

WESTERN AUSTRALIA

ANNO QUARTODECIMO

VICTORIÆ REGINÆ

No. 5

An Ordinance to facilitate the performance of the Duties of Justices of the Peace out of Sessions within the Colony of Western Australia with respect to Summary Convictions and Orders.

[Assented to 2nd December, 1850.]

WHEREAS it would conduce much to the improvement of the administration of justice in the Colony of Western Australia so far as regards summary convictions and orders to be made by Her Majesty's Justices of the Peace therein, if the duties of such Justices in respect of such summary convictions and orders were clearly defined by positive enactment: Be it therefore declared and enacted

Justices of the Peace, &c.

In all cases where information shall be laid or complaint made of offences committed, Justices may

issue summons to persons to answer the same

How summons to be served

Justice not obliged to issue summons in certain cases

No objection allowed for want of form

by His Excellency the Governor of Western Australia, by and with the advice and consent of the Legislative Council thereof, that in all cases where an information shall be laid before one or more of Her Majesty's Justices of the Peace for the said Colony that any person has committed or is suspected to have committed any offence or act within the jurisdiction of such Justice or Justices for which he is liable by law, upon a summary conviction for the same before a Justice or Justices of the Peace, to be imprisoned or fined or otherwise punished, and also in all cases where a complaint shall be made to any such Justice or Justices upon which he or they shall have authority by law to make any order for the payment of money or otherwise, then, and in every such case, it shall be lawful for such Justice or Justices of the Peace to issue his or their summons (A) directed to such person, stating shortly the matter of such information or complaint, and requiring him to appear at a certain time and place before the said Justice or Justices, or before such other Justice or Justices of the said Colony as shall then be there, to answer to the said information or complaint and to be further dealt with according to law, and every such summons shall be served by a Constable or Peace Officer or other person to whom the same shall be delivered upon the person to whom it is so directed by delivering the same to the party personally or by leaving the same with some person for him at his last or most usual place of abode, and the Constable, Peace Officer or person who shall serve the same in manner aforesaid shall attend at the time and place and before the Justices in the said summons mentioned to depose, if necessary, to the service of the said summons: Provided always that nothing herein mentioned shall oblige any Justice or Justices of the Peace to issue any such summons in any case where the application for any order of Justices is by law to be made *ex parte*; provided also that no objection shall be taken or allowed to any information, complaint or summons for any alleged defect therein in substance or in form, or for any variance between such information, complaint or summons and the evidence adduced on the part of the informant or complainant at the hearing of such information or complaint as hereinafter mentioned, but if any such variance shall appear to the Justice or Justices present and acting at such hearing to be such that the party so summoned and appearing has been thereby deceived or misled, it shall be lawful for such Justice or Justices, upon such terms as he or they shall think fit, to adjourn the hearing of the case to some future day.

If summons be not obeyed, Justices may issue a warrant,

2. And be it enacted that if the person so served with a summons as aforesaid shall not be and appear before the Justice or Justices at the time and place mentioned in such summons, and it shall be made to appear to such Justice or Justices by oath or affirmation that such summons was so served at what shall be deemed by such Justice or Justices to be a reasonable time before the time therein appointed for appearing to the same, then it shall be lawful for such Justice or Justices, if he or they shall think fit, upon oath or affirmation being made before him or them substantiating the matter of such information or complaint to his or their satisfaction, to issue his or their warrant (B) to apprehend the party so summoned, and to bring him before the same Justice or Justices or before some other Justice or Justices of the Peace in and for the said Colony to answer to the said information or complaint and to be further dealt with according to law; or upon such

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information being laid as aforesaid, for any offence punishable on conviction, the Justice or Justices before whom such information shall have been laid, may if he or they shall think fit, upon oath or affirmation being made before him or them, substantiating the matter of such information to his or their satisfaction, instead of issuing such summons as aforesaid, issue in the first instance his or their warrant (C) for apprehending the person against whom such information shall have been so laid, and bringing him before the same Justice or Justices or some other Justice or Justices of the Peace for the said Colony to answer to the said information and to be further dealt with according to law; or if where a summons shall be issued as aforesaid, and upon the day and at the place appointed in and by the said summons for the appearance of the party so summoned, such party shall fail to appear accordingly in obedience to such summons, then and in every such case, if it be proved upon oath or affirmation to the Justice or Justices then present that such summons was duly served upon such party a reasonable time before the time so appointed for his appearance as aforesaid, it shall be lawful for such Justice or Justices of the Peace to proceed *ex parte* to the hearing of such information or complaint, and to adjudicate thereon as fully and effectually to all intents and purposes, as if such party had personally appeared before him or them in obedience to such summons.

or may issue
warrant in the
first instance;

or if summons,
having been duly
served but not
obeyed, the
Justices may
proceed *ex parte*

3. And be it enacted that every such warrant to apprehend a defendant that he may answer to any such information or complaint as aforesaid, shall be under the hand and seal or hands and seals of the Justice or Justices issuing the same, and may be directed either to any Constable or other person by name or generally to the Constable of the district within which the same is to be executed, without naming him or to such Constable or all other Constables within the said Colony or generally to all the Constables within the said Colony, and it shall state shortly the matter of the information or complaint on which it is founded, and shall name or otherwise describe the person against whom it has been issued, and it shall order the Constable or other person to whom it is directed, to apprehend the said defendant and to bring him before one or more Justice or Justices of the Peace (as the case may require) of the said Colony, to answer to the said information or complaint and to be further dealt with according to law; and that it shall not be necessary to make such warrant returnable at any particular time, but the same may remain in full force until it shall be executed; and such warrant may be executed by apprehending the defendant at any place within the said Colony; and in all cases where such warrant shall be directed to all Constables or Peace Officers within the said Colony, to execute such warrant in like manner as if such warrant were directed specially to such Constable by name, and notwithstanding that the place in which such warrant shall be executed shall not be within the district for which he shall be such Constable or other Peace Officer: Provided always that no objection shall be taken or allowed to any such warrant to apprehend a defendant so issued upon any such information or complaint as aforesaid, under or by virtue of this Ordinance for any alleged defect therein in substance or in form or for any variance between this and the evidence adduced on the part of the informant or complainant as hereinafter mentioned; but if any such variance shall appear to the Justice or Justices present

Form of warrant

When and how
warrant may be
executed

No objection al-
lowed for want
of form in the
warrant or for
any variance
between it and
the evidence
adduced;

Justices of the Peace, &c.

but if the party charged is deceived by the variation, he may be committed or discharged upon recognizance;

but if he fail to reappear the Justice may transmit the recognizance to the Clerk of the Peace

Description of the property of partners, &c.

Prosecution and punishment of aiders and abettors in the commission of offences

Power to Justice to summon witnesses to attend and give evidence

and acting at such hearing, to be such that the party so apprehended under such warrant has been thereby deceived or misled, it shall be lawful for such Justice or Justices upon such terms as he or they shall think fit to adjourn the hearing of the case to some future day, and in the meantime to commit (D) the said defendant to the house of correction or other prison, lock-up house or place of security or to such other custody as the said Justice or Justices shall think fit or to discharge him upon his entering into a recognizance (E) with or without surety or sureties at the discretion of such Justice or Justices, conditioned for his appearance at the time and place to which such hearing shall be so adjourned: Provided always that in all cases where a defendant shall be discharged upon recognizance as aforesaid, and shall not afterwards appear at the time and place in such recognizance mentioned, then the said Justice who shall have taken the said recognizance or any Justice or Justices who may then be there present, upon certifying (F) upon the back of the said recognizance the non-appearance of the defendant, may transmit such recognizance to the Clerk of the Peace of the place within which such recognizance shall have been taken, to be proceeded upon in like manner as other recognizances, and such certificate shall be deemed sufficient *prima facie* evidence of such non-appearance of the said defendant.

4. And be it enacted that in any information or complaint or the proceedings thereon in which it shall be necessary 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 state the property to belong to the person so named and another or others as the case may be, and whenever in any information or complaint or the proceedings thereon it shall be necessary to mention for any purpose whatsoever any partners, joint-tenants, parceners or tenants in common, it shall be sufficient to describe them in manner aforesaid; and all property of any persons described in any Act or Ordinance now made or hereafter to be made or in any charter or letters of incorporation now in existence or hereafter to be granted, as commissioners, directors, trustees or by any other general designation whatsoever may be described as the property of such commissioners, directors, trustees or by any other general designation without naming them.

5. And be it enacted that every person who shall aid, abet, counsel or procure the commission of any offence which is or hereafter shall be punishable on summary conviction shall be liable to be proceeded against and convicted for the same, either together with the principal offender or before or after his conviction, and shall be liable on conviction to the same forfeiture and punishment as such principal offender is or shall be by law liable, and may be proceeded against and convicted either in the district or place where such principal offender may be convicted or in that in which such offence of aiding, abetting, counselling or procuring may have been committed.

6. And be it enacted that if it shall be made to appear to any Justice of the Peace by the oath or affirmation of any credible person that any person within the jurisdiction of such Justice is likely to give material evidence in behalf of the prosecutor or complainant or defendant, and will not voluntarily appear for the purpose of being examined

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as a witness at the time and place appointed for the hearing of such information or complaint, such Justice may and is hereby required to issue his summons (G 1) to such person under his hand and seal, requiring him to be and appear at the time and place mentioned in such summons before the said Justice or before such other Justice or Justices of the Peace for the said Colony as shall then be there to testify what he shall know concerning the matter of the said information or complaint; and if any person so summoned shall neglect or refuse to appear at the time and place appointed by the said summons and no just excuse shall be offered for such neglect or refusal, then (after proof upon oath or affirmation of such summons having been served upon such person either personally or by leaving the same for him with some person at his last or most usual place of abode, and that a reasonable sum was paid or tendered to him for his costs and expense in that behalf) it shall be lawful for such Justice or Justices before whom such person shall have appeared, to issue a warrant (G 2) under his or their hands and seals to bring and have such person, at a time and place to be therein mentioned, before the Justice who issued the said summons or before such other Justice or Justices of the Peace for the said Colony as shall then be there to testify as aforesaid; or if such Justice shall be satisfied by evidence upon oath or affirmation that it is probable that such person will not attend to give evidence without being compelled to do so, then instead of issuing such summons it shall be lawful for him to issue his warrant (G 3) in the first instance, and if on the appearance of such person so summoned before the last mentioned Justice or Justices, either in obedience to the said summons or upon being brought before him or them by virtue of the said warrant such person shall refuse to be examined upon oath or affirmation concerning the premises, or shall refuse to take such oath or affirmation, or having taken such oath or affirmation shall refuse to answer such questions concerning the premises as shall then be put to him without offering any just excuse for such refusal, any Justice of the Peace then present and having there jurisdiction may by warrant (G 4) under his hand and seal commit the person so refusing to the common gaol or house of correction for the place where such person so refusing shall then be, there to remain or be imprisoned for any time not exceeding seven days, unless he shall in the meantime consent to be examined and to answer concerning the premises.

If summons be not obeyed, Justices may issue warrant

In certain cases may issue warrant in the first instance

Persons appearing on summons, &c., refusing to be examined may be committed

7. And be it enacted that in all cases of complaints upon which a Justice or Justices of the Peace may make an order for the payment of money or otherwise it shall not be necessary that such complaint shall be in writing unless it shall be required to be so by some particular Act or Ordinance upon which such complaint shall be framed.

Complaints for an order need not be in writing

8. And be it declared and enacted that in all cases of informations for any offences or acts punishable upon summary conviction any variance between such information and the evidence adduced in support thereof as to the time at which such offence or act shall be alleged to have been committed shall not be deemed material if it be proved that such information was in fact laid within the time limited by law for laying the same; and any variance between such information and the evidence adduced in support thereof as to the district or place in which the offence or act shall be alleged to have been committed shall

As to proceedings upon informations for offences punishable on summary convictions

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not be deemed material, provided that the offence or act be proved to have been committed within the jurisdiction of the Justice or Justices by whom such information shall be heard and determined; and if any such variance or any variance in any other respect between such information and the evidence adduced in support thereof, shall appear to the Justice or Justices present and acting at the hearing to be such that the party charged by such information has been thereby deceived or misled, it shall be lawful for such Justice or Justices upon such terms as he or they shall think fit, to adjourn the hearing of the case to some future day, and in the meantime to commit (D) the said defendant to the house of correction or other prison, lock-up house or place of security or to such other custody as the said Justice or Justices shall think fit or to discharge him upon his entering into a recognizance (E) with or without surety or sureties at the discretion of such Justice or Justices conditioned for his appearance at the time and place to which such hearing shall be so adjourned: Provided always that in all cases where a defendant shall be discharged upon recognizances aforesaid and shall not afterwards appear at the time and place in such recognizance mentioned, then the said Justice who shall have taken the said recognizance or any Justice or Justices who may then be there present, upon certifying (F) upon the back of the said recognizance the non-appearance of the defendant, may transmit such recognizance to the Clerk of the Peace of the place within which such recognizance shall have been taken, to be proceeded upon in like manner as other recognizances, and such certificate shall be deemed sufficient *prima facie* evidence of such non-appearance of the said defendant.

The party charged, if deceived by variation between information and evidence, may be committed or discharged upon recognizance;

but if he fail to reappear the Justice may transmit the recognizance to the Clerk of the Peace

Manner of making complaint or laying information

When warrant issued in the first instance information to be upon oath, &c.

Time limited for such complaint or information

9. And be it declared and enacted that every such complaint upon which a Justice or Justices of the Peace is or are or shall be authorised by law to make an order, and that every information for any offence or act punishable upon summary conviction, unless some particular Act or Ordinance shall otherwise require, may respectively be made or laid without any oath or affirmation being made of the truth thereof; except in cases of informations where the Justice or Justices receiving the same shall thereupon issue his or their warrant in the first instance to apprehend the defendant as aforesaid, and in every such case where the Justice or Justices shall issue his or their warrant in the first instance, the matter of such information shall be substantiated by the oath or affirmation of the informant or by some witness or witnesses on his behalf, before any such warrant shall be issued; and every such complaint shall be for one matter of complaint only, and not for two matters of complaint; and every such information shall be for one offence only and not for two or more offences; and every such complaint or information may be laid or made by the complainant or informant in person or by his counsel or attorney or other person authorized in that behalf.

10. And be it enacted that in all cases where no time is already or shall be hereafter specially limited for making any such complaint or laying any such information in the Act or Acts or Ordinance or Ordinances relating to each particular case, such complaint shall be made and such information shall be laid within six calendar months from the time when the matter of such complaint or information respectively arose.

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11. And be it enacted that every such complaint and information shall be heard, tried, determined and adjudged by one or two or more Justice or Justices of the Peace as shall be directed by the Act or Ordinance upon which such complaint or information shall be framed or such other Act or Acts or Ordinance or Ordinances as there may be in that behalf; and if there be no such direction in any such Act or Ordinance, then such complaint or information may be heard, tried, determined and adjudged by one or more Justice or Justices of the Peace for the said Colony; and the room or place in which such Justice or Justices shall sit to hear and try any such complaint or information, shall be deemed an open or public Court, to which the public generally may have access, so far as the same can conveniently contain them; and the party against whom such complaint is made or information laid shall be admitted to make his full answer and defence thereto, and to have the witnesses examined and cross-examined by counsel or attorney in his behalf; and every complainant or informant in any such case shall be at liberty to conduct such complaint or information respectively, and to have the witnesses examined and cross-examined by counsel or attorney in his behalf; and if any person shall wilfully insult any Justice or Justices sitting in such Court or any Justice or Justices sitting in any Court of Petty Sessions or shall commit any contempt of any such Court, it shall be lawful for such Justice or Justices by any verbal order to direct such person to be taken into custody, and at any time before the rising of such Court by warrant under his or their hand and seal, to commit such person to any gaol or lock-up house of the Colony for any period not exceeding seven days, or to fine such person in any sum not exceeding forty shillings, which in case of non-payment may be levied in like manner as other fines or penalties.

As to the hearing of complaints or informations

Places in which Justices shall sit to hear complaints to be deemed an open Court

Parties allowed to plead by counsel or attorney

Persons guilty of contempt of Court punishable by fine or imprisonment

12. And be it enacted that if at the day and place appointed in and by the summons aforesaid for hearing and determining such complaint or information, the defendant against whom the same shall have been made or laid shall not appear when called, the Constable or other person who shall have served him with the summons in that behalf, shall then declare upon oath in what manner he served the said summons; and if it appear to the satisfaction of any Justice or Justices that he duly served the said summons, in that case such Justice or Justices may proceed to hear and determine the case in the absence of such defendant, or the said Justice or Justices, upon the non-appearance of such defendant as aforesaid, may, if he or they think fit, issue his or their warrant in manner hereinbefore directed, and shall adjourn the hearing of the said complaint or information until the said defendant shall be apprehended, and when such defendant shall be afterwards apprehended under such warrant he shall be brought before the same Justice or Justices or some other Justice or Justices of the said Colony, who shall thereupon, either by his or their warrant (H), commit such defendant to the house of correction or other prison, lock-up house or place of security, or, if he or they shall think fit, verbally to the custody of the Constable or other person who shall have apprehended him, or to such other safe custody as he or they shall deem fit, and order the said defendant to be brought up at a certain time and place before such Justice or Justices of the Peace as shall then be there, of which said order the complainant or informant

If defendant does not appear Justices may proceed to hear and determine or issue warrant, and adjourn the hearing till defendant is apprehended

Justices of the Peace, &c.

If defendant appear and complainant, &c., does not, Justice may dismiss the complaint, &c., or, at discretion, adjourn hearing and commit or discharge defendant upon recognizance;

but if he fail to reappear the Justice may transmit the recognizance to the Clerk of the Peace

If both parties appear Justice to hear and determine the case

Proceedings on the hearing of complaints and informations

shall have due notice, or if upon the day and place so appointed as aforesaid such defendant shall attend voluntarily in obedience to the summons in that behalf served upon him, or shall be brought before the said Justice or Justices by virtue of any warrant, then if the complainant or informant having had such notice as aforesaid do not appear by himself, his counsel or attorney, the said Justice or Justices shall dismiss such complaint or information, unless for some reason he or they shall think proper to adjourn the hearing of the same unto some other day, upon such terms as he or they shall think fit, in which case such Justice or Justices may commit (D) the defendant in the meantime to the house of correction or other prison, lock-up house or place of security, or to such other custody as such Justice or Justices shall think fit, or may discharge him upon his entering into a recognizance (E), with or without surety or sureties, at the discretion of such Justice or Justices, conditioned for his appearance at the time and place to which such hearing shall be so adjourned, and if such defendant shall not afterwards appear at the time and place mentioned in such recognizance, then the said Justice who shall have taken the said recognizance or any Justice or Justices who may then there be present, upon certifying (F) on the back of the recognizance the non-appearance of the defendant, may transmit such recognizance to the Clerk of the Peace, to be proceeded upon in like manner as other recognizances, and such certificate shall be deemed sufficient *prima facie* evidence of such non-appearance of the said defendant; but if both parties appear, either personally or by their respective counsel or attorneys, before the Justice or Justices who are to hear and determine such complaint or information, then the said Justice or Justices shall proceed to hear and determine the same.

13. And be it enacted that where such defendant shall be present at such hearing the substance of the information or complaint shall be stated to him, and he shall be asked if he have 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, and if he thereupon admit the truth of such information or complaint and show no cause or no sufficient cause why he should not be convicted or why an order should not be made against him, as the case may be, then the Justice or Justices present at the said hearing shall (if they see no sufficient reason to the contrary) convict him or make an order against him accordingly, but if he do not admit the truth of such information or complaint as aforesaid, then the said Justice or Justices shall proceed to hear the prosecutor or complainant and such witnesses as he may examine, and such other evidence as he may adduce in support of his information or complaint respectively, and also to hear the defendant and such witnesses as he may examine, and such other evidence as he may adduce in his defence, and also to hear such witnesses as the prosecutor or complainant may examine in reply if such defendant shall have examined any witnesses or given any evidence other than as to his the defendant's general character; but the prosecutor or complainant shall not be entitled to make any observations in reply upon the evidence given by the defendant, nor shall the defendant be entitled to make any observations in reply upon the evidence given by the prosecutor or complainant in reply as aforesaid; and the said Justice or Justices having heard what each party shall have to say as aforesaid and the

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witnesses and evidence so adduced, shall consider the whole matter and determine the same, and shall convict or make an order upon the defendant, or dismiss the information or complaint, as the case may be, and if he or they convict or make an order against the defendant, a minute or memorandum thereof shall then be made, for which no fee shall be paid, and the conviction (I 1, 3) or order (K 1, 3) shall afterwards be drawn up by the said Justice or Justices in proper form under his or their hand and seal or hands and seals, and he or they shall cause the same to be lodged with the Clerk of the Peace to be by him filed among the records of the General Quarter Sessions of the Peace, or if the said Justice or Justices shall dismiss such information or complaint, it shall be lawful for such Justice or Justices, if he or they shall think fit, being required so to do, to make an order of dismissal of the same (L), and shall give the defendant in that behalf a certificate thereof (M), which said certificate afterwards, upon being produced without further proof, shall be a bar to any subsequent information or complaint for the same matters respectively against the same party: Provided always that if the information or complaint in any such case shall negative any exemption, exception, proviso or condition in the Statute or Ordinance on which the same shall be framed, it shall not be necessary for the prosecutor or complainant in that behalf to prove such negative, but the defendant may prove the affirmative thereof in his defence if he would have the advantage of the same.

Return of conviction to Clerk of the Peace

Proviso as to exceptions in information or complaint

14. And be it enacted that every prosecutor of any such information, not having any pecuniary interest in the result of the same, and every such prosecutor having a pecuniary interest in the result of the same, who under any Act or Acts or Ordinance or Ordinances, is rendered a competent witness notwithstanding such interest, and every complainant in any such complaint as aforesaid, whatever his interest may be in the result of the same, shall be a competent witness to support such information or complaint respectively; and every witness at any such hearing as aforesaid shall be examined upon oath or affirmation, and the Justice or Justices before whom any such witness shall appear for the purpose of being so examined, shall have full power and authority to administer to every such witness the usual oath or affirmation.

Prosecutors and complainants in certain cases to be deemed competent witnesses and examined upon oath, &c.

15. And be it enacted that before or during such hearing of any such information or complaint, it shall be lawful for any one Justice or for the Justices present in his or their discretion to adjourn the hearing of the same to a certain time or place to be then appointed and stated in the presence and hearing of the party or parties or their respective attorneys or agents then present, and in the meantime the said Justice or Justices may suffer the defendant to go at large or may commit (D) him (in any case where a committal can now be made) to the common gaol or house of correction or other prison, lock-up house or place of security in the district or place for which such Justice or Justices shall be then acting or to such other custody as the said Justice or Justices shall think fit or may discharge such defendant upon his entering into a recognizance (E) with or without surety or sureties at the discretion of such Justice or Justices, conditioned for his appearance at the time and place to which such hearing or further

Power to Justices to adjourn the hearing of cases and commit defendant or suffer him to go at large, or discharge him upon his own recognizance;

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but if he fail to reappear the Justice may transmit the recognizance to the Clerk of the Peace

hearing shall be adjourned; and if at the time or place to which such hearing or further hearing shall be so adjourned, either or both of the parties shall not appear personally or by his or their counsel or attorneys respectively before the said Justice or Justices or such other Justice or Justices as shall then be there, it shall be lawful for the Justice or Justices then there present to proceed to such hearing or further hearing as if such party or parties were present; or if the prosecutor or complainant shall not appear, the said Justice or Justices may dismiss such information or complaint with or without costs as to such Justices shall seem fit: Provided always that in all cases where a defendant shall be discharged on recognizance as aforesaid, and shall not afterwards appear at the time or place mentioned in such recognizance, then the said Justice or Justices who shall have taken the said recognizances or any other Justice or Justices who may then be there present, upon certifying (F) on the back of the recognizance the non-appearance of such accused party, may transmit such recognizance to the Clerk of the Peace of the place within which such recognizance shall have been taken to be proceeded upon in like manner as other recognizances, and such certificate shall be deemed sufficient *prima facie* evidence of such non-appearance of the said defendant.

Form of convictions and orders

16. And be it enacted that in all cases of conviction where no particular form of such conviction is or shall be given by the Statute or Ordinance creating the offence or regulating the prosecution for the same, and in all cases of conviction upon Statutes or Ordinances hitherto passed, whether any particular form of conviction has been therein given or not, it shall be lawful for the Justice or Justices who shall so convict, to draw up his or their conviction on parchment or on paper in such one of the forms of conviction (I 1, 3) in the Schedule to this Ordinance contained, as shall be applicable to such case or to the like effect; and where an order shall be made, and no particular form of order is or shall be given by the Statute or Ordinance giving authority to make such order, and in all cases of orders to be made under the authority of any Statutes or Ordinances hitherto passed, whether any particular form of order shall therein be given or not, it shall be lawful for the Justice or Justices by whom such order is to be made to draw up the same in such one of the forms of orders (K 1, 3) in the Schedule to this Ordinance contained, as may be applicable to such case or to the like effect; and in all cases where by any Act or Ordinance authority is given to commit a person to prison or to levy any sum upon his goods or chattels by distress for not obeying any order of a Justice or Justices, the defendant shall be served with a copy of the minute of such order before any warrant of commitment or of distress shall issue in that behalf; and such order or minute shall not form any part of such warrant of commitment or of distress.

Power to Justice to award costs shall be specified in conviction or order of dismissal, and may be recovered by distress

17. And be it enacted that in all cases of summary conviction or of orders made by a Justice or Justices of the Peace, it shall be lawful for the Justice or Justices making the same, in his or their discretion, to award an order in and by such conviction or order that the defendant shall pay to the prosecutor or complainant respectively such costs as to such Justice or Justices shall seem just and reasonable in that behalf; and in cases where such Justice or Justices, instead of convicting or making an order as aforesaid, shall dismiss the information

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or complaint, it shall be lawful for him or them, in his or their discretion, in and by his or their order of dismissal, to award and order that the prosecutor or complainant respectively shall pay to the defendant such costs as to such Justice or Justices shall seem just and reasonable; and the sums so allowed for costs shall in all cases be specified in such conviction or order of dismissal aforesaid, and the same shall be recoverable in the same manner and under the same warrants as any penalty or sum of money adjudged to be paid in and by such conviction or order is to be recoverable; and in cases where there is no such penalty or sum to be thereby recovered, then such costs shall be recoverable by distress and sale of the goods and chattels of the party, and in default of such distress, by imprisonment, with or without hard labour, for any time not exceeding one calendar month, unless such costs shall be sooner paid.

18. And be it enacted that where a conviction adjudges a pecuniary penalty or compensation to be paid, or where an order requires the payment of a sum of money, and by the Statute or Ordinance authorising such conviction or order, such penalty, compensation, or sum of money is to be levied upon the goods and chattels of the defendant by distress and sale thereof, and also in cases where, by the Statute or Ordinance in that behalf, no mode of raising or levying such penalty, compensation, or sum of money, or of enforcing the payment of the same, is stated or provided, it shall be lawful for the Justice or Justices making such conviction or order, or for any Justice of the Peace for the said Colony, to issue his or their warrant of distress (N 1, 2) for the purpose of levying the same, which said warrant of distress shall be in writing under the hand and seal of the Justice making the same: Provided always that whenever it shall appear to any Justice of the Peace to whom application shall be made for any such warrant of distress as aforesaid, that the issuing thereof would be ruinous to the defendant and his family, or wherever it shall appear to such Justice, by the confession of the defendant or otherwise, that he hath no goods or chattels whereon to levy such distress, then and in every such case it shall be lawful for such Justice, if he shall deem fit, instead of issuing such warrant of distress, to commit such defendant to the house of correction, or if there be no house of correction, then to the common gaol, there to be imprisoned, with or without hard labour, for such time and in such manner as by law such defendant might be so committed in case such warrant of distress had issued, and no goods or chattels could be found whereon to levy such penalty or sum and costs aforesaid.

19. And be it enacted that in all cases where a Justice of the Peace shall issue any such warrant of distress, it shall be lawful for him to suffer the defendant to go at large, or verbally, or by a written warrant in that behalf, to order the defendant to be kept and detained in safe custody until return shall be made to such warrant of distress, unless such defendant shall give sufficient security by recognizance or otherwise, to the satisfaction of such Justice, for his appearance before him at the time and place appointed for the return of such warrant of distress, or before such other Justice or Justices for the said Colony as may then be there: Provided always that in all cases where a defendant shall give security by recognizance as aforesaid, and shall not after-

Power to Justice to issue warrant of distress

Where the issuing of a warrant would be ruinous to defendant or where there are no goods Justice may commit him to prison

Justice, after issuing warrant, may suffer defendant to go at large or order him into custody until return be made, unless he gives security by recognizance, but if he fail to re-appear the Justice may transmit the recognizance to the Clerk of the Peace

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wards appear at the time and place in such recognizance mentioned, then the said Justice who shall have taken the said recognizance, or any Justice or Justices who may then be there present, upon certifying (F) on the back of the recognizance the non-appearance of the defendant, may transmit such recognizance to the Clerk of the Peace, to be proceeded upon in like manner as other recognizances, and such certificate shall be deemed sufficient *prima facie* evidence of such non-appearance of the said defendant.

In default of sufficiency of distress Justice may commit the defendant to prison

20. And be it enacted that if at the time and place appointed for the return of any such warrant of distress, the Constable who shall have had the execution of the same shall return (N 3) that he could find no goods or chattels, or no sufficient goods or chattels whereon he could levy the sum or sums therein mentioned, together with the costs of or occasioned by the levying of the same, it shall be lawful for the Justice of the Peace before whom the same shall be returned to issue his warrant of commitment (N 4) under his hand and seal, directed to the same or any other Constable, reciting the conviction or order shortly, the issuing of the warrant of distress, and the return thereto, and requiring such Constable to convey such defendant to the house of correction, or if there be no house of correction, then to the common gaol, and there to deliver him to the Keeper thereof, and requiring such Keeper to receive the defendant into such house of correction or gaol, and there to imprison him, or to imprison him and keep him to hard labour in such manner and for such time as shall have been directed and appointed by the Statute or Ordinance on which the conviction or order mentioned in such warrant of distress was founded, unless the sum or sums adjudged to be paid and all costs and charges of the distress and also the costs and charges of the commitment and conveying of the defendant to prison if such Justice shall think fit so to order (the amount thereof being ascertained and stated in such commitment) shall be sooner paid.

In all cases of penalties, convictions, or orders, where the Statute provides no remedy in default of distress, Justice may commit defendant to prison

21. And whereas by some Acts or Ordinances Justices of the Peace are authorised to issue warrants of distress to levy penalties or other sums recovered before them by distress and sale of the offender's goods, but no further remedy is thereby provided in case no sufficient distress be found whereon to levy such penalties; be it therefore enacted that in all such cases and in all cases of convictions or orders where the Statute or Ordinance on which the same are respectively founded provides no remedy in case it shall be returned to a warrant of distress thereon that no sufficient goods of the party against whom such warrant shall have been issued can be found, it shall nevertheless be lawful for the Justice to whom such return is made or to any other Justice of the Peace for the said Colony if he or they shall think fit by his warrant as aforesaid to commit the defendant to the house of correction, common gaol or lock-up house as aforesaid for any term not exceeding three calendar months unless the sum or sums adjudged to be paid and all costs and charges of the distress and of the commitment and conveying the defendant to prison (the amount thereof being ascertained and stated in such commitment) shall be sooner paid.

Power of Justice to order commitment in the first

22. And be it enacted that in all cases where the Statute or Ordinance by virtue of which a conviction for a penalty or compensation

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or an order for the payment of money is made, makes no provision for such penalty or compensation or sum being levied by distress, but directs that if the same be not paid forthwith or within a certain time therein mentioned or to be mentioned in such conviction or order, the defendant shall be imprisoned, or imprisoned and kept to hard labour, for a certain time, unless such penalty, compensation or sum shall be sooner paid, in every such case such penalty, compensation or sum shall not be levied by distress; but if the defendant do not pay the same together with costs, if awarded, forthwith or at the time specified in such conviction or order for the payment of the same, it shall be lawful for the Justice or Justices making such conviction or order or for any other Justice of the Peace for the said Colony to issue his or their warrant of commitment (O 1, 2) under his or their hand and seal or hands and seals, requiring the Constable or Constables to whom the same shall be directed to take and convey such defendant to the house of correction, common gaol or lock-up house for the place aforesaid, as the case may be, and there to deliver him to the Keeper thereof, and requiring such Keeper to receive such defendant into such house of correction, gaol or lock-up house, and there to imprison him, or to imprison him and keep him to hard labour, as the case may be, for such time as the Statute or Ordinance on which such conviction or order is founded as aforesaid shall direct, unless the sum or sums adjudged to be paid and also the costs and charges of taking and conveying the defendant to prison if such Justice or Justices shall think fit so to order, shall be sooner paid.

instance for non-payment of a penalty or of a sum ordered to be paid

23. And be it enacted that where a conviction does not order the payment of any penalty, but that the defendant be imprisoned or imprisoned and kept to hard labour for his offence, or where an order is not for the payment of money, but for the doing of some other act, and directs that in case of the defendant's neglect or refusal to do such act he shall be imprisoned or imprisoned and kept to hard labour, and the defendant neglects or refuses to do such act, in every such case it shall be lawful for such Justice or Justices making such conviction or order or for some other Justice of the Peace for the said Colony to issue his or their warrant of commitment (P 1, 2) under his or their hand and seal or hands and seals, and requiring the Constable or Constables to whom the same shall be directed to take and convey such defendant to the house of correction, common gaol or lock-up house for the said district or place, as the case may be, and there to deliver him to the Keeper thereof, and requiring such Keeper to receive such defendant into such house of correction, gaol or lock-up house and there to imprison him or to imprison and keep him to hard labour, as the case may be, for such time as the Statute or Ordinance on which such conviction or order is founded as aforesaid shall direct; and in all such cases where by such conviction or order any sum for costs shall be adjudged to be paid by the defendant to the prosecutor or complainant, such sum may if the Justice or Justices shall think fit, be levied by warrant of distress (P 3, 4) in manner aforesaid, and in default of distress the defendant may if such Justice or Justices think fit be committed (P 5) to the same house of correction, common gaol or lock-up house in manner aforesaid there to be imprisoned for any time not exceeding one calendar month, to commence at the termination of the imprisonment he shall then be undergoing, unless such sum for costs,

Power to Justice to order commitment where the conviction is not for a penalty, nor the order for payment of money, and the punishment is by imprisonment, &c.

Costs may be levied by distress, and in default defendant may be committed for a further term

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and all costs and charges of the said distress, and also the costs and charges of the commitment and conveying of the defendant to prison, if such Justice or Justices shall think fit so to order, shall be sooner paid.

Imprisonment for a subsequent offence to commence at expiration of that for a previous offence

24. And be it enacted that where a Justice or Justices of the Peace shall upon any such information or complaint as aforesaid adjudge the defendant to be imprisoned, and such defendant shall then be in prison undergoing imprisonment upon a conviction for any other offence, the warrant of commitment for such subsequent offence shall in every such case be forthwith delivered to the gaoler to whom the same shall be directed; and it shall be lawful for the Justice or Justices issuing the same, if he or they shall think fit, to award and order therein and thereby that the imprisonment for such subsequent offence shall commence at the expiration of the imprisonment to which such defendant shall have been previously adjudged or sentenced.

If information be dismissed costs may be recovered by distress upon prosecutor, &c., who, in default, may be committed

25. And be it enacted that where any information or complaint shall be dismissed with costs as aforesaid, the sum which shall be awarded for costs in the order for dismissal may be levied by distress (Q 1) on the goods and chattels of the prosecutor or complainant in manner aforesaid; and in default of distress or payment such prosecutor or complainant may be committed (Q 2) to the house of correction, common gaol or lock-up house in manner aforesaid, for any time not exceeding one calendar month, unless such sum and all costs and charges of the distress and of the commitment and conveying of such prosecutor or complainant to prison (the amount thereof being ascertained and stated in such commitment) shall be sooner paid.

After appeal against conviction or order Justice may issue warrants of distress for execution of the same

26. And be it enacted that after an appeal against any such conviction or order as aforesaid shall be decided, if the same shall be decided in favour of the respondents, the Justice or Justices who made such conviction or order or any other Justice of the Peace of the said Colony may issue such warrant of distress or commitment as aforesaid for execution of the same as if no such appeal had been brought; and if upon any such appeal the Court of Quarter Sessions shall order either party to pay costs, such order shall direct such costs to be paid to the Clerk of the Peace of such Court to be by him paid over to the party entitled to the same, and shall state within what time such costs shall be paid; and if the same shall not be paid within the time so limited, and the party ordered to pay the same shall not be bound by any recognizance conditioned to pay such costs, such Clerk of the Peace or his deputy, upon application of the party entitled to such costs or of any person on his behalf, and on payment of a fee of one shilling, shall grant to the party so applying a certificate (F) that such costs have not been paid; and upon production of such certificate to any Justice or Justices of the Peace for the said Colony it shall be lawful for him or them to enforce the payment of such costs by warrant of distress (S 1) in manner aforesaid, and in default of distress he or they may commit (S 2) the party against whom such warrant shall have issued in manner hereinbefore mentioned for any time not exceeding three calendar months, unless the amount of such costs and all costs and charges of the distress, and also the costs of the commitment and conveying of the said party to prison, if such Justice or Justices shall think fit so to

Costs of appeal, how recovered

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order (the amount thereof being ascertained and stated in such commitment), shall be sooner paid.

27. And be it enacted that in all cases where any person against whom a warrant of distress shall issue as aforesaid shall pay or tender to the Constable having execution of the same the sum or sums in such warrant mentioned, together with the amount of the expenses of such distress up to the time of such payment or tender, such Constable shall cease to execute the same; and in all cases in which any person shall be imprisoned as aforesaid for non-payment of any penalty or other sum he may pay or cause to be paid to the Keeper of the prison in which he shall be so imprisoned the sum in the warrant of commitment mentioned, together with the amount of the costs, charges and expenses (if any) therein also mentioned, and the said Keeper shall receive the same, and shall thereupon discharge such person, if he be in his custody for no other matter.

On payment of penalty, &c., distress not to be levied, or the party, if imprisoned for non-payment, shall be discharged

28. And be it enacted that in all cases of summary proceedings before a Justice or Justices of the Peace out of Sessions upon any information or complaint as aforesaid it shall be lawful for one Justice to receive such information or complaint and to grant a summons or warrant thereon, and to issue his summons or warrant to compel the attendance of any witnesses and to do all other necessary acts and matters preliminary to the hearing, even in cases where by Statute or Ordinance in that behalf such information or complaint must be heard and determined by two or more Justices; and after the case shall have been so heard and determined one Justice may issue all warrants of distress or commitment thereon; and it shall not be necessary that the Justice who so acts before or after such hearing shall be the Justice or one of the Justices by whom the said case shall be heard and determined: Provided always that in all cases where by Statute or Ordinance it is or shall be required that any such information or complaint shall be heard and determined by two or more Justices, or that a conviction or order shall be made by two or more Justices, such Justices must be present and acting together during the whole of the hearing and determination of the case.

In cases of summary proceedings one Justice may issue summons or warrant, and after conviction or order may issue warrant of distress, &c.

29. And be it enacted that the fees to which any Clerk of the Peace, Clerk of the Special Sessions or Clerk of the Petty Sessions or Clerk to any Justice or Justices out of Sessions shall be entitled shall be ascertained, appointed and regulated in manner following, that is to say:—The Justices of the Peace at their Quarter Sessions shall from time to time, as they shall see fit respectively, make tables of the fees which in their opinion should be paid to the Clerks of the Peace, to the Clerks of Special and Petty Sessions and to the Clerks of the Justices of the Peace within their several districts, and which said tables respectively, being signed by the Chairman of every such Court of Quarter Sessions, shall be laid before His Excellency the Governor, and it shall be lawful for the said Governor, if he thinks fit, to alter such table or tables of fees and to subscribe a certificate or declaration that such fees are proper to be demanded and received by the several Clerks of the Peace, Clerks of Special Sessions and Petty Sessions, and the Clerks to the several Justices of the Peace throughout the Colony: and the said Governor shall cause copies of such table or set of tables of fees to be transmitted to the several Clerks of the Peace in the

Regulations as to the payment of Clerks' fees

Justices of the Peace, &c.

Colony, Clerks of Special Sessions and Petty Sessions, and to the Clerks of the Justices within their several districts respectively; and if, after such copy shall be received by such Clerks or Clerk, he or they shall demand or receive any other or greater fee or gratuity for any business or act transacted or done by him as such Clerk than such as is set down in such table or set of tables, he shall forfeit for every such demand or receipt the sum of twenty pounds, to be recovered by action of debt in any superior Court of law in this Colony by any person who will sue for the same: Provided always that until such table or set of tables shall be framed and confirmed and distributed as aforesaid, it shall be lawful for such Clerks or Clerk to demand and receive such fees as they are now by any rule or regulation of a Court of Quarter Sessions or otherwise authorised to demand and receive.

Penalty for an offence when uncertain in the discretion of the Magistrate

Application of penalty

Justices may adjudge that no part of the penalty be paid to the informer

In cases where two or more Justices are required by law to adjudicate, one Justice shall be sufficient, if there be no other resident within, or can be found within twenty miles

Provided that such non-residence be men-

30. And be it enacted that in all cases where by an Act or Ordinance a pecuniary penalty of uncertain amount shall have been or shall be imposed, that is to say, a penalty or sum not exceeding a certain amount, or a penalty or sum of not less or more than certain amounts in that behalf respectively specified, the amount of every such penalty (within the limits so prescribed), shall be in the discretion of the convicting Justice or Justices; and that every penalty awarded by such Justice or Justices shall in all cases (except when otherwise provided by any such Act or Ordinance) go and be distributed, one moiety thereof to the use of Her Majesty, Her heirs and successors, for the public uses of this Colony and the support thereof, and the other moiety to the use of the informer or party prosecuting, who shall also be in all cases entitled to his or her costs and charges over and above the penalty to be ascertained and assessed as aforesaid.

31. Provided that in order to discourage corrupt practices by common informers it shall be lawful for the Justice or majority of the Justices before whom any conviction shall be had, although any part of a penalty shall be directed to be paid to the informer by any Act or Ordinance, to adjudge that no part or such part only of the penalty as he or they shall think fit shall be paid to the informer.

32. And whereas great inconvenience has been felt in several instances from want of power in one Justice of the Peace residing in a remote district to adjudicate or act in cases in which the presence of two or more Justices is required by law: Be it enacted that when and so often as any Justice of the Peace shall receive any application, information or complaint touching any license, matter or proceeding which and by any Act or Ordinance now or hereafter to be in force in this Colony is directed to be granted, heard, determined or done by or before two or more Justices of the Peace, and it shall so happen that no other Justice of the Peace is permanently resident or can be found at the time within twenty miles from the residence of the Justice receiving such application, information or complaint, then in such case it shall be lawful for such last-mentioned Justice to grant, hear and determine any such license, matter, or proceeding, and to do all things incident or collateral thereto respectively, as fully and effectually to all intents and purposes as any two or more Justices are or shall be by any such Act or Ordinance required or empowered to do: Provided that such Justice shall specially mention the fact of the non-residence

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of any other Justice within the distance aforesaid, in any license, recognizance, or conviction made or taken by him, and that such license, recognizance, order, or conviction was made or taken by him under and by virtue of the power and authority so given him by this Ordinance: Provided also that no license granted as aforesaid by any one Justice shall be valid if a license for the same purpose shall have been previously refused by any other Justice or Justices of the same district within which such granting Justice shall be resident: Provided further that no such single Justice shall proceed to inflict any corporal punishment by whipping, or to cause any offender to be worked in irons until the sentence shall be approved by His Excellency the Governor.

tioned in the license, &c., and such license, &c., has not been before refused;

but no sentence of such single Justice inflicting corporal punishment or working in irons shall be carried into effect until sanctioned by the Governor

33. And be it enacted that the several forms in the Schedule to this Ordinance contained or forms to the like effect shall be deemed good, valid and sufficient in law.

Forms in Schedule

34. And be it enacted that the following Ordinance shall from and after the day on which this Ordinance shall commence and take effect be and the same is hereby repealed, that is to say—an Ordinance passed in the seventh year of the reign of Her present Majesty, intituled 'An Ordinance to regulate Summary Proceedings before Justices of the Peace;' and that all references to the same made in any existing Ordinance shall be deemed and taken to apply to this Ordinance.

7 Vic., No. 12, repealed

CHARLES FITZGERALD,
GOVERNOR AND COMMANDER-IN-CHIEF.

SCHEDULE

(A)

SUMMONS TO A DEFENDANT UPON AN INFORMATION OR COMPLAINT

To A.B., of (Labourer).

Whereas information hath this day been laid (or complaint hath this day been made) before the undersigned (one) of Her Majesty's Justices of the Peace in and for the said Colony of Western Australia, for that you (here state shortly the matter of the information or complaint): These are therefore to command you in Her Majesty's name to be and appear on at o'clock in the forenoon at before such Justices of the Peace for the said Colony 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 hand and seal this day of in the year of our Lord at in the Colony aforesaid.

J.S. (L.S.)

(B)

WARRANT WHERE THE SUMMONS IS DISOBEYED

To the Constable of and to all other Peace Officers in the said Colony.
Whereas on last past information was laid (or complaint was made) before the undersigned (one) of Her Majesty's Justices of the Peace in

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and for the said Colony of Western Australia, for that A.B. (*æc., as in the summons*): And whereas I then issued my summons unto the said A.B., commanding him in Her Majesty's name to be and appear on at _____ o'clock in the forenoon at _____ before such Justices of the Peace for the said Colony 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 now been proved to me upon oath that the said summons hath been duly served upon the said A.B.: These are therefore to command you in Her Majesty's name forthwith to apprehend the said A.B., and to bring him before some one or more of Her Majesty's Justices of the Peace in and for the said Colony to answer to the said information (*or complaint*), and to be further dealt with according to law.

Given under my hand and seal this _____ day of _____ in the year of our Lord _____ at _____ in the Colony aforesaid.
J.S. (L.S.)

(C)

WARRANT IN THE FIRST INSTANCE

To the Constable of _____ and to all other Peace Officers in the said Colony of Western Australia.

Whereas information hath this day been laid before the undersigned (*one*) of Her Majesty's Justices of the Peace in and for the said Colony of Western Australia, for that A.B. (*here state shortly the matter of the information*); and oath being now made before me substantiating the matter of such information: These are therefore to command you in Her Majesty's name forthwith to apprehend the said A.B. and to bring him before some one or more of Her Majesty's Justices of the Peace in and for the said Colony to answer to the said information and to be further dealt with according to law.

Given under my hand and seal this _____ day of _____ in the year of our Lord _____ at _____ in the Colony aforesaid.
J.S. (L.S.)

(D)

WARRANT OF COMMITTAL FOR SAFE CUSTODY DURING AN ADJOURNMENT OF THE HEARING

To W.T., Constable of _____ and to the Keeper of the (*House of Correction*) at _____

Whereas on _____ last past, information was laid (*or complaint was made*) before the undersigned (*one*) of Her Majesty's Justices of the Peace in and for the said Colony of Western Australia, for that (*æc., as in the summons*): And whereas the hearing of the same is adjourned to the _____ day of _____ instant at _____ o'clock in the forenoon, at _____ 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 Constable, in Her Majesty's name, forthwith to convey the said A.B. to the (*House of Correction*) at _____ and there deliver him into the custody of the Keeper thereof, together with this precept; and I hereby command you the said Keeper to receive the said A.B. into your custody in the said House of Correction, and there safely keep him until the _____ day of _____ instant, when you are hereby required to convey and have him, 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 Colony 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 hand and seal this _____ day of _____ in the year of our Lord _____ at _____ in the Colony aforesaid.
J.S. (L.S.)

Justices of the Peace, &c.

(E)

RECOGNIZANCE FOR THE APPEARANCE OF THE DEFENDANT WHERE
THE CASE IS ADJOURNED OR NOT AT ONCE PROCEEDED WITH

Be it remembered that on A.B. of (labourer), and L.M. of (grocer), personally came before the undersigned, (one) of Her Majesty's Justices of the Peace in and for the said Colony of Western Australia, and severally acknowledged themselves to owe to our Sovereign Lady the Queen 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 Lady the Queen, her heirs and successors, if he the said A.B. shall fail in the condition endorsed.

Taken and acknowledged the day and year first above mentioned, at before me

J.S. (L.S.)

The condition of the within written recognizance is such that if the said A.B. shall personally appear on the day of instant, at o'clock in the forenoon, at before such Justices of the Peace for the said Colony 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 be in full force and virtue.

NOTICE OF SUCH RECOGNIZANCE TO BE GIVEN TO THE
DEFENDANT AND HIS SURETY

Take notice that you, A.B., are bound in the sum of and you, L.M., in the sum of that you, A.B., appear personally on at o'clock in the forenoon, at before such Justices of the Peace for the said Colony 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 18 .

J.S.

(F)

CERTIFICATE OF NON-APPEARANCE TO BE ENDORSED ON THE
DEFENDANT'S RECOGNIZANCE

I 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.

(G 1)

SUMMONS OF A WITNESS

To E.F. of in the said Colony of Western Australia.

Whereas information was laid (or complaint was made) before the undersigned, (one) of Her Majesty's Justices of the Peace in and for the said Colony of Western Australia, for that (&c., as in the summons), and it hath been made to appear to me upon (oath) that you are likely to give material evidence on behalf

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of the (prosecutor, or complainant, or defendant) in this behalf: These are therefore to require you to be and appear on _____ at _____ o'clock in the forenoon, at _____ before such Justices of the Peace for the said Colony 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 _____ at _____ in the Colony aforesaid.
J.S. (L.S.)

(G 2)

WARRANT WHERE A WITNESS HAS NOT OBEYED A SUMMONS

To the Constable of _____ and to all other Peace Officers in the said Colony of Western Australia.

Whereas information was laid (or complaint was made) before the undersigned, (one) of Her Majesty's Justices of the Peace in and for the said Colony of Western Australia, for that (i.e., as in the summons); and it having been made to appear to me upon oath that E.F. of _____ in the said Colony (labourer), was likely to give material evidence on behalf of the (prosecutor), I did duly issue my summons to the said E.F., requiring him to be and appear on _____ at _____ o'clock in the forenoon of the same day, at _____ before such Justices of the Peace for the said Colony as might then be there, to testify what he 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 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 for his costs and expenses in that behalf; and whereas the said E.F. hath 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 on _____ at _____ o'clock in the forenoon, at _____ before such Justices of the Peace for the said Colony as may then be there, to testify what he 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 _____ at _____ in the Colony aforesaid.
J.S. (L.S.)

(G 3)

WARRANT FOR A WITNESS IN THE FIRST INSTANCE

To the Constable of _____ and to all other Peace Officers in the Colony of Western Australia.

Whereas information was laid (or complaint was made) before the undersigned, (one) of Her Majesty's Justices of the Peace in and for the said Colony of Western Australia, for that (i.e., as in the summons), and it being made to appear before me upon oath, that E.F. of _____ (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 on _____ at _____ o'clock in the forenoon at _____ or before such other Justices of the Peace for the said Colony as may then be there, to testify what he 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 _____ at _____ in the Colony aforesaid.
J.S. (L.S.)

Justices of the Peace, &c.

(G 4)

COMMITMENT OF A WITNESS FOR REFUSING TO BE SWORN
OR GIVE EVIDENCE

To W.M., Constable of _____ in the said Colony of Western Australia, and
to the Keeper of the (*House of Correction*) at _____

Whereas information was laid (*or complaint was made*) before the under-
signed, (*one*) of Her Majesty's Justices of the Peace in and for the said Colony of
Western Australia, for that (*&c., as in the summons*); and one E.F., now appearing
before me, such Justice as aforesaid, on _____, at _____, and being
required by me 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), 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 convey to the (*House of Correction*) at
aforesaid, 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 (*House of*
Correction), to receive the said E.F. into your custody in the said (*House of Correc-*
tion), and there imprison him for such his contempt for the space of
_____ days, unless he shall in the meantime consent to be examined and to answer
concerning the premises; and for so doing this shall be your sufficient warrant.

Given under my hand and seal this _____ day of _____
the year of our Lord _____ at _____ in the Colony aforesaid.
J.S. (L.S.)

(H)

WARRANT TO REMAND A DEFENDANT WHEN APPREHENDED

To W.T., Constable of _____ and to the Keeper of the (*House of*
Correction) at _____

Whereas information was laid (*or complaint was made*) before the under-
signed, (*one*) of Her Majesty's Justices of the Peace in and for the said Colony of
Western Australia, 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 as such Justice as
aforesaid: These are therefore to command you, the said Constable, in Her
Majesty's name, forthwith to convey the said A.B. to the (*House of Correction*) at
_____, and there to deliver him to the said Keeper thereof, together
with this precept; and I do hereby command you, the said Keeper, to receive the
said A.B. into your custody in the said (*House of Correction*), and there safely
keep him until _____ next, the _____ day of _____ instant,
when you are hereby commanded to deliver him to any Constable bringing a written
direction to that effect, from any Justice of the Peace, so that he may be produced
at _____ at _____ o'clock in the forenoon of the same day, before
such Justices of the Peace of the said Colony 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 hand and seal this _____ day of _____ in the
year of our Lord _____ at _____ in the Colony aforesaid.
J.S. (L.S.)

(I 1)

CONVICTION FOR A PENALTY TO BE LEVIED BY DISTRESS, AND IN
DEFAULT OF SUFFICIENT DISTRESS IMPRISONMENT

To wit.

Be it remembered that on the _____ day of _____ in
the year of our Lord _____ at _____ in the said Colony of
Western Australia, A.B. is convicted before the undersigned, (*one*) of Her Majesty's

Justices of the Peace, &c.

Justices of the Peace for the said Colony, for that he the said A.B. (*etc., stating the offence, and the time and place when and where committed*); and I adjudge the said A.B. for his said offence to forfeit and pay the sum of _____ (*stating the penalty and also 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 costs in this behalf, and if the said several sums be not paid forthwith (*or on or before*

next) *I order that the same be levied by distress and sale of the goods and chattels of the said A.B., and in default of sufficient distress* I adjudge the said A.B. to be imprisoned in the (*House of Correction*) at _____ in the said Colony, (*there to be kept to hard labour*) for the space of _____ unless the said several sums and all costs and charges of the said distress (and of the commitment and conveying the said A.B. to the said *House of Correction*) shall be sooner paid.

Given under my hand and seal the day and year first above mentioned, at _____ in the Colony aforesaid.

J.S. (i.s.)

*Or where the issuing of a distress warrant would be ruinous to the defendant or his family, or it appears that he has no goods whereon to levy a distress, then instead of the words between the asterisks** say, 'then, inasmuch as it hath been made to appear to me (that the issuing of a warrant of distress in this behalf would be ruinous to the said A.B. and his family,' or 'that the said A.B. hath no goods or chattels whereupon to levy the said sums by distress), I adjudge,' &c., as above to the end.

(I 2)

CONVICTION FOR A PENALTY, AND IN DEFAULT OF PAYMENT
IMPRISONMENT

To wit.

Be it remembered that on the _____ day of _____ in the year of our Lord _____ at _____ in the said Colony, A.B. is convicted before the undersigned, (*one*) of Her Majesty's Justices of the Peace for the said Colony, for that he the said A.B. (*etc., stating the offence and the time and place when and where it was committed*); and I adjudge the said A.B. for his 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 costs in this behalf, and if the said several sums be not paid forthwith (*or on or before* next), I adjudge the said A.B. to be imprisoned in the (*House of Correction*) at _____ in the said Colony (*and there to be kept to hard labour*) for the space of _____ unless the said several sums (and the costs and charges of conveying the said A.B. to the said *House of Correction*) shall be sooner paid.

Given under my hand and seal the day and year first above mentioned, at _____ in the Colony aforesaid.

J.S. (i.s.)

(I 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 _____ in the said Colony, A.B. is convicted before the undersigned, (*one*) of Her Majesty's Justices of the Peace for the said Colony, for that he the said A.B. (*etc., stating the offence and the time and place when and where committed*); and I adjudge the said A.B. for his said offence to be imprisoned in the (*House of Correction*) at _____ in the said Colony (*and there kept to hard labour*) for the space of _____ and I also adjudge the said A.B. to pay the said C.D. the sum of _____ for his costs in this behalf, and if the said sum

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for costs be not paid forthwith (or on or before next), then *I order that the said sum be levied by distress and sale of the goods and chattels of the said A.B., and in default of sufficient distress in that behalf* I adjudge the said A.B. to be imprisoned in the said (*House of Correction*) (and there kept to hard labour) for the space of , to commence at and from the termination of the imprisonment aforesaid, unless the said sum for costs shall be sooner paid.

Given under my hand and seal the day and year first above mentioned, at in the Colony aforesaid.

J.S. (L.S.)

Or where the issuing of a distress warrant would be ruinous to the defendant or his family, or it appears that he has no goods whereupon to levy a distress, then instead of the words between the asterisks say, ' inasmuch as it hath now been made to appear to me (that the issuing of a warrant of distress in this behalf would be ruinous to the said A.B. and his family, or that the said A.B. hath no goods or chattels whereupon to levy the said sum for costs by distress), I adjudge, ' &c.*

(K 1)

ORDER FOR PAYMENT OF MONEY TO BE LEVIED BY DISTRESS,
AND IN DEFAULT OF DISTRESS IMPRISONMENT

To wit.

Be it remembered that on complaint was made before the undersigned (one) of Her Majesty's Justices of the Peace in and for the said Colony of Western Australia, 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 at the parties aforesaid appear before me the said Justice (or the said C.D. appears before me the said Justice, but the said A.B. although duly called doth not appear by himself, his counsel or attorney, and it is now satisfactorily proved to me on oath that the said A.B. has been duly served with the summons in this behalf, which required him to be and appear here at this day before such Justices of the Peace for this said Colony 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 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 costs in this behalf; and if the said several sums be not paid forthwith (or on or before next) *I hereby order that the same be levied by distress and sale of the goods and chattels of the said A.B., and in default of sufficient distress in that behalf*, I adjudge the said A.B. to be imprisoned in the (*House of Correction*) at in the said Colony (*and there to be kept to hard labour*) for the space of , unless the said several sums and all costs and charges of the said distress (and of the commitment and conveying of the said A.B. to the said *House of Correction*) shall be sooner paid.

Given under my hand and seal, this day of , in the year of our Lord , at , in the Colony aforesaid.

J.S. (L.S.)

Or where the issuing of a distress warrant would be ruinous to the defendant or his family, or it appears that he has no goods whereon to levy a distress, then instead of the words between the asterisks say, ' then inasmuch as it hath now been made to appear to me (that the issuing of a warrant of distress in this behalf would be ruinous to the said A.B. and his family, or that the said A.B. hath no goods or chattels whereon to levy the said sum by distress), I adjudge, ' &c.*

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(K 2)

ORDER FOR PAYMENT OF MONEY, AND IN DEFAULT OF PAYMENT
IMPRISONMENT*To wit.*

Be it remembered that on _____ complaint was made before the undersigned, (one) of Her Majesty's Justices of the Peace in and for the said Colony of Western Australia, 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 _____ at _____ the parties aforesaid appear before me the said Justice (or the said C.D. appears before me the said Justice, but the said A.B., although duly called, doth not appear by himself, his counsel or attorney, and it is now satisfactorily proved to me on oath that the said A.B. has been duly served with the summons in this behalf, which required him to be and appear here at this day before such Justices of the Peace for this said Colony 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 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 costs in this behalf; and if the said several sums be not paid forthwith, or on or before _____ next, I adjudge the said A.B. to be imprisoned in the (*House of Correction*) at _____ in the said Colony (*there to be kept to hard labour*) for the space of _____, unless the said several sums (and the costs and charges of conveying the said A.B. to the said *House of Correction*) shall be sooner paid.

Given under my hand and seal this _____ day of _____, at _____, in the Colony aforesaid.
J.S. (L.S.)

(K 3)

ORDER FOR ANY OTHER MATTER WHERE THE DISOBEYING OF IT IS
PUNISHABLE WITH IMPRISONMENT*To wit.*

Be it remembered that on _____ complaint was made before the undersigned, (one) of Her Majesty's Justices of the Peace in and for the said Colony of Western Australia, 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 _____ at _____ the parties aforesaid appear before me the said Justice or the said C.D. appears before me the said Justice, but the said A.B., although duly called, doth not appear by himself, his counsel or attorney, and it is now satisfactorily proved to me upon oath, that the said A.B. has been duly served with the summons in this behalf, which required him to be and appear here at this day before such Justices of the Peace for the said Colony 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 do therefore adjudge the said A.B. (*here state the matter required to be done*), and if upon a copy of a minute of this order being served upon the said A.B., either personally or by leaving the same for him at his last or most usual place of abode, he shall neglect or refuse to obey the same, in that case I adjudge the said A.B., for such his disobedience to be imprisoned in the (*House of Correction*) at _____ in the said Colony (*there to be kept to hard labour*) for the space of _____ unless the said order be sooner obeyed (*if the Statute authorize this*); and I do also adjudge the said A.B. to pay to the said C.D. the sum of _____ for his costs in this behalf; and if the said sum for costs be not paid forthwith (or on or before _____ next), I order the same to be levied by distress and sale of goods and chattels of the said A.B. [and in default of sufficient distress in that behalf, I adjudge the said A.B. to be imprisoned in

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the said (*House of Correction, and there kept to hard labour*) for the space of
to commence at and from the termination of his imprisonment
as aforesaid, unless the said sum for costs shall be sooner paid].

Given under my hand and seal this _____ day of _____
in the year of our Lord _____ at _____ in the Colony aforesaid.
J.S. (L.S.)

(L)

ORDER OF DISMISSAL OF AN INFORMATION OR COMPLAINT

To wit.

Be it remembered that on _____ information was laid (*or complaint was made*) before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said Colony of Western Australia, for that (*dc., as in the summons to the defendant*), and now at this day, to wit, on _____ at _____ both the said parties appear before me in order that I should hear and determine the said information (*or complaint*) (or the said A.B. appeareth before me, but the said C.D., although duly called doth not appear); whereupon the matter of the said information (*or complaint*) being by me duly considered, (it manifestly appears to me that the said information (*or complaint*) is not proved, and *) I 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 costs incurred by him in his defence in this behalf; and if the said sum for costs be not paid forthwith (*or on or before* _____), I order that the same be levied by distress and sale of the goods and chattels of the said C.D., and in default of sufficient distress in that behalf, I adjudge the said C.D. to be imprisoned in the (*House of Correction*) at _____ in the said Colony (*and there kept to hard labour*) for the space of _____ unless the said sum for costs, and all costs and charges of the said distress (and of the commitment and conveying the said C.D. to the said *House of Correction*), shall be sooner paid.

Given under my hand and seal this _____ day of _____ in
the year of our Lord _____ at _____ in the Colony aforesaid.
J.S. (L.S.)

* If the informant or complainant do not appear these words may be omitted.

(M)

CERTIFICATE OF DISMISSAL

I hereby certify that an information (*or complaint*) preferred by C.D. against A.B. for that (*dc., as in the summons*) was this day considered by me, one of Her Majesty's Justices of the Peace in and for the said Colony of Western Australia, and was by me dismissed (*with costs*).

Dated this _____ day of _____ 18 . J.S. (L.S.)

(N 1)

WARRANT OF DISTRESS UPON A CONVICTION FOR A PENALTY

To the Constable of _____ and to all other Peace Officers in the said Colony
of _____ of Western Australia.

Whereas A.B., late of _____ (*labourer*), was on this day (*or on* _____ last past) duly convicted before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said Colony of Western Australia, for that (*stating the offence as in the conviction*), and it was thereby adjudged that the said A.B. should for such his offence forfeit and pay (*dc., as in the conviction*), and should also pay to the said C.D. the sum of _____ for his costs in that

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behalf; and it was thereby ordered that if the said several sums should not be paid (*forthwith*) the same should be levied by distress and sale of the goods and chattels of the said A.B.; and it was thereby also adjudged that in default of sufficient distress the said A.B. should be imprisoned in the (*House of Correction*), at _____ in the said Colony (*and there kept to hard labour*) for the space of _____, unless the said several sums, and all costs and charges of the said distress, and of the commitment and conveying of the said A.B. to the said (*House of Correction*), should be sooner paid: And whereas the said A.B., being so convicted as aforesaid, and being (*now*) required to pay the said sums of _____, and hath not paid the same or any part thereof, but therein hath made default: These are therefore to command you in Her Majesty's name forthwith to make distress of the goods and chattels of the said A.B.; and if within the space of _____ days after the making of such distress the said sums, together with the reasonable charges of taking and keeping the distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising by such sale unto _____, the Clerk of the Justices of the Peace of the district _____, in the said Colony, that he may pay and apply the same as by law directed, and may render the overplus, if any, on demand, to the said A.B.; and if no such distress can be found, then that you certify the same unto me, to the end that such further proceedings may be had thereon as to the law doth appertain.

Given under my hand and seal this _____ day of _____ in the year of our Lord _____ at _____ in the Colony aforesaid.
J.S. (L.S.)

(N 2)

WARRANT OF DISTRESS UPON AN ORDER FOR THE PAYMENT OF MONEY

To the Constable of _____, and to all other Peace Officers in the said Colony of Western Australia.

Whereas on _____ last past, a complaint was made before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said Colony of Western Australia, for that (*&c., as in the order*), and afterwards, to wit, on _____ at _____ the said parties appeared before me (*or as in the order*), and thereupon having considered the matter of the said complaint, I adjudged the said A.B. to (pay to the said C.D. the sum of _____, on or before the _____ then next); and also to pay to the said C.D. the sum of _____ for his costs in that behalf: And I thereby ordered that if the said several sums should not be paid on or before the said _____ then next, the same should be levied by distress, and sale of the goods and chattels of the said A.B.; and it was adjudged that in default of sufficient distress in that behalf the said A.B. should be imprisoned in the (*House of Correction*) at _____ in the said Colony (*and there kept to hard labour*) for the space of _____, unless the said several sums, and all costs and charges of the distress (and of the commitment and conveying of the said A.B. to the *House of Correction*) should be sooner paid: And whereas the time in and by the said order appointed for the payment of the said several sums of _____ and _____ hath elapsed, but the said C.D. hath not paid the same nor any part thereof, but therein hath made default: These are therefore to command you in Her Majesty's name forthwith to make distress of the goods and chattels of the said A.B.; and if within the space of _____ days after the making of such distress the said last-mentioned sums, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale unto _____ the Clerk of the Justices of the Peace for the district of _____ in the said Colony, that he may pay and apply the same as by law directed, and may render the overplus, if any, on demand, to the said A.B.; and if no such distress can be found, then that you certify the same unto me, to the end that such proceedings may be had therein as to the law doth appertain.

Given under my hand and seal this _____ day of _____ in the year of our Lord _____ at _____ in the Colony aforesaid.
J.S. (L.S.)

Justices of the Peace, &c.

(N 3)

CONSTABLE'S RETURN TO A WARRANT OF DISTRESS

I, W.T., Constable of _____ in the Colony of Western Australia, do hereby certify to J.S., Esquire, one of Her Majesty's Justices of the Peace for the said Colony, that by virtue of this warrant I have made diligent search for the goods and chattels of the within-mentioned A.B., and that I can find no sufficient goods or chattels of the said A.B., whereon to levy the sums within-mentioned.

Witness my hand this _____ day of _____ 18 . W.T.

(N 4)

WARRANT OF COMMITMENT FOR WANT OF DISTRESS

To the Constable of _____ and to the Keeper of the (*House of Correction*), at _____ in the said Colony of Western Australia.

Whereas (*dc., as in either of the foregoing distress warrants, N 1, 2, to the asterisks [*] and then thus*); and whereas afterwards on the _____ day of _____ in the year aforesaid, I, the said Justice, issued a warrant to the

Constable of _____ commanding him to levy the said sums of _____

and _____ by distress and sale of the goods and chattels of the said A.B.; and whereas it appears to me, as well by the return of the said Constable to the said warrant of distress, as otherwise, that the said Constable hath made diligent search for the goods and chattels of the said A.B., but that no sufficient distress whereon to levy the sums above mentioned could be found: These are therefore to command you the said Constable of _____ to take the said A.B., and him safely convey to the (*House of Correction*) at _____ aforesaid and there deliver him to the said Keeper, together with this precept; and I do hereby command you the said Keeper of the said (*House of Correction*) to receive the said A.B. into your custody in the said (*House of Correction*), there to imprison him (*and keep him to hard labour*) for the space of _____ unless the said several sums and all the costs and charges of the said distress (and of the commitment and conveying of the said A.B. to the said (*House of Correction*) 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 _____ at _____ in the Colony aforesaid.
J.N. (l.s.)

(O 1)

WARRANT OF COMMITMENT UPON A CONVICTION FOR A PENALTY
IN THE FIRST INSTANCE

To the Constable of _____ and to the Keeper of the (*House of Correction*) at _____ in the said Colony of Western Australia.

Whereas A.B., late of _____ (*labourer*), was on this day duly convicted before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said Colony, for that (*stating the offence as in the conviction*), and it was thereby adjudged that the said A.B. for his said offence should forfeit and pay the sum of _____ (*dc., as in the conviction*), and should pay to the said C.D. the sum of _____ for his costs in that behalf, and it was thereby further adjudged that if the said several sums should not be paid (*forthwith*), the said A.B. should be imprisoned in the (*House of Correction*) at _____ in the said Colony (*and there kept to hard labour*) for the space of _____ unless the said several sums (and the costs and charges of conveying the said A.B. to the said *House of Correction*) should be sooner paid; and whereas the time in and by the said conviction

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appointed for the payment of the said several sums 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 Constable of _____ to take the said A.B., and him safely to convey to the *(House of Correction)* at _____ aforesaid and there to deliver him to the Keeper thereof, together with this precept; and I do hereby command you the said Keeper of the said *(House of Correction)* to receive the said A.B. into your custody in the said *(House of Correction)*, there to imprison him *(and keep him to hard labour)* for the space of _____ unless the said several sums (and the costs and charges of conveying him to the said *(House of Correction)*), amounting to the further sum of _____ shall be sooner paid, 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 _____ at _____ in the Colony aforesaid.
J.S. (L.S.)

(O 2)

WARRANT OF COMMITMENT ON AN ORDER IN THE FIRST INSTANCE |

To the Constable of _____ and to the Keeper of the *(House of Correction)* at _____ in the said Colony of Western Australia.

Whereas on _____ last complaint was made before the undersigned, *(one)* of Her Majesty's Justices of the Peace in and for the said Colony of Western Australia, for that *(&c., as in the order)*, and afterwards, to wit, on _____

at _____ the parties appeared before *(me)* the said Justice *(or as in the order)*, and thereupon having considered the matter of the said complaint, I 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 costs in that behalf; and I thereby adjudged that if the said several sums should not be paid on or before the _____ day of _____ then next, the said A.B. should be im-

prisoned in the *(House of Correction)* at _____ in the said Colony *(and there kept to hard labour)* for the space of _____, unless the said several sums (and the costs and charges of conveying the said A.B. to the said *House of Correction)* should be sooner paid: And whereas the time in and by the said order appointed for the payment of the said several sums of money 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 Constable of _____

to take the said A.B., and him safely convey to the said *(House of Correction)* at _____ aforesaid, and there to deliver him to the Keeper thereof, together with this precept; and I do hereby command you the said Keeper of the said *(House of Correction)* to receive the said A.B. into your custody in the said *(House of Correction)*, there to imprison him *(and keep him to hard labour)* for the space of _____, unless the said several sums (and the costs and charges of conveying him to the said *(House of Correction)*), 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 _____ at _____ in the Colony aforesaid.
J.S. (L.S.)

(P 1)

WARRANT OF COMMITMENT ON A CONVICTION WHERE THE PUNISHMENT IS BY IMPRISONMENT

To the Constable of _____ and to the Keeper of the *(House of Correction)* at _____ in the said Colony of Western Australia.

Whereas A.B., late of _____ *(labourer)*, was on this day duly convicted before the undersigned, *(one)* of Her Majesty's Justices of the Peace in and for _____

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the said Colony, for that (*stating the offence as in the conviction*), and it was thereby adjudged that the said A.B. for his said offence should be imprisoned in the (*House of Correction*) at _____ in the said Colony (*and there kept to hard labour*) for the space of _____ : These are therefore to command you the said Constable of _____ to take the said A.B., and him safely convey to the (*House of Correction*) at _____ aforesaid, and there deliver him to the said Keeper, together with this precept; and I do hereby command you, the said Keeper of the said (*House of Correction*), to receive the said A.B. into your custody in the said (*House of Correction*), there to imprison him (*and keep him to hard labour*) for the space of _____, 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 _____ at _____ in the Colony aforesaid.

J.S. (i.s.)

(P 2)

WARRANT OF COMMITMENT ON AN ORDER WHERE THE DISOBEYING OF IT IS PUNISHABLE BY IMPRISONMENT

To the Constable of _____ and to the Keeper of the (*House of Correction*) at _____ in the said Colony of Western Australia

Whereas on _____ last past complaint was made before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said Colony of Western Australia, for that (*âc.*, *as in the order*), and afterwards, to wit, on _____ at _____ the said parties appeared before me (*or as it may be in the order*), and thereupon having considered the matter of the said complaint, I adjudged the said A.B. to (*âc.*, *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 at his last or most usual place of abode, he should neglect or refuse to obey the same, it was adjudged that in such case the said A.B. for such his disobedience should be imprisoned in the (*House of Correction*) at _____ in the said Colony (*and there be 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 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 Constable of _____, to take the said A.B., and him safely to convey to the (*House of Correction*) at _____ aforesaid, and there to deliver him to the Keeper thereof, together with this precept; and I do hereby command you, the said Keeper of the said (*House of Correction*), to receive the said A.B. into your custody in the said (*House of Correction*), there to imprison him (*and keep him 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 _____ at _____ in the Colony aforesaid.

J.S. (i.s.)

(P 3)

WARRANT OF DISTRESS FOR COSTS UPON A CONVICTION WHERE THE OFFENCE IS PUNISHABLE BY IMPRISONMENT

To the Constable of _____ and to all other Peace Officers in the said Colony of Western Australia.

Whereas A.B., of _____ (*labourer*) was on _____ last past duly convicted before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said Colony, for that (*stating the offence as in the conviction*), and it was thereby adjudged that the said A.B. for his said offence should be imprisoned in the (*House of Correction*) at _____ in the said Colony (*and there kept to hard labour*) for the space of _____ and it was also thereby adjudged that the said A.B. should pay the said C.D. the sum of _____

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for his costs in that behalf; and it was thereby ordered that if the said sum of for costs should not be paid (*forthwith*) the same should be levied by distress and sale of the goods and chattels of the said A.B., and it was adjudged that in default of sufficient distress in that behalf the said A.B. should be imprisoned in the said (*House of Correction and there kept to hard labour*) for the space of to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs and all costs and charges of the said distress, and of the commitment and conveying of the said A.B. to the said (*House of Correction*) should be sooner paid; and whereas the said A.B. being so convicted as aforesaid, and being required to pay the sum of for costs, hath not paid the same or any part thereof, but therein hath made default: These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said A.B., and if within the space of days next after the making of such distress, the said last-mentioned sum, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale to the Clerk of the Justices of the Peace for the district of in the said Colony, that he may pay the same as by law directed, and may render the surplus, if any, on demand, to the said A.B., and if no such distress can be found, then that you certify the same unto me to the end that such proceedings may be had therein as to the law doth appertain.

Given under my hand and seal this day of in the year of our Lord at in the Colony aforesaid.
J.S. (L.S.)

(P 4)

WARRANT OF DISTRESS FOR COSTS UPON AN ORDER WHERE THE
DISOBEYING OF THE ORDER IS PUNISHABLE WITH IMPRISONMENT

To the Constable of and to all other Peace Officers in the said Colony of Western Australia.

Whereas on last past complaint was made before the undersigned (*one*) of Her Majesty's Justices of the Peace in and for the said Colony of Western Australia, for that (*etc., as in the order*) and afterwards, to wit, on at the said parties appeared before me as such Justice as aforesaid (*or as it may be in the order*) and thereupon having considered the matter of the said complaint, I adjudged the said A.B. to (*etc., 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 at his last or most usual abode, he should neglect or refuse to obey the same, it adjudged that in such case the said A.B. for such his disobedience should be imprisoned in the (*House of Correction*) at in the said Colony (*and there be kept to hard labour*) for the space of (unless the said order should be sooner obeyed), and I thereby also adjudged the said A.B. to pay to the said C.D. the sum of for his costs in that behalf, and I ordered that if the said sum for costs should not be paid (*forthwith*) the same should be levied of the goods and chattels of the said A.B., and in default of sufficient distress in that behalf I thereby adjudged that the said A.B. should be imprisoned in the said (*House of Correction*) (*and there kept to hard labour*) for the space of to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs and all costs and charges of the said distress, and of the commitment and conveying the said A.B. to the said (*House of Correction*) 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 paid, the said sum of for costs or any part thereof, but therein hath made default: These are therefore to command you in Her Majesty's name, forthwith to make distress of the goods and chattels of the said A.B., and if within the space of days next after the making of such distress, the said last-mentioned sum, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the

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said goods and chattels so by you distrained, and do pay the money arising from such sale to the Clerk of the Justices of the Peace for the district of in the said Colony, that he may pay the same as by law directed, and may render the overplus, if any, on demand, to the said A.B., and if no such distress can be found, then that you certify the same unto me to the end that such proceedings may be had therein as to the law doth appertain.

Given under my hand and seal this day of in the year of our Lord at in the Colony aforesaid.
J.S. (L.S.)

(P 5)

WARRANT OF COMMITMENT FOR WANT OF DISTRESS IN EITHER OF THE LAST TWO CASES

To the Constable of and to the Keeper of the (*House of Correction*) at in the said Colony of Western Australia.

Whereas (*etc., as in the last two forms respectively, to the asterisk [*], and then thus*): and whereas afterwards, on the day of in the year aforesaid, I, the said J.S., issued a warrant to the Constable of , commanding him to levy the said sum of for costs, by distress and sale of the goods and chattels of the said A.B.: And whereas it appears to me, as well by the return of the said Constable to the said warrant of distress as otherwise, that the said Constable hath made diligent search for the goods and chattels of the said A.B., but that no sufficient distress whereon to levy the sum above-mentioned could be found: These are therefore to command you, the said Constable of , to take the said A.B., and him safely convey to the (*House of Correction*) at aforesaid, and there deliver him to the Keeper thereof, together with this precept; and I do hereby command you, the said Keeper of the said (*House of Correction*), to receive the said A.B. into your custody in the said (*House of Correction*), there to imprison him (*and keep him to hard labour*) for the space of , unless the said sum, and all costs and charges of the said distress (and of the commitment and conveying of the said A.B. to the said (*House of Correction*)), 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 , at , in the Colony aforesaid.
J.S. (L.S.)

(Q 1)

WARRANT OF DISTRESS FOR COSTS UPON AN ORDER FOR DISMISSAL OF AN INFORMATION OR COMPLAINT

To the Constable of , and to all other Peace Officers in the said Colony of Western Australia.

Whereas on last past, information was laid (*or complaint was made*) before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said Colony of Western Australia, for that (*etc., as in the order of dismissal*); and afterwards, to wit, on , at , both parties appearing before me in order that I should hear and determine the same; and the several proofs adduced to me in that behalf being by me duly heard and considered, and it manifestly appearing to me that the said information (*or complaint*) was not proved, I therefore dismissed the same, and adjudged that the said C.D. should pay to the said A.B. the sum of for his costs incurred by him in his defence in that behalf; and I ordered that if the said sum for costs should not be paid (*forthwith*) the same should be levied of the goods and chattels of the said C.D.; and I adjudged that in default of sufficient distress in that behalf the said C.D. should be imprisoned in the (*House of Correction*) at in the said Colony (*and there kept to hard labour*) for the space of , unless the said sum for costs, and all costs and charges of the said distress, and of

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the commitment and conveying of the said C.D. to the said (*House of Correction*), 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, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said A.B., and if within the space of _____ days next after the making of such distress, the said last-mentioned sum together with the reasonable charges of taking and keeping the said distress shall not be paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale to _____, the Clerk of the Justices of the Peace for the district of _____, in the said Colony, that he may pay and apply the same as by law directed, and may render the overplus, if any, on demand, to the said C.D.; and if no such distress can be found, then that you certify the same unto me, to the end that such proceedings may be had therein as to the law doth appertain.

Given under my hand and seal, this _____ day of _____ in the year of our Lord _____, at _____, in the Colony aforesaid.
J.S. (L.S.)

(Q 2)

WARRANT OF COMMITMENT FOR WANT OF DISTRESS IN THE LAST CASE

To the Constable of _____, and to the Keeper of the (*House of Correction*) at _____, in the said Colony of Western Australia.

Whereas (*&c.*, as in the last form respectively, to the asterisk [*], and then thus): And whereas afterwards, on the _____ day of _____ in the year aforesaid, I the said Justice issued a warrant to the Constable of _____ commanding him to levy the said sum of _____ for costs by distress and sale of the goods and chattels of the said C.D.; and whereas it appears to me, as well by the return of the said Constable to the said warrant of distress as otherwise, that the said Constable hath made diligent search for the goods and chattels of the said C.D., but that no sufficient distress whereon to levy the sum above mentioned could be found: These are therefore to command you the said Constable of _____ to take the said C.D. and him safely convey to the (*House of Correction*) at _____ aforesaid, 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 (*House of Correction*) to receive the said C.D. into your custody in the said (*House of Correction*), there to imprison him (*and keep him to hard labour*) for the space of _____ unless the said sum and all costs and charges of the said distress (and of the commitment and conveying of the said C.D. to the said *House of Correction*), 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 _____ at _____ in the Colony aforesaid.
J.S. (L.S.)

(R)

CERTIFICATE OF THE CLERK OF THE PEACE THAT THE COSTS OF AN APPEAL ARE NOT PAID

Officer of the Clerk of the Peace for the Colony of Western Australia.

(TITLE OF THE APPEAL.)

I hereby certify that at a Court of General Quarter Sessions of the Peace, holden at _____ in and for the said Colony, on _____ last past an appeal by A.B. against a conviction (*or order*) of J.S., Esquire, one of Her Majesty's Justices of the Peace for the said Colony, came on to be tried, and was then heard and determined, and the said Court of General Quarter Sessions thereupon ordered

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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 in the said appeal, and which sum was thereby ordered to be paid to the Clerk of the Peace for the said Colony on or before the day of _____ instant, 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 _____ 18 .
 G.H.,
 (Deputy) Clerk of the Peace.

(S 1)

WARRANT OF DISTRESS FOR COSTS OF AN APPEAL AGAINST A CONVICTION OR ORDER

To the Constable of _____ and to all other Peace Officers in the said Colony of Western Australia.

Whereas (i.e., as in the warrants of distress O 1, 2, 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 General Quarter Sessions of the Peace for the said Colony, 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 General Quarter Sessions of the Peace for the said Colony, holden at _____ on _____, and the said Court of General 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 in the said appeal, which said sum was to be paid to the Clerk of the Peace of the said Colony, on or before the day of _____ to be by him handed over to the said (C.D.); and whereas the (Deputy) Clerk of the Peace of the said Colony hath on the day of _____ instant, duly certified that the said sum for costs had not then been paid: [*] These are therefore to command you in Her Majesty's name forthwith to make distress of the goods and chattels of the said (A.B.), and if within the space of _____ days next after the making of such distress, the said last-mentioned sum, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale to _____ the Clerk of the Justices of the Peace for the district of _____ in the said Colony, that he may pay and apply the same as by law directed, and if no such distress can be found, then that you certify the same unto me, to the end that such proceedings may be had therein as to the law doth appertain.

Given under my hand and seal this _____ day of _____ in the year of our Lord _____ at _____ in the Colony aforesaid.
 J.S. (L.S.)

WARRANT OF COMMITMENT FOR WANT OF DISTRESS IN THE LAST CASE

To the Constable of _____, and to the Keeper of the (House of Correction) at _____, in the said Colony of Western Australia.

Whereas (i.e., as in the last form to the asterisk [*] and then thus): And whereas afterwards on the day of _____ in the year aforesaid, I the undersigned issued a warrant to the Constable of _____, commanding him to levy the said sum of _____ for costs by distress and sale of the goods and chattels of the said A.B.; and whereas it appears to me, as well by the return of the said Constable to the said warrant of distress as otherwise, that the said Constable hath made diligent search for the goods and chattels of the said A.B., but that no sufficient distress whereon to levy the sum above mentioned

