*him or her*] to the said Keeper thereof, together with this precept, and [*I or we*] do hereby command you the said

said Keeper to receive the said A. B. into your custody in the said [Gaol] and there safely keep [*him or her*] until next, the day of [*instant*], when you are hereby commanded to convey and have him at in the said State at o'clock in the forenoon of the same day, before such Justices of the Peace of the said State as may then be there, to answer to the said [*information or complaint*], and to be further dealt with according to law.

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)

(O 2.)

Warrant to keep in custody during an adjournment of the hearing

To the Senior Officer of Police at in the State of New South Wales, and to the Keeper of the Gaol at in the said State.

WHEREAS on the day of [*instant or last past*] information was laid [*or complaint was made*] before the undersigned [*one or two*] of His Majesty's Justices of the Peace in and for the said State, for that [*&c., as in the summons*]. And whereas the hearing of the same is adjourned to the day of [*instant or next*] at o'clock in the forenoon at in the said State, and it is necessary that the said A. B. should in the meantime be kept in safe custody. These are therefore to command you the said Officer of Police in His Majesty's name forthwith to convey the said A. B. to the Gaol at in the said State, and there deliver [*him or her*] into the custody of the Keeper thereof, together with this precept, and [*I or we*] hereby command you the said Keeper to receive the said A. B. into your custody in the said Gaol and there safely keep [*him or her*] until the day of [*instant or next*] when you are hereby required to convey and have [*him or her*] the said A. B. at the time and place to which the said hearing is so adjourned as aforesaid before such Justices of the Peace for the said State as may then be there, to answer further to the said [*information or complaint*], and to be further dealt with according to law.

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)

RECOGNIZANCES AND NOTICES THEREOF.

(P 1.)

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

to wit. }

BE it remembered That on the day of in the year of our Lord one thousand nine hundred and A. B., of in the State of New South Wales [*labourer*], and L. M., of in the said State [*grocer*], personally came before the undersigned [*one or two*] of His Majesty's Justices of the Peace in and for the said State, 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 L. M. the sum of of good and lawful money of Great Britain to be made and levied of their several goods and chattels, lands and tenements respectively to the use of our said Lord the King, His Heirs and Successors if [*he or she*], the said A. B. shall fail in the condition endorsed

Taken and acknowledged the day and year first above mentioned at in the said State before [*me or us*].

J. S.

The

The condition of the within-written recognizance is such that if the said A. B. shall personally appear on the day of [*instant or next*] at o'clock in the forenoon, at in the said State, before such Justices of the Peace for the said State as may then be there, to answer further to the [*information or complaint*] of C. D., exhibited against the said A. B., and to be further dealt with according to law, then the said recognizance to be void or else to stand in full force and virtue.

(P 2.)

Notice of such recognizance to be given to the defendant and his surety.

TAKE notice That you A. B., of in the State of New South Wales, [*labourer*], are bound in the sum of and you L. M., of in the said State [*grocer*], in the sum of that you A. B. appear personally on the day of at o'clock in the forenoon at in the said State, before such Justices of the Peace for the said State as shall then be there, to answer further to a certain [*information or complaint*] of C. D., the further hearing of which was adjourned to the said time and place; and unless you appear accordingly the recognizance entered into by you A. B., and by L. M., as your surety, will forthwith be levied on you and him.

Dated this day of one thousand nine hundred and

J. S.

Certificate of non-appearance according to condition of recognizance.

(Q.)

[*I or we*] hereby certify that the said A. B. hath not appeared at the time and place in the said condition mentioned, but therein hath made default by reason whereof the within-written recognizance is forfeited.

J. S.

CONVICTIONS AND ORDERS.

(R 1.)

Conviction for a penalty.

to wit. }

BE it remembered That on the day of in the year of our Lord one thousand nine hundred and at in the said State, A. B., of in the said State [*labourer*], is convicted before the undersigned [*one or two*] of His Majesty's Justices of the Peace, for the said State, for that [*he or she*] the said A. B. [*&c., stating the offence and the time and place when and where it was committed*], and [*I or we*] adjudge the said A. B. for [*his or her*] said offence to forfeit and pay the sum of [*stating the penalty and the compensation if any*] to be paid and applied according to law, and also to pay to the said C. D. the sum of for [*his or her*] costs in this behalf, and if the amount of the said several sums be not paid forthwith [*or* on or before next] [*I or we*] adjudge the said A. B. to be imprisoned in the [Gaol] at in the said State [*and there to be kept to hard labour*] for the space of unless the said amount [*and the costs and charges of conveying the said A. B. to the said Gaol*] be sooner paid.

Given under [*my or our*] hand and seal the day and year first above mentioned at in the said State.

J. T. (L.S.)
[W. S. (L.S.)]

(R 2.)

(R 2.)

Order for payment of money.

to wit. }

BE it remembered That on the day of in the year of our Lord one thousand nine hundred and complaint was made before the undersigned [*one or two*] of His Majesty's Justices of the Peace in and for the said State, for that [*stating the facts entitling the complainant to the order with the time and place when and where they occurred*], and now at this day, to wit, on the day of at in the said State, the parties aforesaid appear before [*me or us*] the said Justice [or the said C. D. appears before me [*me or us*] the said Justice, but the said A. B. although duly called doth not appear by [*himself or herself*] [*his or her*] counsel or attorney, and it is now satisfactorily proved to [*me or us*] on oath that the said A. B. has been duly served with the summons in this behalf which required [*him or her*] to be and appear here on this day before such Justice of the Peace for the said State as should now be here, to answer the said complaint and to be further dealt with according to law], and now having heard the matter of the said complaint [*I or we*] do adjudge the said A. B. [to pay to the said C. D. the sum of forthwith *or* on or before next *or as the statute may require*] and also to pay to the said C D. the sum of for [*his or her*] costs in this behalf, and if the amount of the said several sums be not paid forthwith [*or* on or before the day of next] [*I or we*] adjudge the said A. B. to be imprisoned in the Gaol at in the said State [*there to be kept to hard labour*] for the space of unless the said [*and the costs and charges of conveying the said A. B. to the said Gaol*] be sooner paid.

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. T (L.S.)
[W. S. (L.S.)]

(R 3.)

Conviction when the punishment is by imprisonment, &c.

to wit. }

BE it remembered That on the day of in the year of our Lord one thousand nine hundred and in the said State, A. B., of , in the said State [*labourer*] is convicted before the undersigned [*one or two*] of His Majesty's Justices of the Peace for the said State, for that [*he or she*] the said A. B. [*&c., stating the offence and the time and place when and where committed*], and [*I or we*] adjudge the said A.B. for [*his or her*] said offence to be imprisoned in the Gaol at in the said State [*and there kept to hard labour*] for the space of and [*I or we*] also adjudge the said A. B. to pay the said C. D. the sum of for [*his or her*] costs in this behalf, and if the said amount be not paid forthwith [*or* on or before next] then [*I or we*] adjudge the said A. B. to be imprisoned in the said Gaol [*and there kept to hard labour*] for the space of to commence at and from the termination of [*his or her*] imprisonment aforesaid unless the said amount be sooner paid.

Given under [*my or our*] hand and seal the day and year first above mentioned at in the said State.

J. T. (L.S.)
[W. S. (L.S.)]

(R 4.)

(R 4.)

Order for any other matter where the disobeying of it is punishable by imprisonment.

to wit. }

BE it remembered that on the day of in the year of our Lord one thousand nine hundred and complaint was made before the undersigned [*one or two*] of His Majesty's Justices of the Peace in and for the said State, for that [*stating the facts entitling the complainant to the order with the time and place when and where they occurred*], and now at this day to wit on the day of at in the said State, the parties aforesaid appear before [*me or us*] the said Justice [or the said C. D. appears before [*me or us*] the said Justice, but the said A. B., although duly called, doth not appear by [*himself or herself*] [*his or her*] Counsel or Attorney, and it is now satisfactorily proved to me upon oath that the said A. B. has been duly served with a summons in this behalf, which required [*him or her*] to be and appear here at this day, before such Justices of the Peace for the said State as should now be here, to answer to the said complaint, and to be further dealt with according to law], and now having heard the matter of the said complaint [*I or we*] do therefore adjudge the said A. B. to [*here state the matter required to be done*], and if upon a copy of the minute of this order being served upon the said A. B, either personally or by leaving the same for [*him or her*] at his last or most usual place of abode [*he or she*] shall neglect or refuse to obey the same, in that case [*I or we*] adjudge the said A. B. for such [*his or her*] disobedience to be imprisoned in the Gaol at in the said State [*there to be kept to hard labour*] for the space of [unless the said order be sooner obeyed, *if the statute authorise this*], and [*I or we*] do also adjudge the said A. B. to pay to the said C. D. the sum of for [*his or her*] costs in this behalf, and if the said amount be not paid forthwith [*or* on or before next] [*I or we*] adjudge the said A. B. to be imprisoned in the said Gaol [*and there kept to hard labour*] for the space of to commence, if the said A. B. is then imprisoned as aforesaid, at and from the termination for [*his or her*] imprisonment aforesaid unless the said amount be sooner paid.

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. T. (L.S.)
[W. S. (L.S.)]

(R 5.)

Order of dismissal of an information or complaint.

to wit. }

BE it remembered that on the day of in the year of our Lord one thousand nine hundred and information was laid [*or complaint made*] before the undersigned [*one or two*] of His Majesty's Justices of the Peace in and for the said State, for that [*&c., as in the summons to the defendant A. B.*] and now at this day to wit on the day of at in the said State, both the said parties appear before [*me or us*] in order that [*I or we*] should hear and determine the said information [*or complaint*] [*or* the said A. B. appeareth before [*me or us*], but the said C. D., although duly called, doth not appear], whereupon the matter of the said information [*or complaint*] being by [*me or us*] duly considered it manifestly appears to [*me or us*] that the said information [*or complaint*] is not proved, and [*I or we*] do therefore dismiss the same [and do adjudge that the said C. D. do pay to the said A. B. the sum of for [*his or her*] costs incurred by

by [*him or her*] in [*his or her*] defence in this behalf, and if the said amount be not paid forthwith [*or* on or before] [*I or we*] adjudge the said C. D. to be imprisoned in the Gaol at in the said State [*and there kept to hard labour*] for the space of unless the said amount [*and all costs and charges of conveying the said C. D. to the said Gaol*] be sooner paid].

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. T. (L.S.)
[W. S. (L.S.)]

CERTIFICATE OF DISMISSAL.

(S.)

I [*or we*] hereby certify that an information [*or a complaint*] preferred by C. D. of in the State of New South Wales [*labourer*] against A. B. of in the said State [*grocer*] for that [*&c., as in the summons*] was this day considered by [*me or us*] [*one or two*] of His Majesty's Justices of the Peace in and for the said State, and was by [*me or us*] dismissed [*with costs*].

Dated this day of one thousand nine hundred and

J. T.
[W. S.]

WARRANTS OF COMMITMENT.

(T 1.)

Warrant of commitment of a witness for refusing to be sworn or to give evidence.

To the Senior Officer of Police at in the State of New South Wales, and to the Keeper of the [*Gaol*] at in the said State.

WHEREAS [*information was laid or complaint made*] before the undersigned [*one or two*] of His Majesty's Justices of the Peace in and for the said State of for that [*&c., as in the summons*] and one E. F. now appearing before [*me or us*] such Justice as aforesaid, on the day of at in the said State, and being required by [*me or us*] to make [*oath or affirmation*] as a witness in that behalf hath now refused so to do [*or being now here duly sworn as a witness in the matter of the said information or complaint doth refuse to answer certain questions concerning the premises which are now here put to him or her*] without offering any just excuse for such [*his or her*] refusal. These are therefore to command you the said Officer of Police to take the said E. F. and [*him or her*] safely convey to the [Gaol] at aforesaid and there deliver [*him or her*] to the said Keeper thereof, together with this precept, and [*I or we*] do hereby command you the said Keeper of the said [Gaol] to receive the said E. F. into your custody in the said [Gaol] and there imprison [*him or her*] for such [*his or her*] contempt for the space of days unless [*he or she*] shall in the meantime consent to be examined and to answer concerning the premises, and for your so doing this shall be your sufficient warrant.

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)

(T 2.)

(T 2.)

Warrant of commitment upon a conviction for a penalty.

To the Senior Officer of Police at in the State of New South Wales, and to the Keeper of the Gaol at in the said State.

WHEREAS A. B., late of in the State of New South Wales [*labourer*], was on this day duly convicted before [*one or two*] of His Majesty's Justices of the Peace in and for the said State, for that [*stating the offence as in the conviction*], and by the said conviction it was adjudged that the said A. B. for [*his or her*] said offence should forfeit and pay the sum of [*&c., as in the conviction*] and should pay to the said C. D. the sum of for [*his or her*] costs in that behalf, and it was thereby further adjudged that if the amount of the said several sums should not be paid [*forthwith*] the said A. B. should be imprisoned in the Gaol at in the said State [*and there kept to hard labour*] for the space of unless the said amount should be sooner paid. And whereas the time in and by the said conviction appointed for the payment of the said amount hath elapsed, but the said A. B. hath not paid the same or any part thereof but therein hath made default. These are therefore to command you the said Officer of Police to take the said A. B. and [*him or her*] safely to convey to the Gaol at aforesaid, and there to deliver [*him or her*] to the Keeper thereof together with this precept, and [*I or we*] do hereby command you the said Keeper of the said Gaol to receive the said A. B. into your custody in the said Gaol, there to imprison [*him or her*] [*and keep him or her to hard labour*] for the space of unless the said amount [*and the costs and charges of conveying [him or her] to the said Gaol amounting to the further sum of*] be sooner paid, and for your so doing this shall be your sufficient warrant.

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)
A Justice of the Peace.

(T 3.)

Warrant of commitment on an order for the payment of a sum of money.

To the Senior Officer of Police at in the State of New South Wales, and to the Keeper of the Gaol at in the said State.

WHEREAS on the day of [*instant or last past*] complaint was made before [*one or two*] of His Majesty's Justices of the Peace in and for the said State, for that [*&c., as in the order*] and afterwards to wit on the day of at in the said State, the parties appeared before the said Justice or Justices [*or as it may be in the order*], and thereupon having considered the matter of the said complaint [*he or they*] adjudged the said A. B. to pay to the said C. D. the sum of on or before the day of then next, and also to pay to the said C. D. the sum of for [*his or her*] costs in that behalf, and [*he or they*] also further adjudged that if the amount of the said several sums should not be paid on or before the day of then next, the said A. B. should be imprisoned in the Gaol at in the said State [*and there kept to hard labour*] for the space of unless the said amount [*and the cost and charges of conveying the said A. B. to the said Gaol*] should be sooner paid. And whereas the time in and by the said order appointed for the payment of the said hath elapsed, but the said A. B. hath not paid the same, or any part thereof, but therein hath made default. These are therefore to command you the said Officer of Police to take the said A. B. and [*him or her*] safely to convey to the said Gaol at aforesaid, and there to deliver [*him or her*] to the Keeper thereof together with this precept, and I do hereby command you the said

said Keeper of the said Gaol to receive the said A. B. into your custody in the said Gaol, there to imprison [*him or her*] [*and keep* [*him or her*] *to hard labour*] for the space of unless the said amount [*and the costs and charges of conveying* [*him or her*] *to the said Gaol amounting to the further sum of*] be sooner paid unto you the said Keeper, and for your so doing this shall be your sufficient warrant.

Given under my hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)
A Justice of the Peace.

(T 4.)

Warrant of commitment on a conviction where the punishment is by imprisonment.

To the Senior Officer of Police at in the State of New South Wales, and to the Keeper of the Gaol at in the said State.

WHEREAS A. B., late of [*labourer*] was this day duly convicted before [*one or two*] of His Majesty's Justices of the Peace in and for the said State of for that [*stating the offence as in the conviction*], and by the said conviction it was adjudged that the said A. B. for [*his or her*] said offence should be imprisoned in the Gaol at in the said State [*and there kept to hard labour*] for the space of . These are therefore to command you the said Officer of Police to take the said A. B. and [*him or her*] safely convey to the Gaol at aforesaid, and there to deliver [*him or her*] to the Keeper thereof together with this precept, and [*I or we*] do hereby command you the said Keeper of the said Gaol to receive the said A. B. into your custody in the said Gaol, there to imprison [*him or her*] [*and keep him or her to hard labour*] for the space of , and for your so doing this shall be your sufficient warrant.

Given under [*my or our*] hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)
A Justice of the Peace.

(T 5.)

Warrant of commitment on an order where the disobeying of it is punishable by imprisonment.

To the Senior Officer of Police at in the State of New South Wales, and to the Keeper of the Gaol at in the State aforesaid.

WHEREAS on the day of [*instant or last past*] complaint was made before [*one or two*] of His Majesty's Justices of the Peace in and for the said State, for that [*&c., as in the order*] and afterwards to wit on the day of at in the said State, the said parties appeared before the said Justice or Justices [*or as it may be in the order*] and thereupon having considered the matter of the said complaint [*he or they*] adjudged the said A. B. to [*&c., as in the order*] and that if upon a copy of the minute of that order being duly served upon the said A. B. either personally or by leaving the same for [*him or her*] at [*his or her*] last or most usual place of abode [*he or she*] should neglect or refuse to obey the same it was adjudged that in such case the said A. B. for such [*his or her*] disobedience should be imprisoned in the Gaol at in the said State [*and there kept to hard labour*] for the space of [*unless the said order should be sooner obeyed*]. And whereas it is now proved to me that after the making of the said order a copy of the minute thereof was duly served upon the said A. B. but [*he*

[*he or she*] then [*refused or neglected*] to obey the same and hath not as yet obeyed the said order. These are therefore to command you the said Officer of Police to take the said A. B. and [*him or her*] safely to convey to the Gaol at aforesaid, and there to deliver [*him or her*] to the Keeper thereof together with this precept, and I do hereby command you the said Keeper of the said Gaol to receive the said A. B. into your custody in the said Gaol, there to imprison [*him or her*] [*and to keep him or her to hard labour*] for the space of and for so doing this shall be your sufficient warrant.

Given under my hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)
A Justice of the Peace.

(T 6.)

Warrant of commitment on non-payment of costs upon a conviction where imprisonment and costs have been ordered.

To the Senior Officer of Police at in the State of New South Wales, and to the Keeper of the Gaol at in the said State.

WHEREAS A. B., of in the said State [*labourer*] was on the day of [*instant or last past*] duly convicted before [*one or two*] of His Majesty's Justices of the Peace in and for the said State, for that [*stating the offence as in the conviction*], and by the said conviction it was adjudged that the said A. B for [*his or her*] said offence should be imprisoned in the Gaol at in the said State [*and there kept to hard labour*] for the space of and it was also thereby adjudged that the said A. B. should pay to the said C. D. the sum of for [*his or her*] costs in that behalf, and it was thereby further adjudged that if the said amount should not be paid [*forthwith*] the said A. B. should be imprisoned in the said Gaol [*and there kept to hard labour*] for the space of to commence at and from the termination of [*his or her*] imprisonment aforesaid unless the said amount [*and the costs and charges of conveying the said A. B. to the said Gaol*] should be sooner paid. And whereas the said A. B being so convicted as aforesaid and being required to pay the said sum of for costs hath not paid the same or any part thereof but therein hath made default. These are therefore to command you the said Officer of Police to take the said A. B. and [*him or her*] safely to convey to the Gaol at aforesaid and there deliver [*him or her*] to the Keeper thereof together with this precept, and I do hereby command you the said Keeper of the said Gaol to receive the said A. B. into your custody in the said Gaol, there to imprison [*him or her and keep him or her to hard labour*] for the space of unless the said amount [*and the costs and charges of conveying the said A. B. to the said Gaol*] amounting to the further sum of be sooner paid unto you the said Keeper, and for your so doing this shall be your sufficient warrant.

Given under my hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)
A Justice of the Peace.

(T 7.)

(T 7.)

Warrant of commitment on non-payment of costs upon an order where imprisonment on disobedience and costs have been ordered.

To the Senior Officer of Police at in the State of New South Wales, and to the Keeper of the Gaol at in the said State.

WHEREAS on the day of [*instant or last past*] complaint was made before [*one or two*] of His Majesty's Justices of the Peace in and for the said State, for that [*&c., as in the order*] and afterwards, to wit, on the day of at in the said State, the said parties appeared before the said Justice (or Justices) [*or as it may be in the order*] and thereupon having considered the matter of the said complaint [*he or they*] adjudged the said A. B. to [*&c., as in the order*], and that if upon a copy of the minute of that order being served upon the said A. B. either personally or by leaving the same for [*him or her*] at [*his or her*] last or most usual abode [*he or she*] should neglect or refuse to obey the same [*he or they*] adjudged that in such case the said A. B. for such [*his or her*] disobedience should be imprisoned in the Gaol at in the said State, [*and there kept to hard labour*] for the space of [*unless the said order should be sooner obeyed*], and [*he or they*] thereby also adjudged the said A. B. to pay to the said C. D. the sum of for [*his or her*] costs in that behalf, and [*he or they*] thereby also adjudged that if the said amount should not be paid [*forthwith*] the said A. B. should be imprisoned in the said gaol [*and there kept to hard labour*] for the space of to commence if the said A. B. was then imprisoned as aforesaid at and from the termination of [*his or her*] imprisonment aforesaid unless the said sum for costs [*and the costs and charges of conveyiny the said A. B. to the said Gaol*] should be sooner paid. And whereas after the making of the said order a copy of the minute thereof was duly served upon the said A. B., but the said A. B. did not then pay, nor hath [*he or she*] paid the said amount or any part thereof but therein hath made default. These are therefore to command you the said Officer of Police to take the said A. B. and [*him or her*] safely to convey to the Gaol at aforesaid, and there deliver [*him or her*] to the Keeper together with this precept, and I do hereby command you the said Keeper of the said Gaol to receive the said A. B. into your custody in the said Gaol, there to imprison [*him or her*] [*and keep him to hard labour*] for the space of unless the said amount [*and the costs and charges of conveying the said A. B. to the said Gaol*] amounting to the further sum of shall be sooner paid unto you the said Keeper, and for your so doing this shall be your sufficient warrant.

Given under my hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)
A Justice of the Peace.

(T 8.)

Warrant of commitment on non-payment of costs upon an order for dismissal of an information or complaint with costs.

To the Senior Officer of Police at in the State of New South Wales, and to the Keeper of the Gaol at in the said State.

WHEREAS on the day of [*instant or last past*] *information* was laid (*or complaint was made*) before [*one or two*] of His Majesty's Justices of the Peace in and for the said State, for that [*&c., as in the order of dismissal*] and afterwards to wit on the day of at in the said State, both parties appearing before [*the said Justice or Justices, or as in the order*] in order that [*he or they*] should hear and determine the same, and the several proofs adduced to [*him or them*] in that behalf being by [*him or them*] duly heard and considered, and it manifestly appearing to [*him or them*] that the said [*information or complaint*] was not proved [*he or they*] therefore dismissed the same and further adjudged that the said C. D.

C. D. should pay to the said A. B. the sum of for [*his or her*] costs incurred by [*him or her*] in [*his or her*] defence in that behalf, and [*he or they*] further adjudged that if the said amount should not be paid [*forthwith*] the said C. D. should be imprisoned in the Gaol at in the said State [*and there kept to hard labour*] for the space of unless the said amount [*and all costs and charges of conveying the said C. D. to the said Gaol*] should be sooner paid. And whereas the said C. D., being now required to pay unto the said A. B. the said sum for costs, hath not paid the same or any part thereof, but therein hath made default. These are therefore to command you the said Officer of Police to take the said C. D. and [*him or her*] safely convey to the Gaol at aforesaid, and there deliver [*him or her*] to the said Keeper thereof together with this precept, and I do hereby command you the said Keeper of the said Gaol to receive the said C. D. into your custody in the said Gaol, there to imprison [*him or her*] [*and keep him or her to hard labour*] for the space of unless the said amount (*and the costs and charges of conveying the said C. D. to the said Gaol amounting to the further sum of*) be sooner paid unto the said Keeper, and for your so doing this shall be your sufficient warrant.

Given under my hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. S. (L.S.)
A Justice of the Peace.

(T 9.)

Warrant of Commitment on non-payment of the costs of an appeal against a conviction or order.

To the Senior Officer of Police at in the State of New South Wales, and to the Keeper of the Gaol at in the said State.

WHEREAS [*&c., as in the warrants of commitment T* 2, 3, 4, 5, 6, 7, *ante to the end of the statement of the conviction or order and then thus*]. And whereas the said A. B. appealed to the Court of Quarter Sessions holden at in the said State against the said [*conviction or order*], in which appeal the said A. B. was the appellant and the said C. D. [*or* J. S., Esquire, the Justice of the Peace who made the said *conviction or order*] was the respondent, and which said appeal came on to be tried and was heard and determined at the last Court of Quarter Sessions holden at aforesaid, on the day of [*instant or last past*], and the said Court of Quarter Sessions thereupon ordered that the said [*conviction or order*] should be [*confirmed or quashed*] and that the said [*appellant*] should pay to the said [*respondent*] the sum of for [*his*] costs incurred by [*him or her*] in the said appeal which said amount was to be paid to the Clerk of the Peace for the said State on or before the day of 19 , to be by him handed over to the said [*C. D.*] And whereas the said Clerk of the Peace hath on the day of [*instant or last past*] duly certified that the said amount had not then been paid. These are therefore to command you the said Officer of Police to take the said A. B. and [*him or her*] safely to convey to the Gaol at aforesaid, and there deliver [*him or her*] to the said Keeper thereof together with this precept, and I do hereby command you the said Keeper of the said Gaol to receive the said A. B. into your custody in the said Gaol, there to imprison [*him or her*] [*and keep him or her to hard labour*] for the space of unless the said amount (*and the costs and charges of conveying the said A. B. to the said Gaol amounting to the further sum of*) be sooner paid unto you the said Keeper, and for your so doing this shall be your sufficient warrant.

Given under my hand and seal this day of in the year of our Lord one thousand nine hundred and at in the said State.

J. N. (L.S.)
A Justice of the Peace.

CERTIFICATE

CERTIFICATE OF CLERK OF THE PEACE THAT THE COSTS OF AN APPEAL ARE NOT PAID.

(V.)

Office of the Clerk of the Peace for the State of New South Wales.

Title of the appeal.

I HEREBY certify that at a Court of Quarter Sessions holden at in the said State, on the day of [*instant or last past*] an appeal by A. B. against [*a conviction or an order*] of J. S., Esquire [*one or two*] of His Majesty's Justices of the Peace for the said State, came on to be tried, and was then heard and determined, and the said Court of Quarter Sessions thereupon ordered that the said [*conviction or order*] should be [*confirmed or quashed*], and that the said [*appellant*] should pay to the said [*respondent*] the sum of for [*his or her*] costs incurred by [*him or her*] in the said appeal, and which sum was thereby ordered to be paid to the Clerk of the Peace for the said State on or before the day of [*instant or next*] to be by him handed over to the said [*respondent*], and I further certify that the said sum for costs has not nor has any part thereof been paid in obedience to the said order.

Dated the day of one thousand nine hundred and .

W. R. B.,
Clerk of the Peace.

Section 101.

THIRD SCHEDULE.

Form of case stated by Justices.

In the Supreme Court of }
New South Wales. }

IN the matter of an appeal from the determination of the undersigned (two) of His Majesty's Justices of the Peace in and for the State of New South Wales, in a proceeding before us at in the said State, between A B (complainant) and C. D. (defendant).

THE (information or complaint, as the case may be) alleged that [*here state the charge or claim*]. The defendant pleaded not guilty, and after hearing the parties and the evidence adduced by them we did, on the day of 19 convict the said defendant of the said offence, and adjudged him to pay the sum of for the same [*or in case of civil case, say*] make an order against the defendant for the payment by him to the complainant of the sum of or dismiss the said information or complaint.

The [defendant or complainant] alleging that he was aggrieved by the said determination as being erroneous in point of law did within [*here state time according to distance*] thereafter apply in writing to us to state and sign a case setting forth the facts and the grounds of such determination for the opinion thereon of this Honourable Court, and did at the time of making such application and before the stating of this case before a Justice of the Peace enter into a recognizance to His Majesty in the sum of with a condition to prosecute this appeal with effect and without delay, and to submit to the judgment of this Honourable Court and pay such costs as may be awarded

awarded by the same, and thereupon in pursuance of the Act in such case made and provided we state and sign the following case [*here set forth the depositions taken in the case (if any) if no depositions proceed as follows*] :—

It was proved (or admitted, as the case may be) upon the hearing that [*here state the facts*]. We determined that the matter hereinbefore stated afforded no ground of answer or defence to the said (complaint or information, as the case may be), or was insufficient to support the said (complaint or information).

The question for the opinion of the said Court is whether our said determination was erroneous in point of law.

Dated day of A.D. 19

J.J. }
J.J. } Justices of the Peace.

FOURTH SCHEDULE. Section 102.

Fees payable to Clerk of Petty Sessions on a case being stated under section 101.

	s.	d.
For drawing case and copy where the case does not exceed five folios of ninety words each	10	0
For every additional folio (beyond five folios)...	1	0
For the recognizance	5	0
For every enlargement or renewal thereof	2	6
For certificate of refusal of case...	2	0