

The Justices Act, 1902

(2^d Edward VII., No. 11).

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Western Australia.

ANNO SECUNDO

EDWARDI VII. REGIS.

No. XI.

AN ACT to consolidate and amend the Laws relating to Justices of the Peace and their Powers and Authorities.

[Assented to, 18th November, 1902.]

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

PART I.—PRELIMINARY.

1. THIS Act may be cited as the Justices Act, 1902. It is divided into parts, as follows:—

Short title and
division of Act.

PART I.—PRELIMINARY.

PART II.—JUSTICES.

PART III.—JURISDICTION.

PART IV.—GENERAL PROCEDURE.

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PART V.—PROCEEDINGS IN CASE OF INDICTABLE OFFENCES.

PART VI.—PROCEEDINGS IN CASE OF SIMPLE OFFENCES AND BREACHES OF DUTY.

PART VII.—SURETY OF THE PEACE AND FOR GOOD BEHAVIOUR.

PART VIII.—APPEALS FROM THE DECISIONS OF JUSTICES.

PART IX.—PROTECTION OF JUSTICES IN THE EXECUTION OF THEIR OFFICE.

Repeal of existing Acts.

2. THE several Acts mentioned in the First Schedule are hereby repealed and amended to the extent in the said schedule indicated, but no proceedings or acts or things done under any of the said Acts before the commencement of this Act shall be invalidated or affected by such repeal; and all proceedings initiated before the commencement of this Act shall be carried on, as far as practicable, according to the provisions of this Act, and subject thereto, according to the provisions of the said repealed Acts respectively, which shall for that purpose be deemed to continue in force notwithstanding the repeal thereof; and all persons lawfully in custody or bound by recognisance, at the commencement of this Act, under the provisions of any of the said repealed Acts, shall be deemed to be in lawful custody or to be so bound as aforesaid under the provisions of this Act, and may be dealt with accordingly.

Commencement of Act.

Commencement of Act.

3. THIS Act shall commence and take effect on and from the first day of January, one thousand nine hundred and three.

Interpretation.

Interpretation.

4. IN the interpretation of this Act, unless the context otherwise requires—

Breach of duty.

“Breach of Duty” means any act or omission (not being a simple offence or a non-payment of a mere debt) upon complaint whereof Justices may make an order on any person for the payment of money or for doing or refraining from doing any other act;

Charge of indictable offence.

“Charge of an indictable offence” means charge of an indictable offence as such and in order to a committal for trial therefor;

Clerk of Petty Sessions.

“Clerk of Petty Sessions” means the person acting as clerk of the petty sessions at which the decision in question was made;

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- “Complaint” includes the terms “information,” “information and complaint,” and “charge,” and, unless the contrary appears, means an information and complaint before Justices ; Complaint
- “Decision” includes a committal for trial and an admission to bail as well as a conviction, order, order of dismissal, or other determination ; Decision.
- “Defendant” means a person complained against before Justices for an indictable offence, simple offence, or breach of duty ; Defendant.
- “Gaol” includes prison and police gaol. Gaol.
- “Hearing” includes the examination of a person charged with an indictable offence ; Hearing.
- “Indictable Offence” means an offence which may be prosecuted before the Supreme Court, or other Court having jurisdiction in that behalf, by information in the name of the Attorney General or other authorised officer ; Indictable offence.
- “Indictment” means an information for an indictable offence presented to a Court having jurisdiction to try the accused person by the Attorney General or other authorised officer ; Indictment.
- “Jurisdiction,” when necessary, means the place in which jurisdiction may be lawfully exercised ; Jurisdiction.
- “Justices” means Justices of the Peace having jurisdiction where the act in question is or is to be performed, and includes one Justice where one Justice has jurisdiction to do the act in question ; Justices.
- “Keeper of a Gaol” includes superintendent of a prison. Keeper of gaol.
- “Minister” means the Attorney General or other Minister charged with the supervision of Justices of the Peace ; Minister.
- “Oath” includes solemn affirmation or declaration when such affirmation or declaration may by law be made instead of taking an oath, and also includes any promise or other undertaking to tell the truth that may be made under the provisions of any Act relating to giving evidence in Courts of Justice ; Oath.
- “Order” means an order made upon a complaint of a breach of duty ; Order.
- “Police Officer” means any constable or other member of the police force ; Police officer.
- “Resident Magistrate” means a person duly appointed to be the Resident Magistrate of any magisterial district and includes Government Resident ; Resident Magistrate.

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Road district.	"Road District" means a district established under the Roads Act, 1888, or other Act amending or in substitution for that Act;
Simple offence.	"Simple Offence" means any offence (indictable or not) punishable, on summary conviction before Justices, by fine, imprisonment, or otherwise;
Summary conviction.	"Summary Conviction" or "Conviction" means a conviction by Justices for a simple offence;
Derivatives.	When one word or phrase includes another, the derivatives of the one include those of the other.

General saving of powers of Justices. 5. NOTHING in this Act shall be construed to diminish or affect any power or authority conferred on Justices of the Peace by any other Act, except so far as the provisions of this Act are inconsistent with the existence or exercise of such power or authority.

PART II.—JUSTICES.

Appointment of Justices generally. 6. THE Governor may appoint such and so many Justices as may from time to time be deemed necessary to keep the peace in the State of Western Australia, or in any magisterial district therein.

Such Justices may be so appointed either by a General Commission of the Peace under the Great Seal of the State in the Form contained in the Second Schedule or to the like effect, or by a special appointment of the Governor notified in the *Government Gazette*. In the latter case the Justices so appointed shall be deemed to be included in the then subsisting General Commission of the Peace for the State, or for such magisterial district, as the case may be, from the time when they are so appointed.

Any Justice may be appointed to keep the peace in more than one magisterial district.

Removal from office. 7. A JUSTICE may be removed or discharged from his office either by the issue of a new General Commission of the Peace for the State, or for the magisterial district, as the case may be, omitting his name, or by an order of the Governor notified in the *Government Gazette*, without any writ of *supersedeas* or other formal writ.

Resignation. 8. A JUSTICE may at any time resign his office by writing, addressed to the Minister, and upon such resignation being accepted by the Governor, and such acceptance being notified in the *Government Gazette*, his office shall be vacated.

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9. THE Mayor for the time being of every municipality shall, by virtue of his office and without any further commission or authority than this Act, be a Justice for the magisterial district in which the municipality is situated.

Mayors to be Justices.

10. THE Governor may prohibit any person who is a Justice of the Peace by virtue of such office of Mayor from acting as such Justice, and from the time of the notification in the *Government Gazette* of the order prohibiting such person from so acting he shall be and remain incapable of acting as a Justice of the Peace until he has been again elected to any such office of Mayor or has been appointed by the Governor to be a Justice of the Peace.

Unless prohibited.

11. THE Governor may appoint any person to be a Police Magistrate or Resident Magistrate.

Police and Resident Magistrates.

12. EVERY member of the Executive Council, every Judge of the Supreme Court, and every Chairman of a Court of General or Quarter Sessions of the Peace, Police or Resident Magistrate or Coroner, shall, by virtue of his office and without any further commission or authority than this Act, be a Justice of the Peace for the State.

Persons to be Justices of the State.

13. ANY person may be appointed to be a Justice of the Peace for Western Australia although he is not a resident in the State.

Justices beyond the State.

14. ANY act done by a Justice by virtue of his office out of Western Australia for the purpose of the authentication of the signature of any person to any instrument intended to take effect within Western Australia, and any oath administered by any such Justice by virtue of his office out of Western Australia in any case in which an oath may be administered by a Justice of the Peace for Western Australia, shall, unless such act or oath is required by law to be done or administered within Western Australia, be valid and effectual within Western Australia.

Acts done beyond the State.

15. (1.) JUSTICES of the Peace shall have and may exercise within and for their jurisdiction the several powers and authorities conferred upon them by this Act, or any other Act, or by a General Commission of the Peace.

Jurisdiction of Justices.

(2.) No Justice shall be disqualified from acting in the discharge of his duties in any matter relating to any municipality, road district, board of health, or any local authority by reason only of being a ratepayer or interested in common with the public.

Interest as ratepayer, etc., no disqualification.

16. A JUSTICE other than an *ex officio* Justice shall not exercise any of the functions of his office until he has taken or made

Oath of office.

Justices.

an Oath or Affirmation of Allegiance and the Oath or Affirmation of Office prescribed in the Third Schedule.

Such oaths or affirmations may be taken or made before, and may be administered or received by, a Judge of the High Court of Australia or of the Supreme Court of any State, or a Police or Resident Magistrate, or any person authorised in that behalf by the Governor.

Need not be taken second time.

17. WHEN a person has once taken or made such oaths or affirmations on his appointment to the office of Justice of the Peace for the State or for a magisterial district, and afterwards ceases or has ceased to hold such office, it shall not be necessary for him to again take such oaths or affirmations on his again becoming a Justice of the Peace for the State or for the same or any other district.

Description.

Justices, how described.

18. WHEN a Justice is described as a Justice of the Peace for the State of Western Australia, such description shall, unless there is something to denote a different meaning, be taken to mean that he is a Justice of the Peace for the State generally.

Letters P.M., J.P., etc.

19. THE words Police Magistrate, or the letters P.M., and the words Government Resident or Resident Magistrate, or the letters G.R. or R.M., after the signature to any magisterial act, shall be *prima facie* evidence that the person whose signature it purports to be is a Police Magistrate, Government Resident, or Resident Magistrate; and the words Justice of the Peace, or the letters J.P., after the signature to any magisterial act, shall be *prima facie* evidence that the person whose signature it purports to be is a Justice of the Peace having jurisdiction in the matter.

PART III.—JURISDICTION.

General Provisions.

General provision.

20. WHENEVER by any Act past or future, or by this Act, any person is made liable to a penalty or punishment, or to pay a sum of money—

(a.) For any offence made punishable on summary conviction; or

(b.) For any offence, act, or omission, and such offence, act, or omission is not by the Act declared to be treason, felony, a crime, or a misdemeanour, and no other provision is made for the trial of such person,

the matter may be heard and determined by two or more Justices in a summary manner under the provisions of this Act.

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Justices.

21. ALL summonses, warrants, convictions, and orders (not being by law authorised to be made by word of mouth only) shall be under the hands of the Justices issuing or making the same.

Authentication of
acts of Justices.

22. WHEN a Justice issues any warrant or summons purporting on the face thereof to have been issued within the limits of his jurisdiction, such warrant may be executed, and such summons may be served within any part of Western Australia, although beyond the limits of such jurisdiction.

Warrants may be
executed through-
out State.

23. EVERY act done or purporting to have been done by or before a Justice shall be taken to have been done within his jurisdiction without an allegation to that effect unless and until the contrary is shown.

Presumption.

Courts of Petty Sessions.

24. THE Governor may, subject to the provisions of the Magisterial Districts Act, 1886, appoint magisterial districts for the purposes of Courts of Petty Sessions.

Magisterial Dis-
tricts.

See 50 Vict., No. 17.

25. THE districts heretofore appointed to be magisterial districts shall, until altered, be deemed to be districts for the purposes of Courts of Petty Sessions, and shall be deemed to have been appointed under this Act.

Existing Magis-
terial Districts to
continue under this
Act until altered.

Powers of One Justice.

26. ONE Justice out of sessions may receive a complaint, and grant a summons or warrant thereon, and may issue his summons or warrant to compel the attendance of witnesses, and do all other necessary acts and matters preliminary to the hearing, notwithstanding that the case must be heard and determined by two or more Justices.

Acts by one Justice.

27. AFTER a case has been heard and determined, one Justice may issue any warrant of execution or commitment thereon, and the Justice who so acts need not be the Justice or one of the Justices by whom the case was heard and determined.

After decision one
Justice may issue
warrant of execu-
tion or commitment.

28. AFTER an appeal against a conviction or order has been decided against the appellant, any Justice may issue a warrant of execution or commitment for execution of the same as if no appeal had been brought.

Warrants of execu-
tion after appeal.

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Justices.

Hearing and Quorum.

Hearing of
complaints.

29. EVERY complaint shall be heard and determined by one Justice or two or more Justices, as is directed by the Act relating to the matter, and if there is no such direction, then it may be heard and determined by one Justice.

Majority to decide.

30. EXCEPT as hereinafter provided, when two or more Justices are present and acting at the hearing of any matter and do not agree, the decision of the majority shall be the decision of the Justices, and if they are equally divided in opinion, the case shall be reheard at a time to be appointed by a majority of the Justices present.

Provided that when two Justices only are present and acting at the hearing of any matter and do not agree, if one of such Justices is a Police or Resident Magistrate, the decision of the Police or Resident Magistrate shall prevail.

Provided also that, upon a complaint for an indictable offence, a Police or Resident Magistrate, if he is one of the Justices, and in the absence of a Police or Resident Magistrate, any two or more of the Justices may commit the defendant for trial, notwithstanding that a majority of the Justices are of opinion that the defendant should be discharged. In any such case a memorandum of the dissent of the majority of the Justices shall be made upon or attached to the depositions.

When two Justices
required, must be
present throughout
the case.

31. WHERE a complaint must be heard and determined, or a conviction or order must be made, by two or more Justices, the Justices making the decision must be present and act together during the whole of the hearing and determination.

Jurisdiction of one
Justice in certain
circumstances.

See 14 Vict., No. 5,
s. 32.

32. ANY one Justice may exercise the jurisdiction of two Justices under this or any other Act whenever no other Justice usually residing in the district can be found at the time within a distance of ten miles; provided that the Justice, on any conviction, certifies, in writing, that no other Justice can be found within ten miles; but no sentence of whipping imposed by one Justice may be carried out until approved by the Governor.

A certificate under this section shall be conclusive evidence of the fact stated.

Police and Resident Magistrates.

Special powers
given to Police and
Resident Magis-
trates who may in
all cases act alone.

33. EVERY Police Magistrate and every Resident Magistrate shall have power to do alone whatever might be done by two or more Justices sitting in petty sessions, and shall have power to do

Justices.

alone any act which by any law is or shall be directed to be done by more than one Justice.

34. IN any place appointed for holding Courts of Petty Sessions in which a clerk of petty sessions is not appointed, or from which the clerk of petty sessions is absent, the Police or Resident Magistrate acting in such place may discharge the duties of clerk of petty sessions, and all acts done by such Police or Resident Magistrate in pursuance hereof shall be as valid as if done by such clerk, and all notices required to be given to such clerk, and all other matters and things required to be done with or in reference to such clerk, may be given to or done with or in reference to such Police or Resident Magistrate, and shall have the like force and effect.

Duties of clerks of petty sessions to be discharged by Police Magistrate.

Provided that the Justices in petty sessions assembled or the Minister may require that any of such duties, acts, matters, and things as they or he shall think convenient shall be done by, with, or in reference to some police officer, and thereupon such acts, matters, and things if so done shall be as valid as if done by, with, or in reference to a clerk of petty sessions.

Except such as may be delegated by the Justices in session to police officer.

Extent of Jurisdiction.

35. NO act done by a Justice shall be invalid merely by reason of the fact that at the time of doing such act he was outside the limits of his jurisdiction, and it shall not be necessary that any conviction, order, or other proceeding should appear to be made or done within the geographical limits of the jurisdiction of the Justice making or doing the same.

Justices may act outside jurisdiction.

36. A WARRANT of commitment or of remand shall be valid throughout the State, notwithstanding that the gaol or other place to which the defendant is committed or remanded, or any place into or through which he is taken by virtue of the warrant, is outside the limits of the jurisdiction of the Justice by whom the warrant is granted.

Warrants of commitment and remand by Justices of limited jurisdiction.

37. ALL police officers are hereby required to obey the warrants, orders, and directions of a Justice which in that behalf are granted, given, or done, and to do and perform their several offices and duties in respect thereof under the pains and penalties to which a police officer is liable for a neglect of duty.

Duty of police officers.

38. A WARRANT or summons issued by a Justice shall not be avoided by reason of such Justice dying or ceasing to hold office.

Summons or warrant not avoided by death of Justice, etc.

39. WHEN a Justice refuses to do any act relating to the duties of his office as such Justice, the party requiring such act to be

Order in lieu of *mandamus*.

Justices.

done may apply to the Supreme Court, or a Judge thereof, upon affidavit of the facts, for an order calling upon such Justice, and also the party to be affected by such act, to show cause why such act should not be done, and if after due service of such order good cause is not shown against it, the Court or Judge may make the same absolute.

A Justice, upon being served with an order absolute, shall obey the order and do the act required by it to be done.

Power to order delivery of possession of goods charged to have been stolen or fraudulently obtained and in custody of police officer.

40. WHEN property charged to have been stolen or fraudulently obtained is in the custody of a police officer by virtue of a search warrant, or otherwise in the course of the prosecution of any person for an indictable offence in regard to the obtaining of such property, and the prosecution has terminated, whether by the conviction or discharge of the defendant or otherwise, or the defendant cannot be found, any Police or Resident Magistrate may make an order for the delivery of the property to the person who appears to be the rightful owner thereof.

But no such order shall be a bar to the right of any person to recover the property by action from the person to whom it is delivered by virtue of the order: Provided that the action shall be brought within six months next after the order is made.

Interruption of Proceedings.

Penalty for insulting or interrupting Justices.

41. ANY person who insults any Justices sitting in the exercise of their jurisdiction under this or any other Act, or wilfully interrupts the proceedings of Justices so sitting, may be excluded from the Court by order of the Justices, and may, whether he is so excluded or not, be summarily convicted by the Justices on view, and on conviction shall be liable to a penalty not exceeding Five pounds, and in default of payment to be imprisoned for a period not exceeding seven days.

No summons need be issued against any such offender, nor need any evidence be taken on oath, but he may be taken into custody then and there by a police officer by order of the Justices, and called upon to show cause why he should not be convicted.

PART IV.—GENERAL PROCEDURE.

Complaints.

Complaint, by whom laid.

42. PROCEEDINGS before Justices shall be commenced by a complaint, which may be made or laid by the complainant in person, or by his counsel or solicitor or other person authorised in that behalf.

Justices.

43. EVERY complaint shall be for one matter only, and not for two or more matters:

Only one matter of complaint.

Provided that—

(1.) In the case of indictable offences, if the matters of complaint are such that they may be charged in one indictment, and

(2.) In other cases, if the matters of complaint are substantially of the same act or omission on the part of the defendant,

such matters may be joined in the same complaint.

44. SUCH description of persons or things as would be sufficient in an indictment shall be sufficient in complaints.

Description of persons and property.

45. THE description of any offence in the words of the Act, order, by-law, regulation, or other instrument creating the offence, or in similar words, shall be sufficient in law.

What is sufficient description of offence.

Variance and Amendment.

46. NO objection shall be taken or allowed to any complaint, or to any summons or warrant to apprehend a defendant issued upon any complaint, for any alleged defect therein, in substance or in form, or for any variance between it and the evidence in support thereof, and any such variance shall be amended by order of the Justices at the hearing.

Want of form or variance in warrant, etc.

47. IF any such variance appears to the Justices to be such that the defendant has been thereby deceived or misled, they may, and at the request of the defendant shall, upon such terms as they think fit, adjourn the hearing of the case to some future day, and in the meantime may commit the defendant, or discharge him upon recognisance for his appearance at the time and place to which the hearing is adjourned.

Amendment.

48. EVERY order for the amendment of a variance shall be entered on the proceedings of the Justices, and a minute thereof, if required, shall be given to the party against whom it was made.

Minute of amendment.

Complaints, how made.

49. WHEN it is intended to issue a warrant in the first instance against the party charged, the complaint must be in writing and on oath, which oath may be made either by the complainant or some other person.

Complaint on oath where warrant issued.

50. WHEN it is intended to issue a summons instead of a warrant in the first instance, the complaint need not be in writing or on

Where summons to be issued.

Justices.

oath, but may be verbal merely, and without oath, whether any previous Act under which the complaint is laid requires it to be in writing or not.

Limitation.

Limitation of proceedings.

51. IN any case of a simple offence or breach of duty, unless some other time is limited for making complaint by the law relating to the particular case, complaint must be made within six months from the time when the matter of complaint arose.

Summons.

When Justice may issue summons.

52. WHEN a complaint is made before a Justice that any person is guilty of, or is suspected of having committed, any indictable offence, simple offence, or breach of duty, within the jurisdiction of such Justice, then such Justice may issue his summons.

Summons may be issued by clerk of petty sessions.

53. ANY such complaint may be made before the clerk of petty sessions, who may sign and issue his summons, which shall have the same force and effect as if issued by a Justice.

Summons to state matter of the complaint.

54. THE summons shall be directed to the defendant, and shall state shortly the matter of the complaint, and require him to appear at a certain time and place, before such Justices as shall then be there, to answer the complaint and to be further dealt with according to law.

Ex parte proceedings.

55. NOTHING herein contained shall oblige any Justice or clerk of petty sessions to issue a summons in any case where the application for an order of Justices is by law to be made *ex parte*.

Service, Indorsement, and Proof of Service.

Service thereof.

56. A SUMMONS must be served upon the person to whom it is directed by delivering a duplicate thereof to him personally, or, if he cannot be found, by leaving it with some person for him at his last known place of abode.

Proof of service.

57. (1.) THE service of any summons may be proved by an indorsement on the summons, signed by the person by whom it was served, setting forth the day, place, and mode of service; or such person may depose to the service on oath at the hearing.

(2.) The signature to an indorsement of service shall be *prima facie* evidence that the indorsement was signed by the person whose signature it purports to be.

Justices.

(3.) Any false statement in an indorsement of service shall render the person making the same liable, on summary conviction, to imprisonment, with or without hard labour, not exceeding six months.

Warrants in the First Instance.

58. WHEN complaint is made before a Justice—

- (1.) That a person is suspected of having committed an indictable offence within the limits of the jurisdiction of such Justice; or
- (2.) That a person charged with having committed any such offence elsewhere in Western Australia is suspected of being within such limits; or
- (3.) That a person charged with having committed an indictable offence on the high seas, or in any creek, harbour, haven, or other place in which the Admiralty of England have, or claim to have, jurisdiction, or on land outside Western Australia, of which offence cognisance may be taken by the Courts of Western Australia, is suspected of being within such limits,

Warrant and summons, in what cases issued.

the Justice may issue his warrant to apprehend such person, and to cause him to be brought before Justices in any jurisdiction to answer the complaint, and to be further dealt with according to law.

Provided that the Justice, if he thinks fit, instead of issuing his warrant in the first instance to apprehend the person charged, may proceed by summons, and issue a summons against him accordingly.

Proviso.

Notwithstanding the issue of a summons, any Justice may issue his warrant at any time before or after the time mentioned in the summons for the appearance of the defendant.

59. WHEN complaint is made before a Justice of a simple offence, the Justice may, upon oath being made before him substantiating the matter of the complaint, instead of issuing a summons, issue in the first instance his warrant to apprehend the defendant, and to cause him to be brought before Justices to answer the complaint and to be further dealt with according to law.

Warrant in the first instance for simple offence.

Direction of Warrants.

60. (1.) A WARRANT to apprehend a defendant that he may answer a complaint may be directed either to any police officer or

Direction of warrant.

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officers by name, or generally to all police officers within the State, without naming them, or to both.

Any police officer
may execute
warrant.

(2.) Any police officer may execute any warrant as if it was directed specially to him by name.

Form of Warrant.

What warrants
shall order.

61. A WARRANT shall state shortly the offence or matter of the complaint on which it is founded, and shall name or otherwise describe the person against whom it is issued, and it shall order the police officers to whom it is directed to apprehend the defendant, and to bring him before Justices in any jurisdiction to answer the complaint and to be further dealt with according to law.

Warrant to be in
force till executed.

62. A WARRANT need not be returnable at any particular time, but may remain in force until executed, and may be executed by apprehending the defendant at any place within the State.

Sunday Warrants.

Sunday warrants.

63. A JUSTICE may grant or issue any warrant and any warrant may be executed on a Sunday as on any other day.

Arrest without Warrant.

Bail of persons
arrested without a
warrant.

64. A PERSON taken into custody for an offence without a warrant shall be brought before a Justice as soon as practicable after he is taken into custody; and if it is not practicable to bring him before a Justice within twenty-four hours after he is so taken into custody, a clerk of petty sessions or an inspector or sub-inspector of police, or other police officer who is of equal or superior rank, or who is in charge of a police station, may and shall inquire into the case, and, except where the offence appears to such clerk of petty sessions, inspector, sub-inspector, or other police officer, to be of a serious nature, shall discharge the defendant upon his entering into a recognisance, with or without sureties, for a reasonable amount, to appear before Justices at the day, time, and place named in the recognisance.

Publicity.

Open Court.

65. THE room or place in which Justices sit to hear and determine any complaint upon which a conviction or order may be made shall be deemed an open and public court, to which all persons may have access so far as the same can conveniently contain them.

Justices.

Provided that in any case in which, in the opinion of the Justices, the interests of public morality require that all or any persons should be excluded from the Court, the Justices may exclude such persons therefrom accordingly.

66. THE room or place in which Justices take the examinations and statements of persons charged with indictable offences for the purpose of committal for trial and the depositions of the witnesses in that behalf shall not be deemed an open court, and the Justices may order that no person shall be in such room or place without their permission; but they shall not make such order unless it appears to them that the ends of justice require them so to do.

Exclusion of
strangers.

67. THE power to exclude any person shall not be exercised for the purpose of excluding any counsel or solicitor engaged in the case.

Counsel or solicitor
not to be excluded.

Counsel and Solicitor.

68. EVERY complainant shall be at liberty to conduct his case and to have the witnesses examined and cross-examined by his counsel or solicitor; and every defendant shall be admitted to make his full answer and defence to the charge, and to have the witnesses examined and cross-examined by his counsel or solicitor.

Conduct of case.

Evidence.

69. EVERY witness shall be examined upon oath, or in such other manner as is prescribed or allowed by the Acts in force for the time being relating to giving evidence in Courts of Justice.

Evidence, how
taken.

70. UPON any complaint of an indictable offence, or simple offence or breach of duty, the prosecutor or complainant shall be a competent witness to support such complaint.

Prosecutor and
complainant a
competent witness.

71. (1.) EXCEPT as in the Criminal Code is otherwise provided, and subject to the provisions therein contained, upon any complaint of an indictable offence, the defendant, and the wife or husband of the defendant, shall be a competent but not a compellable witness.

Defendant and wife
or husband, when
competent.

(2.) Upon any complaint of an indictable offence against morality the husband or wife of a defendant shall be a competent and compellable witness when the husband or wife of an accused person would be a competent or compellable witness on the trial of such person.

(3.) Upon any complaint of a simple offence or breach of duty the husband or wife of the defendant shall be a competent and compellable witness.

Justices.

Proof of negative
etc.

72. IF the complaint in any case of a simple offence or breach of duty negatives any exemption, exception, proviso, or condition contained in the Act on which the same is framed, it shall not be necessary for the complainant to prove such negative, but the defendant shall be called upon to prove the affirmative thereof in his defence.

Mode of taking
evidence.

73. WHEN a person is charged with an indictable offence, the depositions of the witnesses shall be reduced to writing, and shall be read over to and signed respectively by the witnesses, and shall be signed also by the Justices.

Witnesses in General.

Power of Justice
to summon
witnesses to attend
and give evidence.

74. (1.) ANY Justice or clerk of petty sessions may issue his summons to any person requiring him to be and appear as a witness at a time and place mentioned in the summons before such Justices as shall then be there to testify what he knows concerning the matter of the complaint.

(2.) A summons to a witness must be served, and proof of service may be given in the same manner as hereinbefore prescribed in the case of a summons to a defendant.

After summons
warrant.

75. (1.) IF a person summoned as a witness neglects or refuses to appear at the time and place appointed by the summons, and no just excuse is offered for such neglect or refusal, then (after proof that the summons was duly served upon such person, and, except in the case of indictable offences, that a reasonable sum was paid or tendered to him for his costs and expenses of attendance) the Justices before whom such person was summoned to appear may then and there impose upon him in his absence a penalty not exceeding Twenty pounds, which may be recovered in the same manner as penalties imposed upon a summary conviction as hereinafter provided.

(2.) The Justices may also issue their warrant to bring and have such person at a time and place to be therein mentioned before such Justices as shall then be there to testify as aforesaid.

(3.) No payment or tender of expenses shall be necessary in the case of indictable offences.

Warrant in the first
instance.

76. IF the Justice is satisfied by evidence upon oath that it is probable that a person whose evidence is desired will not attend to

Justices.

give evidence without being compelled so to do, then, instead of issuing a summons, he may issue his warrant in the first instance.

77. IF on the appearance of a person before Justices, either voluntarily or in obedience to a summons, or upon being brought before them by virtue of a warrant, such person refuses to be examined upon oath concerning the matter, or refuses to take an oath, or having taken an oath refuses to answer such questions concerning the matter as are then put to him, without offering any just excuse for such refusal, any Justice then present and having there jurisdiction may by warrant commit the person so refusing to gaol, there to remain and be imprisoned for any time not exceeding seven days, unless in the meantime he consents to be examined and to answer concerning the matter.

Witness not answering.

78. WHEN Justices have authority to summon any person as a witness, they shall have the like authority to require and compel him to bring and produce, for the purposes of evidence, all documents and writings in his possession or power, and to proceed against him in case of neglect or refusal so to do in the same manner as in case of neglect or refusal to attend or refusal to be examined.

Production of documents before Justices.

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

Remand and Adjournment.

79. IN any case of a charge of an indictable offence, if from the absence of witnesses, or from any other reasonable cause, it becomes necessary or advisable to defer the hearing of the case, the Justices before whom the defendant appears or is brought may adjourn such hearing to the same or some other place, and may, by their warrant, from time to time remand the defendant to some gaol, or other place of security, for such period as they may in their discretion deem reasonable (but not exceeding eight clear days at any one time) to be there kept, and to be brought before the same or such other Justices as shall be acting at the time or place appointed for continuing the hearing.

Remand of defendant.

80. IF the remand is for a time not exceeding three clear days, the Justices may verbally order the person in whose custody the defendant then is, or any other person named by the Justices in that behalf, to keep the defendant in his custody, and to bring him before the same or such other Justices as shall be acting at the time and place appointed for continuing the hearing.

Verbal remand.

Justices.

Bringing up during remand.

81. ANY Justices may order the defendant to be brought before them at any time before the expiration of the time for which he was so remanded, and the officer in whose custody he then is shall duly obey such order.

Bail of defendant during examination.

82. INSTEAD of detaining the defendant in custody during the period for which he is remanded, any one Justice before whom he appears or is brought may, subject to the provisions hereinafter contained, order his discharge upon recognisance.

Remand to another place.

83. IN any case of a charge of an indictable offence, the Justices before whom the defendant appears may, if they think fit, bind over such witnesses as they have examined by recognisance to give evidence, and may, by warrant, order the defendant to be taken before Justices having jurisdiction in or near the place where the offence is alleged to have been committed, or in any other place in Western Australia where any of the witnesses to be examined are, and shall at the same time deliver the complaint, and also the depositions and recognisances so taken by them, to the officer who has the execution of the last-mentioned warrant, to be by him delivered to the Justices before whom he shall take the defendant in obedience to such warrant.

Effect of depositions, etc.

84. SUCH depositions and recognisances shall be deemed to be taken in the case, and shall be treated as if they had been taken by or before the last-mentioned Justices, and shall, together with such depositions and recognisances as such last-mentioned Justices shall take in the matter of the charge against the defendant, be transmitted to the proper officer in the manner and at the time hereinafter mentioned, if the defendant is committed for trial upon the charge or discharged upon recognisances.

Provided that, if the last-mentioned Justices do not think the evidence against the defendant sufficient to put him upon his trial, and discharge him without recognisances, every recognisance so taken by the first-mentioned Justices shall be null and void.

Defendant may have to pay expense.

85. IF it appears to the Justices by whom any defendant is committed for trial or for sentence that he has money sufficient to pay the whole or some part of the expenses of conveying him from the place where he was first brought before Justices to the place where he was committed, such Justices may order that, in the event of his conviction, such money or a sufficient part thereof shall be applied to such purpose.

Adjournment of the hearing.

86. IN any case of a charge of a simple offence or breach of duty, the Justices present, or, if only one Justice is present, such one Justice, may adjourn the hearing to a certain time and place to be

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then appointed and stated, in the presence and hearing of the party or parties, or their respective counsel or solicitors then present, and in the meantime may suffer the defendant to go at large, or may commit him, or may order his discharge upon his entering into a recognisance conditioned for his appearance at the time and place appointed for continuing the hearing.

Committal and Recognisance.

87. WHEN Justices commit a defendant by way of remand or upon an adjournment, or at any time before the decision, they may commit to the gaol, or any other place of security in the place for which they are then acting, or to such other safe custody as they think fit.

Place of committal or detention.

88. WHEN Justices commit a witness or person sought to be made a witness, and when they commit a defendant after the decision, they must commit to a gaol.

Place to which committal to be made.

89. A WITNESS or person sought to be made a witness may be discharged upon recognisance.

Witness may be discharged on recognisance.

90. WHEN Justices are authorised to discharge a defendant, witness, or other person upon recognisance, they may order his discharge upon his entering into a recognisance, with or without a surety or sureties at their discretion, conditioned for his appearance at the time and place to which the hearing is adjourned, or which is named in the recognisance.

Recognisances.

91. IF a defendant, witness, or other person, does not appear at the time and place mentioned in the recognisance, then the Justices who are there present may adjourn the hearing, and may issue a warrant for his apprehension as hereinbefore provided.

Issue of warrant for non-appearance.

Recognisances generally.

92. WHEN Justices have fixed, as regards any recognisance, the amount in which the principal and sureties (if any) are to be bound, the recognisance, notwithstanding anything in this or any other Act, need not be entered into before the same Justices, but may be entered into by the parties before the same or any other Justice or Justices or before any clerk of petty sessions, or before an inspector or sub-inspector of police or other police officer who is of equal or superior rank, or who is in charge of a police station, or, where any one of the parties is in gaol, before the keeper of such gaol; and thereupon all the consequences of law shall ensue, and

Recognisances taken out of Court.

Justices.

the provisions of this Act with respect to recognisances taken before Justices shall apply as if the recognisances had been entered into before such Justices as heretofore by law required.

Forfeited recognisances, how to be enforced.

93. WHEN the conditions, or any of them, in any recognisance taken before Justices exercising a summary jurisdiction are not complied with, any Justice may certify upon the back of the recognisance in what respect the conditions have not been observed, and transmit the same to the proper officer, to be proceeded upon in like manner as other recognisances, and such certificate shall be deemed sufficient *prima facie* evidence of the recognisance having been forfeited.

Arrest of principal by sureties.

94. WHEN a recognisance is conditioned for the appearance of a person on a certain day before Justices, or to take his trial before the Supreme Court, or a Court of General or Quarter Sessions of the Peace, the sureties bound by such recognisance may, before the day so appointed, apprehend their principal and bring him before Justices, or deliver him into the custody of the keeper of the gaol named in the warrant of committal, as the case may be; and any police officer shall, if required by such sureties, assist them in such apprehension.

Execution of Warrants of Commitment.

Conveying prisoners to gaol.

95. THE person to whom a warrant of commitment is directed shall convey the person therein named or described to the gaol or other place mentioned in the warrant, and there deliver him, together with the warrant, to the keeper of such gaol or place, who shall thereupon give the person delivering the prisoner into his custody a receipt for such prisoner, setting forth the state and condition in which such prisoner was when he was delivered into the custody of such keeper.

Regulations and Forms.

Regulations, Forms, and Fees.

96. (1) THE Governor may make regulations for carrying out this Act, and prescribing the fees to be taken in Courts of Petty Sessions.

(2.) The forms in the Fourth Schedule, or forms to the like effect, may be used for the purposes to which they are respectively applicable, and instruments in such forms shall be deemed sufficient in law, notwithstanding that any other form is prescribed by any Act heretofore passed, but such forms or any of them may be varied for the purpose of adapting the same to circumstances.

(3.) The fees in the Fifth Schedule shall be taken until other fees are prescribed.

PART V.—PROCEEDINGS IN CASE OF INDICTABLE OFFENCES.

Information presented.

97. WHERE an information is presented in the Supreme Court, or in a Court of General or Quarter Sessions of the Peace, against any person then at large, whether he is bound by any recognisance to appear to answer to the same or is not so bound, the person acting as clerk of arraigns at such Court shall, at any time after the end of the sessions at which the information was presented, if such person has not already appeared and pleaded to the information, grant to the prosecutor, upon his application, a certificate of the information having been presented.

Certificate where information is presented.

98. UPON production of such certificate to any Justice for any jurisdiction or place in which the offence is in the information alleged to have been committed, or in which the person informed against is supposed or suspected to be, such Justice shall issue his warrant to apprehend such person, and to cause him to be brought before Justices, to be dealt with according to law.

Warrant thereon.

99. IF such person is thereupon apprehended and brought before Justices they, upon it being proved upon oath before them that the person so apprehended is the same person who is so informed against, shall, without further inquiry or examination, commit him for trial or discharge him on recognisances.

Committal.

100. IF the person so informed against is, at the time of such application and production of the certificate to the Justice, confined in any gaol for any other offence than that charged in the information, the Justice, upon proof upon oath that the person so informed against and the person so confined are one and the same, shall issue his warrant directed to the keeper of the gaol in which the person so informed against is then confined, commanding him to detain such person in his custody until he is lawfully removed therefrom for the purpose of being tried upon the information, or until he is otherwise removed or discharged out of his custody by due course of law.

Detainer of prisoner in gaol.

Warrant—Committal.

101. WHEN a person charged with an indictable offence, and against whom a summons has been issued, does not appear before the Justices at the time and place mentioned in the summons, and it is made to appear to the Justices that the summons was duly served upon him a reasonable time before the time therein appointed for appearing to it, then such Justices

Disobedience of summons.

Justices.

may issue their warrant to apprehend the defendant and to bring him before Justices to answer the complaint, and to be further dealt with according to law.

Statement of
defendant.

102. EXCEPT where a defendant is dealt with summarily under the provisions of the Criminal Code, after the examination of all the witnesses on the part of the prosecution is completed, the Justice or one of the Justices before whom the examination has been completed shall say to the defendant these words, or words to the like effect:—

“Having heard the evidence, do you wish to say anything in answer to the charge? You are not obliged to say anything unless you desire to do so, but whatever you say will be taken down in writing, and may be given in evidence against you upon your trial.

And whatever the defendant shall then say in answer thereto shall be taken down in writing and read to him, and shall be signed by the Justices, and by the defendant, if he so desires, and shall be kept with the depositions of the witnesses, and shall be transmitted with them to the proper officer as hereinafter provided.

Provided that if all or any of the depositions of the witnesses have been previously read to the defendant, either at one time or at several times, it shall not be necessary to read them again to the defendant, unless he desires that they be again read to him.

Statement may be
put in evidence at
trial.

103. AFTERWARDS, upon the trial of the defendant, any such statement made by him may, if necessary, be given in evidence against him without further proof thereof, if the same purports to be signed by the Justice or Justices by or before whom it purports to have been taken, unless it is proved that it was not in fact signed by the Justice or Justices by whom it purports to be signed.

Saving.

104. NOTHING herein contained shall prevent the prosecutor in any case from giving, in evidence, any admission or confession or other statement of the defendant made at any time, which by law would be admissible as evidence against such person.

Evidence for
defence.

105. AFTER addressing the defendant as required by section one hundred and two, and after taking the statement (if any) of the defendant, the Justice or one of the Justices shall ask the defendant whether he desires to give evidence or to call any witnesses; and if he gives evidence or calls any witnesses, the Justices shall, in the presence of the defendant, take the statement on oath, both examination and cross-examination, of the defendant or of the

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Justices.

witnesses so called who know anything relating to the facts and circumstances of the case or anything tending to prove the innocence of the accused.

106. WHEN all the evidence offered upon the part of the prosecution against a person charged with an indictable offence, as such, has been heard, if the Justices then present are of opinion that it is not sufficient to put the defendant upon his trial for any indictable offence, the Justices shall forthwith order the defendant, if he is in custody, to be discharged as to the complaint then under inquiry.

Discharge of
defendant.

107. IF, in the opinion of the Justices, the evidence is sufficient to put the defendant upon his trial for an indictable offence, then they shall order him to be committed to take his trial for the offence before some Court of competent jurisdiction, and in the meantime shall, by their warrant, commit him to gaol, to be there safely kept until the sittings of the Court before which he is to be tried, or until he is delivered by due course of law or admitted to bail as hereinafter mentioned.

Committal of
defendant.

108. BUT if there is only one Justice present, and the evidence is such as neither to raise a strong or probable presumption of guilt nor to warrant the dismissal of the charge, such Justice shall order the defendant to be remanded from time to time until he can be taken before two or more Justices.

One Justice.

109. WHEN a person has been charged before Justices with an indictable offence, as such, and has been committed for trial, then if, upon the subsequent trial of the person so charged, it is proved that any person whose deposition has been taken in manner hereinbefore prescribed at the hearing of such charge before the Justices is dead, or out of the State, or so ill as not to be able to travel, and if such deposition purports to be signed by the Justice by or before whom the same purports to have been taken, such deposition may be read as evidence on the trial without further proof thereof, unless it is proved that it was not in fact signed by the Justice by whom it purports to be signed.

Depositions of persons
dead or absent.

110. IF a person dangerously ill and unable to travel is believed to be able to give material and important information relating to an indictable offence, or to a person accused thereof, and it is desirable, in the interests of truth and justice, that means should be provided for perpetuating such testimony and rendering the same available in the event of the death of the person giving the same, the proceedings described in the next section may take place.

Power to take statements of witnesses
dangerously ill.
See 37 Vict., No. 4,
s. 4.

Justices.

How statements to
be taken.
See *Ibid.*

111. WHENEVER it is made to appear to the satisfaction of any Justice that any such person is dangerously ill and not likely to recover from such illness, and that it is not practicable for any Justice to take a deposition, in accordance with the provisions of Part IV. of this Act, of such person, the Justice may take, in writing, the statement on oath or affirmation of such person, and the Justice shall thereupon subscribe the same, and add thereto a statement of his reason for taking the same, and of the day and place when and where the same was taken, and of the names of the persons (if any) present at the taking thereof, and if the same relates to any indictable offence for which any accused person is already committed or bailed to appear for trial, shall transmit the same with the said addition to the proper officer of the Court for trial at which the accused person has been committed or bailed; and in all other cases he shall transmit the same to the Police or Resident Magistrate for the district in which he has taken the same, who shall preserve the same and file it of record.

Depositions when
admissible in evi-
dence.
See *Ibid.*

112. A STATEMENT taken as described in sections one hundred and ten and one hundred and eleven may be read in evidence either for or against the accused upon his trial, if the person who made the same is proved to be dead, or if it is proved that there is no reasonable probability that such person will ever be able to travel or to give evidence, without further proof thereof, if the same purports to be signed by the Justice by or before whom it purports to be taken, and if it is proved to the satisfaction of the Court that reasonable notice of the intention to take such statement has been served upon the person (whether prosecutor or accused) against whom it is proposed to be read in evidence, and that such person or his counsel or solicitor had, or might have had if he had chosen to be present, full opportunity of cross-examining the person who made the same, unless it is proved that any of the requisitions of the Act were not complied with.

Prisoner to be pre-
sent when statement
taken.
See *Ibid.*, s. 5.

113. WHENEVER a prisoner in actual custody has served or received notice of an intention to take a statement as mentioned in sections one hundred and ten and one hundred and eleven, a Judge or the Justice by whom the prisoner was committed, or the visiting Justices of the prison in which he is confined may, by an order in writing, direct the gaoler having the custody of the prisoner to convey him to the place mentioned in the said notice for the purpose of being present at the taking of the statement; and such gaoler shall convey the prisoner or cause him to be conveyed accordingly, and the expenses of such conveyance shall be paid out of the funds applicable to the other expenses of the prison.

Justices.

Defendant admitting guilt.

114. IF the defendant, on being asked, as provided in section one hundred and two, whether he wishes to say anything in answer to the charge, says that he is guilty of the charge, the Justices, instead of committing the defendant for trial as hereinbefore provided, shall order him to be committed for sentence before some Court of competent jurisdiction, and in the meantime shall, by their warrant, commit him to gaol, to be there safely kept until the sittings of that Court, or until he is delivered by due course of law.

If defendant admits guilt, he may be committed for sentence.

Bail.

115. NO person charged with a capital crime shall be admitted to bail except by order of the Supreme Court or a Judge thereof.

Bail in capital crimes.

116. WHEN any person is charged before Justices with any crime except a capital crime, or with any of the misdemeanours stated in the Sixth Schedule, such Justices may admit the person charged to bail, upon his entering into a recognisance with such surety or sureties as in the opinion of the Justices will be sufficient to insure his appearance at the time and place when and where he is to be tried for the offence.

Bailing persons charged with crimes and misdemeanours.

117. WHEN a person charged with any such crime or misdemeanour is committed to gaol to take his trial for the same, then at any time before the first day of the sitting or session at which he is to be tried, or before the day to which such sitting or session is adjourned, the Justices who have signed the warrant for his commitment or a Police or Resident Magistrate may admit such defendant to bail.

Bail after commitment for trial.

118. WHEN the committing Justices are of opinion that for any alleged crime or misdemeanour the defendant ought to be admitted to bail, they shall certify, on the back of the warrant of commitment, their consent to the defendant being bailed, stating also the amount of bail which ought to be required.

Certificate.

119. IF it is inconvenient for the surety or sureties to attend to join with the defendant in the recognisance of bail, the committing Justices or a Police or Resident Magistrate may make a duplicate of such certificate; and upon the same being produced to any person authorised by this Act in that behalf, such last-mentioned person may thereupon take the recognisance of the surety or sureties in conformity with such certificate.

Duplicate certificate of consent to bail.

Justices.

Procedure.

120. UPON the recognisance being duly taken and produced, together with the certificate on the warrant of commitment, to the keeper of the gaol in which the defendant is detained, the defendant shall be discharged out of custody as to that commitment.

Bail for persons charged with other misdemeanours.

121. WHEN any person is charged before Justices with any misdemeanour other than those referred to in section one hundred and sixteen, the Justices, if in their opinion the evidence is sufficient to put the defendant upon his trial, shall, instead of committing him to gaol for such offence, admit him to bail with or without sureties in such reasonable sum as they think sufficient to ensure his appearance at the time and place where he is to be tried for the offence; but if he fails to give bail he shall be committed to gaol to take his trial for the offence.

If he has been committed to gaol and applies to any Justice, before the first day of the sitting or session at which he is to be tried, or before any day to which such sitting or session is adjourned, to be admitted to bail, such Justice shall admit him to bail accordingly, with or without sureties, in such reasonable sum as aforesaid.

Transmission of Recognisances of Bail.

Recognisances, how transmitted.

122. WHEN a defendant in custody is admitted to bail by a Justice other than the committing Justices, the Justice so admitting him to bail shall forthwith transmit the recognisance or recognisances of bail to the committing Justices, or one of them, or to the clerk of petty sessions, to be by them or him transmitted with the depositions to the proper officer.

Warrant of Deliverance.

Warrant of deliverance.

123. WHEN Justices admit to bail any person then in any gaol charged with an offence for which he is so admitted to bail, such Justices shall send to or cause to be lodged with the keeper of the gaol a warrant of deliverance, requiring the keeper to discharge the person so admitted to bail if he is detained for no other offence, and upon such warrant of deliverance being delivered to or lodged with the keeper, he shall forthwith obey the same.

Witnesses where Committal for Trial.

Recognisance of witnesses, etc.

124. THE Justices before whom any witnesses are examined may bind every such witness by recognisance, in such sum as they may think fit, to appear at the Court at which the defendant is to be tried, then and there to give evidence against or for the defendant, and shall so bind over all witnesses called for the prosecution if so required by the defendant.

Justices.

125. EVERY such recognisance shall be duly acknowledged by every person who enters into it, and shall be subscribed by the Justices before whom it is acknowledged; and a notice thereof, signed by the Justices, shall at the same time be given to every person bound thereby.

Signatures of Justices; notice to witnesses.

126. IF a witness refuses to enter into such recognisance, the Justices may, by warrant, commit him to gaol, there to be safely kept until after the trial of the defendant, unless in the meantime such witness duly enters into such recognisance before a Justice.

Justices may commit refractory witness.

Provided that, if afterwards, from want of sufficient evidence in that behalf or other cause, the Justices before whom the defendant has been brought do not commit him or admit him to bail for the offence with which he is charged, or if the Attorney General or person appointed to present indictments declines to file an information against the defendant for the offence, any Justice, upon being duly informed of the fact, may, by his order in that behalf, order and direct the keeper of the gaol where such witness is in custody to discharge him from the same, and such keeper shall thereupon forthwith discharge him accordingly as to that warrant.

Discharge of refractory witness.

Transmission of Depositions, etc.

127. WHEN a defendant is committed for trial or for sentence, all informations, depositions, exhibits, statements, and recognisances shall be transmitted by the Justices, as soon as possible after the conclusion of the case before them, to the Attorney General, or the person appointed to present indictments in the district, according as the defendant is committed to be tried or to be sentenced before the Supreme Court in Perth, or within a circuit district or before a Court of General or Quarter Sessions.

Transmission of depositions, etc.

128. THE Attorney General, and the person appointed to present indictments shall, respectively, after such transmission and before the day of trial, have and be subject to the same duties and liabilities in respect of the said several documents upon a *certiorari* directed to them respectively, or upon a rule or order directed to them in lieu of that writ, as the Justices would have had and been subject to upon a *certiorari* to them if such documents had not been so transmitted.

Duty of Attorney General, etc.

129. THE Attorney General and the person appointed to present indictments in a district respectively, and any officer prosecuting for the Attorney General shall, at any time after the opening of the Court at the sittings or sessions at which the trial is to be had, or the sentence passed, deliver the said documents, or any of them, to the proper officer of the Court, if and when the presiding Judge so directs.

Authority of Judge.

Justices.

Recommittal.

Recommittal in case of error.

130. IF in any case a defendant is committed to take his trial or for sentence before a Court which has not jurisdiction to try the case or pass sentence upon him, or before which he ought not to be committed to take his trial, or for sentence, or the Judge whereof is by reason of interest or otherwise incapacitated from trying the case or passing sentence, the committing Justices or any other Justices may, at any time before the time appointed for holding such Court, direct the defendant and the warrant of commitment, if any, to be brought before them, whether the defendant has been admitted to bail or not, and may, upon production of the depositions and without further evidence, cancel the warrant of commitment, and may commit the defendant afresh to take his trial, or for sentence, before another and the proper Court, and may, in a proper case, admit him to bail as hereinbefore provided, or enlarge his bail, if he has been already admitted to bail; or if the defendant is brought before the Court at the time appointed for holding the same, the Court may, notwithstanding such defect of jurisdiction or incapacity, remand him to take his trial, or for sentence, before another and the proper Court, and may, in a proper case, admit him to bail, subject to the provisions hereinbefore contained, or enlarge his bail if he has been already admitted to bail.

When a fresh commitment or remand has been so made, the same or any other Justices, or such Court, may bind the witnesses by fresh recognisance to appear and give evidence at the Court to which the defendant is so committed or remanded, and for that purpose may summon and compel the attendance of the witnesses before the Justices or the Court in the manner hereinbefore provided for compelling the attendance of witnesses to give evidence.

Restitution of Property.

Restitution of property,

131. WHEN a defendant is summarily convicted of an indictable offence, or the Justices are of opinion that the offence is proved, they may order restitution of the property in respect of which the offence was committed to the owner thereof or his representative.

Or its value.

132. IF such property is not then forthcoming, the same Justices, whether they award punishment or otherwise, may inquire into and ascertain the value of the property in money, and, if they think proper, may order payment of the amount of such value to the true owner by the defendant, either at one time or by instalments, at such periods as the Justices deem reasonable, and the amount so ordered to be paid may be recovered in the same manner as moneys ordered to be paid by Justices upon a conviction for a simple offence.

Justices.

Record.

133. THE Justices before whom any person is summarily convicted of an indictable offence, under the provisions of the Criminal Code, shall forthwith thereafter transmit the conviction and recognisances (if any) to the Registrar of the Supreme Court, to be kept by him among the records of the Court. Record.

PART VI.—PROCEEDINGS IN CASE OF SIMPLE OFFENCES AND
BREACHES OF DUTY.

Complainant's Default.

134. IF, upon the day and at the time and place appointed by the summons for hearing and determining a complaint of a simple offence or breach of duty, the defendant attends voluntarily in obedience to the summons, or is brought before the Justices by virtue of a warrant, and the complainant (having had notice of such day, time, and place) does not appear by himself, his counsel, or solicitor, the Justices shall dismiss the complaint, unless for some reason they think proper to adjourn the hearing of the same to some other day, in which case they may adjourn the hearing accordingly, upon such terms as they think fit, and may commit the defendant in the meantime, or may discharge him upon recognisances conditioned for his appearance at the time and place to which the hearing is so adjourned. Dismissal or
adjournment in
absence of
complainant.

Defendant's Default.

135. IF, at the time and place so appointed, the defendant does not appear when called, and proof is made to the Justices, in manner hereinbefore prescribed, of due service of the summons upon the defendant a reasonable time before the time appointed for his appearance, the Justices may either— Ex parte hearing in
absence of defen-
dant.

- (1.) Proceed, *ex parte*, to hear and determine the case in the absence of the defendant; or
- (2.) Issue their warrant to apprehend the defendant, and to bring him before Justices to answer the complaint, and to be further dealt with according to law.

136. WHEN the Justices, upon the non-appearance of the defendant, issue their warrant, they shall adjourn the hearing of the complaint until the defendant is apprehended, and if the defendant is afterwards apprehended under such warrant, he shall be detained in safe custody until he can be brought up before Justices at a convenient time and place, of which the complainant shall have due notice. Or Justices may
adjourn the case.

Justices.

Hearing.

Both parties appearing.

137. IF both parties appear either personally or by counsel or solicitor, then the Justices shall proceed to hear and determine the complaint.

Proceedings at the hearing on defendant's confession.

138. WHEN the defendant is present at the hearing, the substance of the complaint shall be stated to him, and he shall be asked if he has any cause to show why he should not be convicted, or why an order should not be made against him; and if he has no cause to show, then the Justices present at the hearing may convict him, or make an order against him accordingly.

Where defendant does not admit the case.

139. BUT if he does not admit the truth of the complaint, then the Justices shall proceed to hear the complainant and his witnesses, and also the defendant and his witnesses, and also such witnesses as the complainant may examine in reply, if the defendant has given any evidence other than as to his general character; and the Justices, having heard the 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 complaint, as justice may require.

Justices may proceed to hearing in absence of both or either of the parties.

140. IF at the time or place to which a hearing or further hearing is adjourned, either or both of the parties does not or do not appear personally or by counsel or solicitor, the Justices then present may proceed to such hearing or further hearing as if such party or parties were present; or if the complainant does not appear, the Justices may dismiss the complaint with or without costs.

Practice.

Conduct of summary proceedings regulated.

141. THE practice before Justices upon the hearing of a complaint of a simple offence or breach of duty shall, in respect of the examination and cross-examination of witnesses be in accordance as nearly as may be with the practice for the time being of the Supreme Court upon the trial of an issue of fact in an action at law. But the complainant, his counsel, or solicitor shall not, without the leave of the Justices, be entitled to make any observations in reply upon the evidence given by the defendant; nor shall the defendant, his counsel, or solicitor without such leave be entitled to make any observations in reply upon any evidence given by the complainant in reply.

Dismissal.

Dismissal of complaint.

142. IF the Justices dismiss a complaint, they may, if required so to do, and if they think fit, make an order of dismissal, and give the defendant a certificate thereof, which certificate shall, upon production and without further proof, be a bar to any subsequent complaint for the same matter against the same person.

Justices.

143. WHEN a summary conviction or order adjudges the payment of a pecuniary penalty or compensation or a sum of money or costs, and by this Act or the Act authorising the decision the amount of such penalty, compensation, or sum of money or costs is—

Summary conviction for a penalty.

- (1.) To be levied on the goods and chattels of the defendant by distress and sale thereof or by execution; or
- (2.) No mode of raising or levying such penalty, compensation, a sum of money or costs or of enforcing payment thereof is provided,

the conviction shall adjudge the same to be recoverable by execution against the goods and chattels of the defendant, and that in default of sufficient goods and chattels the defendant be imprisoned with or without hard labour for a period, according to the scale hereinafter prescribed, unless the sum adjudged to be paid, and all costs and charges of the execution, and also, if the Justices think fit so to order, of taking and conveying the defendant to gaol, are sooner paid.

Provided that—

- (a.) If it appears to the Justices that an execution against the goods and chattels of the defendant would be more injurious to the defendant or his family than imprisonment; or
- (b.) By the confession of the defendant or otherwise, that he has no goods or chattels whereon to levy the penalty, compensation, or sum or costs,

the Justices may, instead of adjudging that such penalty, compensation, or sum or costs shall be recoverable by execution, may order such person to be imprisoned as aforesaid.

144. WHEN, by a conviction or order, any sum or costs is or are adjudged to be paid, the Justices may do all or any of the following things, namely:—

Payment by instalments of, or security taken for payment of, money.

- (1.) Allow time for the payment of the sum or costs;
- (2.) Direct payment of the sum or costs to be made by instalments;
- (3.) Direct that the person liable to pay the sum or costs shall be at liberty to give, to the satisfaction of such person as shall be specified by the Justices, security, with or without a surety or sureties, for the payment of the sum or costs, or of any instalment thereof; and such security may be given and enforced in manner provided by this Act.

When a sum or costs is or are directed to be paid by instalments, and default is made in the payment of any one instalment, the

Justices.

same proceedings may be taken as if the original conviction or order had adjudged the payment of all the instalments then remaining unpaid and default had been made therein.

The Justices directing the payment of a sum or costs, or of an instalment of a sum or costs, may direct such payment to be made at such time or times and in such place or places and to such person or persons as may be specified; and every person to whom any such sum or costs or instalment is or are paid, if he is not the clerk of petty sessions, shall, as soon as may be, pay over or account for the same to the clerk of petty sessions.

Fine inflicted for assault may be awarded to person assaulted.

145. (1.) ON the summary conviction of any person of an assault, the Justices may award that the fine or part thereof shall be paid to the person assaulted.

(2.) The order of the Justices shall be a sufficient authority to the clerk of petty sessions receiving such fine for payment to the person assaulted.

Formal record of conviction not necessary, except for special purposes.

146. IT shall not be necessary for Justices formally to draw up a conviction or order or any other record of a decision, except on summary conviction for an indictable offence, unless the same is required by a party to the proceedings for the purpose of an appeal against the decision, or is required for the purpose of a return to a writ of *habeas corpus* or other writ from the Supreme Court.

No Certiorari.

No certiorari.

147. NO conviction or order shall be quashed for want of form, or be removed by *certiorari* or otherwise into the Supreme Court, and no warrant of commitment on a conviction shall be held void by reason of any formal defect therein; provided it is therein alleged that the party has been duly convicted, and there is a good and valid conviction to sustain it.

Copies of Depositions, etc.

Copies of proceedings in summary cases.

148. WHEN a conviction or order is made, or a complaint is dismissed by Justices, all parties interested therein shall be entitled to demand and have copies of the complaint and depositions, and of the conviction or order, from the officer or person having the custody thereof, on payment of a reasonable sum for the same, not exceeding threepence for each folio of seventy-two words, or at such other rate as may be prescribed by regulation.

Imprisonment.

Imprisonment in first instance.

149. WHEN the Justices, upon a conviction, adjudge the defendant to be imprisoned with or without hard labour, they shall issue their warrant of commitment accordingly.

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Justices.

150. WHEN Justices, upon making a conviction ~~or order~~ for a simple offence or breach of duty, adjudge the defendant to be imprisoned, and the defendant has previously been adjudged to be imprisoned upon a conviction ~~or order~~ for any other offence (whether an indictable offence or not), or breach of duty, or is adjudged at the same petty sessions to be imprisoned for any other offence ~~or breach~~ of duty, the Justices may, if they think fit (whether the defendant is actually undergoing imprisonment or not) adjudge that the imprisonment for such subsequent offence shall commence at the expiration of the term of imprisonment which the defendant is then undergoing or liable to undergo, or of any term of imprisonment to which he is sentenced at the same petty sessions.

Imprisonment for a subsequent offence.

Subject as aforesaid, every term of imprisonment imposed by Justices under this Act shall commence to run from the time when the defendant is first imprisoned under the warrant of commitment.

Costs.

151. IN all cases of summary convictions and orders, the Justices making the same may, in their discretion, order by the conviction or order that the defendant shall pay to the complainant such costs as to them seem just and reasonable.

Costs on conviction or order.

152. WHEN Justices, instead of convicting or making an order, dismiss the complaint, they may, by their order of dismissal, order that the complainant shall pay to the defendant such costs as to them seem just and reasonable.

Costs on dismissal.

153. THE sum so allowed for costs shall, in all cases, be specified in the conviction or order or order of dismissal.

The sum allowed for costs to be specified in the conviction or order.

154. THE sum allowed for costs in a conviction or order by which a penalty or sum of money is adjudged to be paid shall be recoverable in the same manner and under the same warrants as the penalty or sum of money adjudged to be paid by the conviction or order is recoverable.

Costs, how recoverable

Execution.

155. WHEN the decision adjudges the payment of a pecuniary penalty or compensation or sum of money or costs, or when an order requires the payment of a sum of money or costs, and by this Act or the Act authorising the decision, the amount of the penalty, compensation, or sum of money or costs is to be levied by distress and sale of the goods and chattels of the person liable to make such payment, or by execution, and also when the mode of raising or levying such penalty, compensation, sum of money or

Warrant of execution.

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costs, or of enforcing the payment of the same is not specified by any Act, then the same shall be recoverable by execution against the goods and chattels of the person liable to make such payment, and a warrant of execution may be issued for the purpose of levying the same.

Discharge or
detainer of defen-
dant

156. WHEN a Justice issues a warrant of execution, he may suffer the person against whom the warrant is issued to go at large, or he may verbally, or by writing, order such person to be kept and detained in safe custody until return is made to the warrant of execution, unless such person gives sufficient security, by recognisance or otherwise, to the satisfaction of the Justice for his appearance at the time and place appointed for the return of the warrant of execution.

In default of execu-
tion defendant com-
mitted.

157. IN any case in which a warrant of execution may be issued under the provisions hereinbefore contained, if at the time and place appointed for the return of the warrant the officer who has the execution of the same returns that he could find no goods or chattels, or no sufficient goods or chattels, whereon he could levy the sum therein mentioned, together with the costs of or occasioned by levying the same, the Justice before whom the same is returned may issue his warrant of commitment of the person, against whom the warrant of execution is issued, to gaol there to be imprisoned with or without hard labour for such period as shall have been adjudged by the conviction, unless the sum adjudged to be paid and all costs and charges of the execution, and also, if the Justice thinks fit so to order, the costs and charges of taking and conveying such person to gaol (the amount thereof being ascertained and stated in the warrant of commitment) are sooner paid.

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

158. WHEN the Act by virtue of which a conviction or order for a penalty or compensation, or for the payment of a sum of money or costs is made, makes no provision for such penalty or compensation or sum or costs being levied by distress or execution, but directs that, if the same is not paid forthwith or within a certain time therein mentioned, or to be mentioned in the conviction or order, the defendant shall be imprisoned with or without hard labour for a certain time, unless such penalty, compensation, or sum or costs is or are sooner paid, then such penalty, compensation, or sum or costs shall not be levied by execution; but if the defendant does not pay the same forthwith, or at the time and in the manner specified in the conviction or order for payment thereof, the Justices making the conviction or order, or any other Justice, may issue his warrant of commitment of the defendant to gaol there to be imprisoned with or without hard labour for such period as shall have been adjudged by the conviction, unless the sum and costs (if any), or the costs,

Justices.

adjudged to be paid, and also, if the Justices think fit so to order, the costs and charges of taking and conveying the defendant to gaol (the amount thereof being ascertained and stated in the warrant of commitment) are sooner paid.

159. WHEN 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 with or without hard labour, then, if the defendant neglects or refuses to do such act, the Justices making such order, or some other Justice, may issue his warrant of commitment of the defendant to gaol there to be imprisoned with or without hard labour, as the case may be, for such time as the Justices making the order directed.

Commitment in other cases.

Satisfaction of Execution by Payment.

160. WHEN a person is imprisoned for non-payment of a penalty, compensation, or sum of money, or costs, he may pay to the keeper of the gaol in which he is 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 is in his custody for no other matter, and shall forthwith pay the sum so received to the clerk of petty sessions.

Discharge of defendant.

Payment under Execution.

161. IN every warrant of execution, the person to whom it is directed shall be thereby ordered to pay the amount of the sum and costs to be levied thereunder to the clerk of petty sessions, and if any person convicted of any penalty, or ordered by Justices to pay any sum of money or costs, pays the same to any other person, such other person shall forthwith pay the same to such clerk of petty sessions.

To whom payments to be made.

Warrants of Execution.

162. WHEN any Justice issues a warrant of execution purporting to have been issued within the limits of his jurisdiction, such warrant may be executed within any part or parts of the State although beyond the limits of such jurisdiction, and, if necessary, from time to time until satisfaction thereof.

Warrant may be executed throughout State.

Mode of Execution.

163. WITH respect to warrants of execution issued by Justices, the following provisions shall have effect:—

Procedure on execution.

- (1.) The warrant shall be executed by seizure and sale of the goods and chattels of the person against whom the warrant is issued, and shall be executed by or under the direction of a police officer.

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- (2.) The wearing apparel, bedding, and household furniture, of a person and his family to the value of Ten pounds, and the tools and implements of his trade, shall not be taken in execution.
- (3.) Except so far as the person against whom the execution is issued otherwise consents in writing, the goods and chattels seized shall be sold by public auction, and except in the case of perishable goods forty-eight hours, at the least, shall intervene between the making of the levy and the sale.
- (4.) Subject as aforesaid, the goods and chattels seized shall be sold within the period fixed by the warrant, and if no period is so fixed, then within the period of fourteen days from the date of making the levy, unless the sum for which the warrant was issued, together with the charges of the execution, are sooner paid.
- (5.) The police officer charged with the execution of a warrant of execution may deduct out of the amount realised by such sale all costs and charges actually incurred in effecting such sale, and shall render to the owner the overplus (if any) after retaining the amount of the sum for which the warrant was issued, and the proper costs and charges of the execution of the warrant.
- (6.) A written account of the costs and charges incurred in respect of the execution of any warrant of execution shall be sent by the police officer charged with the execution of the warrant to the clerk of petty sessions; and the person against whom the warrant was issued may, at any time within one month after the levy, inspect such account, at any reasonable time, and take a copy of such account.

Satisfaction of execution by payment.

164. WHEN a person pays or tenders to the police officer charged with the execution of a warrant of execution the sum mentioned in such warrant, or produces the receipt for the same of the clerk of petty sessions, and also pays the amount of the costs and charges of the execution up to the time of such payment or tender, the officer shall not execute the warrant.

No person executing defective warrant to be deemed a trespasser.

165. NO execution made under the authority of this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser by reason of any defect or want of form in the conviction order or warrant of execution, nor shall any such person be deemed a trespasser from the beginning by reason of any irregularity which may afterwards be committed by him, but any person aggrieved by such irregularity may recover satisfaction for every special damage by action at law.

Justices.

Imprisonment.

166. SUBJECT as in this Act mentioned, and notwithstanding any enactment to the contrary, when Justices have authority under this Act or under any other Act, whether past or future, to impose imprisonment with hard labour or to impose a fine for an offence punishable on summary conviction, such Justices may, in the case of imprisonment, impose the same without hard labour, and may reduce the prescribed period thereof or do either of such acts; and in the case of a fine, if it is imposed as in respect of a first offence, may reduce the prescribed amount thereof.

Mitigation of punishment by Justices.

And where, in a case where either imprisonment or fine is imposed, there is prescribed a requirement for the defendant to enter into his recognisance and to find sureties for keeping the peace or being of good behaviour, and observing some other condition, or to do any of such things, the Justices may dispense with any such requirement or any part thereof.

And where Justices have authority under an Act other than this Act, whether past or future, to impose imprisonment for an offence punishable on summary conviction, and have not authority to impose a penalty for that offence, they may notwithstanding, when adjudicating on that offence, if they think that the justice of the case will be better met by a fine than by imprisonment, impose a penalty not exceeding Twenty-five pounds, and not being of such an amount as will subject the offender under the provisions of this Act, in default of payment of the penalty, to any greater term of imprisonment than that to which he is liable under the Act authorising the imprisonment.

167. THE period of imprisonment imposed by Justices exercising summary jurisdiction under this Act, or under any other Act, whether past or future, upon the non-payment of any penalty, compensation, or sum of money or costs, adjudged to be paid by a conviction or order, or upon default of sufficient goods and chattels whereon to levy to satisfy an execution for such penalty, compensation, or sum or costs, shall, notwithstanding any enactment to the contrary in any past Act, be such period as in the opinion of the Justices will satisfy the justice of the case, but not exceeding in any case the maximum fixed by the following scale, that is to say—

Scale of imprisonment for non-payment of money.

Where the amount of the sum or sums of money adjudged to be paid (including costs as ascertained by the conviction or order, or order of dismissal)	The said period shall not exceed—
Is less than 10s.	7 days.
Is not less than 10s. but is less than £1 ...	14 days.
Is not less than £1 but is less than £5 ...	2 months.
Is not less than £5 but is less than £10...	4 months.
Is not less than £10	6 months.

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And such imprisonment may be with or without hard labour, although hard labour may not be expressly authorised by the Act on which the conviction or order is founded.

Imprisonment for non-payment of costs.

Provided that when a conviction or order does not order the payment of any penalty or compensation or sum of money, but orders the payment of costs, and when a complaint is dismissed with costs to be paid by the complainant, the period of imprisonment imposed upon non-payment of such costs shall not exceed one month.

Duty of Clerk of Petty Sessions and of Keeper of Gaol.

Clerk of petty sessions to pay over to Treasurer.

168. ALL sums received by a clerk of petty sessions as the proceeds of a warrant of execution shall be paid by him to the person to whom the same respectively are to be paid, according to the directions of the Act under which the complaint was made, and if the Act contains no directions for the payment thereof to any person, then the clerk of petty sessions shall pay the same into the Treasury.

Accounts to be kept in the form in Schedule 7.

169. EVERY clerk of petty sessions and every keeper of a gaol shall keep a true and exact account of all moneys received by him under or by virtue of any conviction or order, showing the persons from whom and the time when the sums were received, and to whom and when the sums were paid, in the form in the Seventh Schedule of this Act, or to the like effect, and shall, once in every month, render a fair copy of every such account to the Treasury.

Remission.

Remission of penalty.

170. THE Governor may remit the whole or any part of any fine, penalty, forfeiture, or costs imposed by a conviction, whether any part thereof is payable to any person other than His Majesty or not; and upon such remission the conviction shall cease to have effect either wholly or partially, as the case may be.

Fines payable to informers to be retained seven days.
See 39 Vict., No. 20, s. 2.

171. WHEN any fine or penalty imposed by a conviction, or any part thereof, is payable to any person other than His Majesty, the clerk of petty sessions, on such fine or penalty being paid, shall retain the same, and shall not pay over the same, or any part thereof, to any such person until after the expiration of seven days from the payment thereof, or such further period as the Justices may direct.

After a fine or penalty has been paid to any such person, it shall not be recoverable from His Majesty, notwithstanding that the conviction may afterwards be set aside.

PART VII.—SURETY OF THE PEACE AND FOR
GOOD BEHAVIOUR.

172. WHEN complaint in writing is made before a Justice that any person has threatened to do to the complainant, or to his wife or child, or any person under his care or charge, any bodily injury, or to burn or injure his house, or otherwise to commit a breach of the peace towards him or his wife or child, or such other person as aforesaid, or to procure others to commit such breach of the peace or do such injury, or has used any language indicating an intention to commit such breach of the peace or to do such injury, or procure it to be committed or done, and that the complainant is in fear of the defendant, and the complainant therefore prays that the defendant may be required to find sufficient sureties to keep the peace, such proceedings may be had as are in this Part of this Act mentioned.

Complaint praying
for surety of the
peace.

173. WHEN complaint in writing, on oath, is made before a Justice that any person is a person of evil fame, and the complainant therefore prays that the defendant may be required to find sufficient sureties to be of good behaviour, such proceedings may be had as are in this Part of this Act mentioned.

Complaint praying
for surety for the
good behaviour.

174. UPON the making of any such complaint as aforesaid, the Justice may receive corroborating affidavits of third persons in support of the matters stated in the complaint.

Evidence in sup-
port.

175. IF the defendant is not present at the time of making the complaint, the Justice may issue such and the same process to procure his attendance before Justices as is hereinbefore provided in the case of persons charged with simple offences, and may, if he thinks fit, and if the complaint is made on oath, issue a warrant in the first instance: Provided that if the Justice is satisfied that the complaint is made from malice or for vexation only, he may refuse to issue any process.

Warrant.

176. IF the defendant is present at the time of making the complaint, or if he is then absent, then at the time of his appearing in obedience to the summons or being brought up on warrant, the Justices before whom he appears or is brought up may require him forthwith to show cause why he should not enter into a recognisance, and find sureties to keep the peace or be of good behaviour, as the case may be.

Proceedings on ap-
pearance of defen-
dant.

177. THE defendant may thereupon produce evidence to show that the complaint is made from malice or for vexation only, or in contradiction of the facts stated in the complaint.

Evidence.

Justices.

Case to be dismissed,
or surety of the
peace, etc., required.

178. AFTER hearing the evidence produced, the Justices may dismiss the case, or may require the defendant forthwith, or at some time to be specified by them, to enter into a recognisance with or without sureties, in such reasonable amount as the Justices think fit, to keep the peace or be of good behaviour, as the case may be, for any time not exceeding six months, or in default, may commit the defendant to gaol for such time as the Justices think fit, not exceeding six months, unless, in the meantime, the required recognisance is given.

Notice of recognis-
ances.

179. NOTICE of any such recognisance, signed by the Justices, shall be given to the parties bound in the same manner as of other recognisances.

Discharge.

180. IF the defendant is in gaol under a commitment for want of sureties at the time he enters into the recognisance, then the Justice taking the same shall issue a precept to the keeper of the gaol to discharge him.

Estreating recog-
nizance.

181. WHEN a recognisance to keep the peace or be of good behaviour is entered into by any person as principal or surety, any two Justices, upon application made to them to declare such recognisance to be forfeited, and upon proof of a conviction of the principal bound by such recognisance of any offence which is in law a breach of the condition of the recognisance, and upon further proof that a notice in writing signed by the person seeking to put the recognisance in force has, seven clear days before the day of making the application, been personally served upon or left at the usual place of abode of the person, or each of the persons (if more than one), bound by the recognisance, that an application will then and there be made that the recognisance shall be declared forfeited, may declare the same forfeited accordingly.

Costs.

182. COSTS may be awarded upon proceedings under this Part of this Act in the same manner and to the same extent, and recoverable by the same process, as upon a complaint of a simple offence.

PART VIII.—APPEALS FROM THE DECISIONS OF JUSTICES.

Ordinary Appeal.

Appeal to Circuit
Court, or Court of
General or Quarter
Sessions.

183. WHEN any person is summarily convicted, or an order is made against any person by Justices, and—

(a.) Imprisonment is adjudged without the option of a fine;
or

(b.) A fine or penalty is imposed exceeding Ten pounds; and
in either case

Justices.

(c.) Such person did not plead guilty or admit the truth of the complaint,

he may appeal, subject to the following provisions:—

(1.) If the decision appealed from was given in a Circuit District, the appeal shall be made to a Judge of the Supreme Court in such District.

(2.) If the decision appealed from was not given in a Circuit District, the appeal shall be made—

-(a.) To the Court of General or Quarter Sessions of the Peace having jurisdiction where the decision appealed from was given, or in case there is no such Court,

(b.) To a Judge of the Supreme Court in Perth.

184. THE appellant shall, within the time prescribed, or, if no time is prescribed, within seven days after the day on which the decision appealed from was given, serve on the prosecutor or other party, and on the clerk of the Court of Petty Sessions at which the decision appealed from was given, notice in writing of his intention to appeal, and of the grounds of such appeal.

Notice of appeal.

185. THE appellant shall enter the appeal for hearing in the Court to which the appeal is made, within the prescribed time, or, if no time is prescribed, within fifteen days after the day on which the decision appealed from was given.

Entry of appeal for hearing.

186. EVERY notice required to be given to an appellant shall be in writing, signed by him or by his solicitor, and may be served by delivering the same to the person to whom it is addressed or by sending the same in a registered letter through the post addressed to such person at his usual or last known place of abode, in which case such notice shall be deemed to have been served at the time when the letter would be delivered in the ordinary course by post.

Service of notices.

187. THE appellant shall, within the prescribed time, or, if no time is prescribed, within three days after the day on which he gives notice of appeal, enter into a recognisance before a Justice in such sum as the Justice thinks fit, and with or without sureties as such Justice may direct conditioned to appear before the Court to which the appeal is made, and to submit to the judgment of the Court, and to pay such costs as the Court may award; or the appellant may, if the Justice before whom the appellant appears to enter into a recognisance thinks it expedient, instead of entering into a recognisance, give such other security by deposit of money with the clerk of petty sessions or otherwise as such Justice may deem sufficient.

Security for appearance of appellant.

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Provided that in no case shall the security required by the recognisance or money deposited be less than Twenty pounds.

Appeal not a stay unless appellant gives security.

188. WHERE the appellant is in custody a Court of Petty Sessions shall, on the appellant entering into such a recognisance or giving such other security as aforesaid, by order release him from custody; but no appeal shall in any case operate as a stay of execution unless and until the appellant enters into such recognisance or gives such security as aforesaid.

Copies of proceedings to be transmitted.

189. A COPY of the complaint, depositions, the conviction or order, and other proceedings before the Justices shall be transmitted by the clerk of petty sessions to the Court to which the appeal is made.

Hearing of appeal.

190. THE Court to which the appeal is made may adjourn the hearing of the appeal, and, upon the hearing thereof, may confirm, reverse, or modify the decision appealed from, or remit the matter, with the opinion of the Court, to the Court of Petty Sessions, or may make such other order in the matter as the Court may think just, and may, by such order, exercise any power which the Court of Petty Sessions might have exercised, and such order shall have the same effect and may be enforced in the same manner as if it had been made by the Court of Petty Sessions. Except as provided in section two hundred and nineteen the Court may make such order as to costs to be paid by either party as the Court may think just.

The decision of the Court shall be final between the parties.

Appeal to be on original materials unless rehearing ordered or agreed to.

191. IF the Court to which the appeal is made so orders, or the parties so agree, the appeal shall be by way of rehearing; but otherwise the appeal shall be heard and determined upon the evidence and proceedings before the Justices.

Procedure where decision reversed on appeal.

192. WHENEVER a decision is not confirmed by the Court to which the appeal is made, the Associate, Clerk of Quarter Sessions, or Master of the Supreme Court, as the case may be, shall send to the clerk of the Court from whose decision the appeal was made, for entry in his register, a memorandum of the decision of the Court to which the appeal was made; and where any copy or certificate of such conviction or order is made, a copy of such memorandum shall be added thereto, and shall be sufficient evidence of the decision in every case where such copy or certificate would be sufficient evidence of such conviction or order.

Justices.

193. IF upon the hearing of the appeal the decision of the Justices by which the appellant was aggrieved is affirmed, the appellant shall forthwith pay the penalty or amount ordered to be paid and costs, if any, together with any costs adjudged to be paid by the Court to which the appeal is made, or, if such decision contains a sentence of imprisonment, the appellant may be committed by such Court or any Justice to gaol according to the conviction or order, and for the space of time therein mentioned.

Effect of affirming decision.

194. IF the penalty imposed, or the amount ordered to be paid, or the costs awarded by the Justices is not or are not then paid, the same or any other Justice may enforce the payment thereof in the same manner in which payment might have been enforced if there had been no appeal, or by putting the recognisance (if any) in suit, or in both such modes, unless the same is or are sooner paid.

Committal on default.

195. IF the costs ordered to be paid by either party to an appeal are not paid, the Associate, Clerk of Quarter Sessions, or Master of the Supreme Court, as the case may be, upon application of the party entitled to such costs, or of any person on his behalf, shall grant to the party so applying a certificate that such costs have not been paid.

If costs not paid, certificate to be granted.

196. UPON production of such certificate to any Justice, the payment of such costs may be enforced in the same manner as is hereinbefore provided for enforcing the payment of costs awarded by Justices, or by putting the recognisance (if any) in suit, or in both of such modes.

Enforcement of order for costs.

Appeal by way of Special Case.

197. ANY party to a proceeding before Justices who desires to appeal from the decision of the Justices, on the ground that it is erroneous in point of law, or is in excess of jurisdiction, may apply in writing, within seven days after the decision is pronounced, to the Justices to state and sign a case setting forth the facts and the grounds of decision for appeal thereon to the Supreme Court. The appellant party shall, within seven days after receiving such case, or within such extended time as a Judge of the Supreme Court may, on the *ex parte* application of the appellant order, transmit the same to the Registrar of the Supreme Court, first giving notice in writing of such appeal, with a copy of the case so stated and signed, to the other or respondent party.

Justices, on application of a party aggrieved, to state a case for the opinion of the Supreme Court.

198. THE appellant shall, at the time of making such application, and before a case is stated and delivered to him by the Justices, enter into a recognisance before such Justices or some other

Security and notice to be given by the appellant.

Justices.

Justice, with or without a surety or sureties, and in such sum as is directed by the Justices or Justice, conditioned to prosecute such appeal without delay, and to submit to the judgment of the Supreme Court and pay such costs as the Court shall award, and the appellant shall, at the same time and before the case is delivered to him, pay to the clerk of petty sessions the fees for and in respect of the case and recognisance, according to the table in the Fifth Schedule to this Act until the same are otherwise appointed by a general rule of the Supreme Court.

Release of appellant on further recognisance.

199. THE appellant, if then in custody, shall be liberated upon the recognisance being further conditioned for his appearance before the same or some other Justices or Justice within a reasonable time, not less than ten days after the judgment of the Supreme Court is given, to abide such judgment, unless the decision appealed against is reversed.

Justices may refuse a case when they think the application frivolous.

200. IF the Justices are of opinion that the application is merely frivolous, but not otherwise, they may refuse to state a case, and shall, in such case, on the request of the appellant, sign and deliver to him a certificate of such refusal; but the Justices shall not refuse to state a case when application for that purpose is made to them by or under the direction of the Attorney General.

Where the Justices refuse, the Supreme Court may, by rule, order a case to be stated.

201. WHEN Justices refuse to state a case, the appellant may apply to the Supreme Court upon an affidavit of the facts, for an order calling upon the Justices, and also upon the person interested in supporting the decision, to show cause why a case should not be stated; and the Court may make the order absolute, or discharge it with or without costs.

The Justices, upon being served with an order absolute, shall state a case accordingly, upon the appellant entering into such recognisance as is hereinbefore provided.

Supreme Court to determine the questions on the case; its decision to be final.

202. THE Supreme Court, when a case is transmitted under this Part of this Act, shall hear and determine the question or questions of law arising thereon, and shall thereupon affirm, reverse, or amend the decision appealed from, or remit the matter to the Justices with the opinion of the Court thereon, or may make such other order in relation to the matter, and may, except as provided in section two hundred and nineteen, make such order as to costs as to the Court may seem fit, and all such orders shall be final and conclusive on all parties.

The case may be sent back for amendment.

203. THE Supreme Court may cause a case to be sent back for amendment, and thereupon the same shall be amended accordingly, and judgment shall be delivered after it has been amended.

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204. THE authority and jurisdiction vested in the Supreme Court in respect of cases stated under this part of this Act may (subject to any rules and orders of such Court relating thereto) be exercised by a Judge sitting in Chambers.

Powers of Supreme Court may be exercised by a Judge in Chambers.

205. AFTER the decision of the Supreme Court in relation to any case stated under this Act, the Justices in relation to whose decision the case has been stated, or any other Justices exercising the same jurisdiction, shall have the same authority to enforce any conviction or order which has been affirmed, amended, or made by the Supreme Court, as the Justices who originally decided the case would have had to enforce their decision if the same had not been appealed against, and no action or proceeding whatsoever shall be commenced or had against the Justices for enforcing such conviction or order by reason of any defect in the same respectively.

After the decision of Supreme Court Justices may issue warrants.

206. ANY person who appeals under the nine sections last preceding against any decision of Justices from which he is by law entitled to appeal in any other manner, shall be taken to have abandoned any such other right of appeal finally and conclusively and to all intents and purposes.

Appellant not allowed to appeal to Quarter Sessions.

Habeas Corpus.

207. NO person brought before the Supreme Court, or a Judge thereof, on *habeas corpus* shall be discharged from custody by reason of any defect or error in a warrant of commitment of any Justices exercising a summary jurisdiction, unless such Justices, or one of them, and the prosecutor or other party interested in supporting the warrant have received reasonable and sufficient notice of the intention to apply for such discharge. Such notice shall require them to transmit or cause to be transmitted to the Court or Judge the conviction or order, if any, on which the commitment was founded, together with the depositions and complaint, if any, intended to be relied on in support of such conviction or order, or certified copies thereof.

Control of Supreme Court over summary convictions.

208. IF any such conviction or order, complaint, and depositions, or certified copies, are so transmitted, and the offence charged or intended to be charged thereby appears to have been established, and the judgment of the Justices thereupon to have been in substance warranted, and the defects or errors appear to be defects of form only, or mistakes not affecting the substantial merits of the proceedings before the Justices, the Court or Judge shall allow the warrant of commitment, and the conviction or order, to be forthwith amended in all necessary particulars in accordance with the facts, and the person committed shall thereupon be remanded to his former custody.

Amendment.

Justices.

Notice dispensed with.

209. THE notice hereby prescribed may be given either before or after the issue of the writ of *habeas corpus*: Provided that when copies of the conviction or order and depositions are produced at the time of applying for the writ, the Court or Judge may dispense with such notice.

Power to Court or Judge to admit to bail.

210. WHEN any person committed to gaol by virtue of a summary conviction or order is brought up by writ of *habeas corpus*, and the Court or Judge postpones the final decision of the case, such Court or Judge may discharge the person upon his recognisance, with or without sureties for his appearance at such time and place, and upon such conditions, as the Court or Judge may appoint.

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

Amendment—Informalities.

Proceedings not to be quashed for want of form.

211. NO complaint, conviction, order, or other proceeding before any Justices shall be quashed or set aside, or adjudged void, or insufficient for want of form.

Respecting the amendment of convictions, etc.

212. WHENEVER the facts or evidence appearing by the depositions in substance support the adjudication of the Justices, and if such facts or evidence would have justified the Justices in making any necessary allegation or finding omitted in such adjudication, or in the formal conviction or order, or any warrant issued in pursuance of such adjudication, all necessary amendments shall be made by the Court or Judge, and when in a conviction there is some excess which may (consistently with the merits of the case) be corrected, the conviction shall be amended accordingly, and shall stand good for the remainder; and all amendments shall be subject to such order as to costs and otherwise as the Court or Judge thinks fit.

Want of summons or complaint.

213. WHEN the person convicted, or against whom an order has been made, or any person whose goods have been condemned or directed to be sold as forfeited, was present at the hearing of the case, the conviction or order shall be sustained, although there may have been no complaint or summons or amendment thereof, unless he objected at the hearing that there was no complaint or summons or amendment thereof.

Distribution of penalty.

214. NO conviction or order shall be defeated for the want of any distribution, or for a wrong distribution of the penalty or forfeiture.

Justices.

215. A PERSON called upon by an order to show cause why a conviction or order should not be quashed may, if he thinks fit, file in the registry of the Supreme Court, a notice that he does not intend to show cause against the order, and consents to its being made absolute, and may serve a copy of such notice upon the person by whom the order was obtained, or his solicitor or agent; and thereupon an order quashing the conviction or order as against the person giving such notice, with or without costs, according to the terms of the order to show cause, may be drawn up by the Registrar as of course, and without any further reference to the Court; and where such notice is given no greater costs shall be allowed against the person by whom it is given in respect of matters subsequent to the service of such notice than would have been incurred if an order had been so drawn up as of course, unless the Court or a Judge shall otherwise order.

Party called upon may consent to order being made absolute. Costs in such case.

Abandoned Appeals.

216. WHEN an appeal is not duly set down for hearing, the Justices from whose decision the appeal was made, or any other Justices, may enforce the conviction or order as if no notice of appeal had been given, and, if the appellant has been released from custody, may estreat the recognisance (if any), and, if the decision contains a sentence of imprisonment, issue a warrant for the arrest of the appellant and commit him to gaol according to the conviction.

Enforcement of conviction when appeal abandoned.

217. IF it is made to appear on oath to any Justice that any person within the jurisdiction of such Justice is under such recognisance as aforesaid, and that such person is about to leave Western Australia, such Justice may issue his warrant for the apprehension of such person so under recognisance, and, upon being satisfied that the ends of justice would be otherwise defeated, may commit such person, when arrested, to gaol, there to be kept until the time mentioned in the recognisances for the appearance of such person to receive judgment or render himself in execution.

Absconding appellant may be arrested.

No Certiorari necessary.

218. NO writ of *certiorari* or other writ shall be required for the removal of any conviction, order, or other decision, in relation to which a case is stated under this Part of this Act, or otherwise for obtaining the judgment or determination of the Supreme Court on such case.

Certiorari not to be required for proceedings under this Act.

Costs.

219. NO costs shall be allowed against any Justice or police officer in respect or by reason of any appeal under this Act, or of any proceeding in the Supreme Court in its control over summary convictions.

No order for costs to be made against Justices or police officers.

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Rules.

Rules.

220. THE Judges of the Supreme Court, or any two of them, may make general rules and orders to regulate the practice and procedure under this Part of this Act, and may prescribe the fees to be taken and the costs to be allowed.

All appeals to be subject to this Act.

221. NOTWITHSTANDING anything contained in any other Act to the contrary, there shall be no appeal from any summary conviction or order of Justices except as provided by this Act.

PART IX.—PROTECTION OF JUSTICES IN THE EXECUTION OF THEIR OFFICE.

Where Action lies against Justices.

Justice sued for act not within his jurisdiction.

222. NO action shall be maintainable against any Justice for any act done under any conviction or order made or warrant issued by a Justice in any matter of which by law he has not jurisdiction or in which he has exceeded his jurisdiction until after the conviction or order has been quashed or set aside upon appeal.

Nor shall any such action be maintainable for anything done under any such warrant which was issued by the Justice to procure the appearance of the person charged, and which has been followed by a conviction or order in the same matter, until after such conviction or order has been so quashed or set aside.

If such last-mentioned warrant has not been followed by a conviction or order, or if it is a warrant upon a complaint of an alleged indictable offence, then if a summons was issued previously to the warrant being issued, and such summons was served upon the person charged either personally or by leaving the same for him with some person at his last known place of abode, and he did not appear according to the exigency of the summons, in such case no action shall be maintainable against the Justice for anything done under such warrant.

Warrant by one Justice upon an order of another.

223. WHEN a conviction or order is made by one or more Justice or Justices, and a warrant of execution or of commitment is granted thereon by some other Justice *bona fide* and without collusion, no action shall be maintainable against the Justice who granted such warrant, by reason of any defect in the conviction or order, or for any want of jurisdiction in the Justice or Justices who made the same, but the action (if any) shall be brought against the Justice or Justices who made the conviction or order.

Justices.

224. WHEN a Justice does an act in obedience to an order of the Supreme Court or a Judge thereof, no action shall be maintainable against him for obeying such order and doing the act thereby required.

No action for acts done under order of Supreme Court.

225. WHEN a warrant of execution or of commitment is granted by a Justice upon a conviction or order which either before or after the granting of the warrant is confirmed upon appeal, no action shall be maintainable against the Justice who granted such warrant for anything done under it by reason of any defect in such conviction or order.

No action where proceeding confirmed on appeal.

226. IF an action is brought against a Justice which by this Act is declared to be not maintainable, a Judge of the Court in which the action is brought, upon application of the defendant and upon affidavit of the facts, may set aside or stay the proceedings in such action with or without costs.

Actions in cases prohibited.

Limitation.

227. NO action shall be brought against a Justice for anything done by him in the execution of his office unless the same is commenced within six months next after the act complained of was committed, or within two months next after the conviction or order under which the act complained of was done, or which followed upon the warrant under which such act was done, has been quashed or set aside, whichever is the later period.

Limitation of actions.

Notice.

228. NO such action shall be commenced against a Justice until one calendar month at least after a notice in writing of the intended action has been delivered to him or left for him at his usual place of abode by the party intending to commence the action, or by his solicitor, in which notice the cause of action and the Court in which it is intended to be brought shall be clearly and explicitly stated, and upon the back thereof shall be indorsed the name and place of abode of the party intending to sue, and also the name and place of abode or of business of his solicitor, if the notice is served by a solicitor.

Notice of actions.

Amends and Payment into Court.

229. IN every such case after notice of action has been so given and before the action is commenced the Justice to whom the notice is given may tender to the party complaining, or to his solicitor, such sum of money as he may think fit by way of amends for the injury complained of in the notice; and after the action has been commenced, and at any time before issue joined therein, the

Tender and payment of money into Court.

Justices.

defendant, if he has not made such tender or in addition to such tender, shall be at liberty to pay into Court such sum of money as he may think fit.

If the Court or jury at the trial are of opinion that the plaintiff is not entitled to damages beyond the sum so tendered or paid into Court, then judgment shall be given for the defendant; and the sum of money (if any) so paid into Court, or so much thereof as is sufficient to pay or satisfy the defendant's costs in that behalf, shall thereupon be paid out of Court to him, and the residue (if any) shall be paid to the plaintiff.

If, when money is so paid into Court, the plaintiff elects to accept the same in satisfaction of his damages in the action, he may apply to a Judge for an order for the payment of such money out of Court to him, with or without costs, and the Judge may make such order, and thereupon the action shall be determined, and such order shall be a bar to any other action for the same cause.

Statement of Claim and Complaint.

Justice only liable in case of malice and absence of reasonable and probable cause.

230. IN an action against a Justice for any act done by him in the execution of his duty as such Justice, it must be expressly alleged in the statement of claim or complaint that the act was done maliciously and without reasonable and probable cause, and if such allegations are denied, and at the trial of the action the plaintiff fails to prove them, judgment shall be given for the defendant with costs.

Evidence

Verdict for Defendant.

231. IF at the trial of any action against a Justice the plaintiff does not prove—

- (1.) That the action was brought within the time hereinbefore limited in that behalf; or
- (2.) That such notice as hereinbefore prescribed was given one calendar month before the action was commenced; or
- (3.) The cause of action stated in the notice; or
- (4.) That the act of the Justice was done maliciously, and without reasonable and probable cause,

then and in every such case judgment shall be given for the defendant with costs.

Damages.

Damages against a Justice when plaintiff really guilty.

232. WHEN the plaintiff in an action against a Justice is entitled to recover, and he proves the levying or payment of any penalty or sum of money under a conviction or order as parcel of the

Justices.

damages which he seeks to recover, or proves that he was imprisoned under such conviction or order, and seeks to recover damages in respect of such levying or payment or imprisonment, then, if it is proved that he was actually guilty of the offence of which he was so convicted, or that he was liable by law to pay the sum which he was so ordered to pay, and, in case of imprisonment, that he has undergone no greater punishment than that assigned by law for the offence of which he was so convicted, or for non-payment of the sum which he was so ordered to pay, he shall not be entitled to recover the amount of the penalty or sum so levied or paid, or any sum beyond the sum of a farthing as damages for such imprisonment, or any costs of suit whatsoever.

In the name and on behalf of the King I hereby assent
to this Act.

E. A. STONE, Administrator.

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Section 2.

The First Schedule.

Date of Act.	Title of Act.	Extent of Repeal.
14 Vict., No. 1 ...	An Ordinance to protect Justices of the Peace from Vexatious Actions for acts done by them in the execution of their office	The whole
14 Vict., No. 4 ...	An Ordinance to facilitate the Performance of the Duties of Justices of the Peace out of Quarter Sessions in Western Australia with respect to Persons charged with Indictable Offences	The whole
14 Vict., 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	The whole, except Section 32
23 Vict., No. 3 ...	An Ordinance to improve the Administration of the Law so far as respects summary proceedings before Justices of the Peace	The whole
37 Vict., No. 1 ...	An Act to amend the Law concerning Warrants of Distress	The whole
37 Vict., No. 4 ...	An Act to remove some Defects in the Administration of the Criminal Law	The whole, except sections 3 and 7
39 Vict., No. 20 ...	An Act to amend the Law concerning Remission of Penalties	Section 2
55 Vict., No. 27 ...	The Police Act, 1892	Sections 130, 131, 132, 136, 139, 140, and 141
57 Vict., No. 8 ...	The Criminal Law Appeal Act, 1893 ...	Section 4
59 Vict., No. 11 ...	The Justices' Appointment Act, 1895 ...	The whole
60 Vict., No. 30 ...	An Act to facilitate the Administration of Justice and the taking of Statutory Declarations	Section 3
62 Vict., No. 13 ...	The Prevention of Crimes Act, 1898 ...	Section 3
62 Vict., No. 30 ...	The Interpretation Act, 1898	In section 17 the words "Petty Sessional Court" are struck out, and the words "Court of Petty Sessions" inserted in lieu thereof
1 & 2 Ed. VII., No. 14	The Criminal Code	Section 672 of the First Schedule

Justices.

The Second Schedule.

Section 6.

Edward the Seventh, by the Grace of God, etc.
To A.B. of
C.D. of
etc.

First Assignment.—Know Ye, that We have assigned you, and each and every of you, to be Our Justices to keep Our Peace in [the Magisterial District in] Our State of Western Australia [and its Dependencies], either alone or with any one or more of Our Justices that hereafter shall be appointed in Our said State and its Dependencies [*or* the said District], and to keep and cause to be kept all laws, for the preservation of the Peace, and for the quiet rule and good government of Our people, in Our said State and its Dependencies [*or* the said District] according to the form and effect of the same, and to punish all persons offending against them, or any of them, in the said State and its Dependencies [*or* the said District], as by the said laws is provided, and to cause to come before you all persons within Our said State and its Dependencies [*or* the said District] who use threats to any of Our People, to find security for keeping the peace or for their good behaviour towards Us and Our people: And if they refuse to find such security, then to cause them to be safely kept until they find such security:

Second Assignment.—We have also assigned you, and each and every of you, either alone or with any one or more of such Justices to be appointed as aforesaid, to inquire the truth concerning all manner of crimes, misdemeanours, and offences, concerning which Our Justices of the Peace may lawfully or ought to inquire, by whomsoever and in what manner soever done, perpetrated, or attempted in Our said State and its Dependencies [*or* the said District]: And upon all complaints before you to issue such process against the persons charged until they are taken or surrender themselves, as may by law be issued:

Third Assignment.—We have also assigned you, and each and every of you, either alone or with any one or more of such Justices to be appointed as aforesaid, to have, exercise, and discharge all other the powers, authorities, and duties which under or by virtue of any law of Our Realm or of Our said State belong or appertain to the office of Justices of the Peace in or for Our said State.

And therefore We command you and each and every of you that you diligently apply yourselves to keep and cause to be kept the peace and all laws of Our Realm and of Our said State, and that at certain days and places duly appointed for these purposes, you make inquiries into the premises, and hear and determine all and singular the matters aforesaid, and perform and fulfil the duties aforesaid, doing therein what is just according to the laws of Our Realm and of Our said State: And we command Our Sheriff and other officers of Our said State to aid you by all lawful means in the performance and due execution of the premises.

In testimony whereof, We have caused these Our Letters to be made Patent, and the Great Seal of Our said State to be hereunto affixed.

Witness Our Trusty and Well-beloved, etc., etc., etc., Governor, etc.,
at this day of in the year of our Lord one
thousand nine hundred and

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Section 16.

The Third Schedule.

OATH OF ALLEGIANCE.

I, A.B., do *sincerely promise and swear that I will be faithful and bear true allegiance to His Majesty King Edward the Seventh, as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, Emperor of India. †So help me God!

OATH OF OFFICE.

I, A.B., do *sincerely promise and swear that as a Justice of the Peace I will at all times and in all things do equal justice to the poor and rich and discharge the duties of my office according to the laws and statutes of the Realm and of this State to the best of my knowledge and ability, without fear, favour, or affection.† So help me God!

* In the case of an affirmation in lieu of oath, substitute "solemnly and sincerely promise and affirm" for "sincerely promise and swear". † Omit, in the case of affirmation in lieu of oath.

Section 96.

The Fourth Schedule.

ORIGINATING PROCEEDINGS.

1.—*Complaint to secure surety of the peace or for good behaviour.*

WESTERN AUSTRALIA, }
[Perth] to wit. }

The complaint of C.D., of _____, in the said State, _____, made this _____ day of _____, 190____, before the undersigned, one of His Majesty's Justices of the Peace for the said State [or for the Magisterial District of _____, in the said State], who says that A.B., of _____, on the _____ day of _____ last, at _____, declared and threatened [*here state the defendant's threats*], and that the said C.D. is therefore afraid that the said A.B. will do him [or the said _____] some bodily injury [or commit a breach of the peace towards him (or the said _____), or burn (or injure) his house, (or procure some bodily injury to be done to him, or as the case may be) [or that the said A.B. is a person of evil fame and character, making his living by dishonest means, or as the case may be]; and the said C.D. therefore prays that the said A.B. may be required to find sureties to keep the peace towards him [or the said _____] [or be of good behaviour]: And the said C.D. says that he does not make this complaint from any malice or ill-will [*in case of surety of the peace add but merely for the preservation of his life and person (and property) (or the life and person of the said _____) from injury*].

Sworn before me the day and year first mentioned, at _____, in the said State.

J.S., J.P.

Justices.

2.—*Complaint to ground search warrant.*

WESTERN AUSTRALIA, }
[Perth] to wit. }

The complaint of C.D., of _____, in the said State, _____, made this _____ day of _____, 190____, before the undersigned, one of His Majesty's Justices of the Peace for the said State [or for the Magisterial District of _____, in the said State], who says that the following goods of [him], the said C.D., to wit [describe them] were, on the _____ day of _____ [or have lately been] feloniously stolen, taken, and carried away, from and out of the dwelling-house [or as the case may be] of the said C.D., situated at _____, in the said State; and that he, the said C.D., has reasonable cause to suspect, and does suspect, that the said goods, or part thereof, are concealed in the dwelling-house or premises [or as the case may be], in the occupation of A.B., situate at _____, in the said State. [Here state grounds of suspicion].

Sworn [or made] before me, the day and year first above-mentioned, at _____, in the said State.

J.S., J.P.

3.—*Complaint in all other cases.*

WESTERN AUSTRALIA, }
[Perth] to wit. }

The complaint of C.D., of _____, in the said State, _____, made this _____ day of _____, 190____ before the undersigned, one of His Majesty's Justices of the Peace for the said State [or for the Magisterial District of _____, in the said State], who says that on the _____ day of _____, 190____, at _____, at _____ [etc., stating the offence or subject-matter].

Sworn [or made] before me the day and year first above-mentioned, at _____, in the said State.

J.S., J.P.

4.—*Certificate of indictment being found.*

I hereby certify that at the Criminal Sittings of the Supreme Court of Western Australia [or as the case may be], held at _____, in the said State, on the _____ day of _____, 190____, an information was presented against A.B., therein described as A.B., late of _____ in the said State, _____, for that he, on the _____ day of _____, 190____, at _____ [etc., stating shortly the offence], and that the said A.B. did not appear or plead to the said information.

Dated this _____ day of _____, 190____.

J.D.,
Registrar of the Supreme Court.

5.—*Certificate that the costs of an appeal are not paid.*

In the _____ Court of General [or Quarter] Sessions of the Peace [or as the case may be] holden at _____.

[Title of the Appeal.]

I hereby certify that at a sitting of the _____ Court of General [or Quarter] Sessions of the Peace [or as the case may be], holden at _____ on the _____ day of _____, 190____, an appeal by A.B. against a [conviction] of J.S., Esquire, [one] of His Majesty's Justices of the Peace for the said State [or, etc.], came on to be tried and was then heard and determined, and the said

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Court thereupon ordered that the said [*conviction*] should be affirmed [*or reversed*], and that the said [*appellant*] should pay to the said [*respondent*] the sum of [his] costs of the said appeal, and which sum was ordered to be paid to the Clerk [*or as the case may be*] of the said Court, on or before the day of , 190 , 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 , 190 .
G.H.,

Clerk of the said Court [*or as the case may be*].

SUMMONSES.

6.—*Summons to the defendant upon complaint.*

To A.B., of , in the State of Western Australia,

Whereas a complaint has this day been made before the undersigned, one of His Majesty's Justices of the Peace for the said State [*or, etc.*], that you, on the day of , 190 , at [*here state shortly the matter of the complaint*]: These are therefore to command you, in His Majesty's name, to appear at , in the said State, on the day of , 190 , at o'clock in the forenoon, before such Justices as may then be there, to answer the said complaint, and to be further dealt with according to law.

Given under my hand, at in the said State, this day
of 190 .

J.S., J.P.
[*or Clerk of Petty Sessions*].

Indorsement of Service.

On the day of , 190 , at , I served the within-named A.B. with the within summons by delivering a duplicate of it to him personally [*or by leaving a duplicate of it for him with at his last known place of abode*].

(Signature)
(Date)

7.—*Summons of a witness.*

To E.F., of in the State of Western Australia,

Whereas a complaint was, on the day of 190 , made before the undersigned, one of His Majesty's Justices of the Peace for the said State [*or etc.*], that A.B. [*etc., as in the summons or warrant against the defendant*]: These are therefore to require you to appear at in the said State, on the day of 190 , at o'clock in the forenoon, before such Justices as may then be there, to testify what you know concerning the matter of the said complaint [and you are further required to bring with you and produce at the time and place above-named] [*here describe the documents to be produced*].

Given under my hand, at in the said State, this day
of , 190 .

J.S., J.P.
[*or Clerk of Petty Sessions*].

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Indorsement of Service.

On the day of , 190 , at I served the within-named E.F. with the within summons by delivering a duplicate of it to him personally [or by leaving a duplicate of it for him with at , his last known place of abode].

(Signature)

(Date)

8.—*Warrant in the first instance to apprehend a person charged with an indictable offence or a simple offence.*

To the principal police officer at , in the State of Western Australia, and to all other police officers in the said State.

Whereas a complaint has this day been made upon oath before the undersigned, one of His Majesty's Justices of the Peace for the said State [or, etc.], for that A.B., on the day of , 190 , at [here state shortly the offence or matter of the complaint]: These are therefore to command you, in His Majesty's name, forthwith to apprehend the said A.B. and to bring [him] before some one or more of His Majesty's Justices of the Peace, to answer to the said complaint, and be further dealt with according to law.

Given under my hand, at in the said State, this day of , 190 .

J.S., J.P.

For offences committed on the high seas the warrant may be the same as in ordinary cases, but describing the offence to have been committed "on the high seas out of any jurisdiction or place in the State of Western Australia, and within the jurisdiction of the Admiralty of England."

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

9.—*Search Warrant.*

To the principal police officer at , in the said State of Western Australia, and all other police officers in the said State.

Whereas a complaint has this day been made upon oath before the undersigned, one of His Majesty's Justices of the Peace for the said State [or, etc.], for that [etc., as in Form 2 to the end, then thus]: These are therefore to command you, in His Majesty's name, forthwith, with proper assistance, to enter the said dwelling-house and premises [or as the case may be] of the said A.B. [in the day time], and there diligently search for the said goods; and if the same, or any part thereof, are found upon search, that you attach the goods so found [and apprehend the said A.B., and bring (him) before some one or more of His Majesty's Justices of the Peace, to give an account of how he came by the said goods, and to be further dealt with according to law.]

Given under my hand, at , in the said State, this day of , 190 .

J.S., J.P.

Justices.

MESNE WARRANTS.

10.—*Warrant to apprehend defendant where the summons is disobeyed.*

To the principal police officer at _____, in the State of Western Australia,
and all other police officers in the said State.

Whereas on the _____ day of _____, 190____, a complaint was made that A.B. [*etc., as in the summons*], and a summons was then issued to the said A.B. commanding [him] to appear at _____ at _____, in the said State, on the _____ day of _____, 190____, at _____ o'clock in the forenoon, before such Justices as might then be there, to answer the said complaint: And whereas the said A.B. neglected to appear at the time and place appointed by the said summons, and it has been proved that the said summons was duly served upon the said A.B.: These are therefore to command you, in His Majesty's name, forthwith to apprehend the said A.B. and to bring [him] before some one or more of His Majesty's Justices of the Peace, to answer the said complaint, and to be further dealt with according to law.

Given under [*my*] hand, at _____ in the said State, this _____ day
of _____, 190____.

J.S., J.P.

11.—*Warrant to apprehend a person required to give surety of the peace or for good behaviour.*

[*As in the above warrant, and conclude as follows, instead of "and to be further dealt with," etc. :—*] and to find sufficient sureties to keep the peace towards His Majesty and His people, and especially towards the said C.D. [*or be of good behaviour*] for such term as shall be directed.

Given under my hand, at, etc.

J.S., J.P.

12.—*Warrant where a witness has not obeyed a summons to attend the examination of a person charged with an indictable offence or the hearing of a charge of a simple offence or breach of duty.*

To the principal police officer at _____, in the State of Western Australia,
and all other police officers in the said State.

Whereas on the _____ day of _____, 190____, a complaint was made that A.B. [*etc., as in the summons or warrant*], and a summons was duly issued to E.F., of _____ in the said State requiring [him] to appear on _____ day of _____, 190____, at _____ in the said State, before such Justices as might then be there, to testify what [he] knew concerning the matter of the said complaint: And whereas proof has been made that such summons was duly served upon the said E.F.: And whereas the said E.F. neglected to appear at the time and place appointed by the said summons, and no just excuse has been offered for such neglect: These are therefore to command you, in His Majesty's name, forthwith to apprehend the said E.F. and bring [him] before [me] _____ at _____, in the said State, or before such other Justices as may then be there, to testify what [he] knows concerning the matter of the said complaint.

Given under [*my*] hand, at _____, in the said State, this _____ day
of _____, 190____.

J.S., J.P.

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13.—*Warrant for a witness in the first instance.*

To the principal police officer at _____, in the State of Western Australia,
and all other police officers in the said State.

Whereas on the _____ day of _____ 190____, at _____
a complaint was made that A.B. [etc., as in the summons or warrant], and it being
made to appear before me on oath that E.F., of _____, in the said State
is likely to give material evidence on behalf of the prosecution [or as
the case may be] in the 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 com-
mand you, in His Majesty's name, forthwith to apprehend the said E.F. and
bring [him] before me at _____ in the said State, or before such other
Justices as may be there, to testify what [he] knows concerning the matter of
the said complaint.

Given under my hand, at _____, in the said State, this _____ day
of _____, 190____.

J.S., J.P.

14.—*Warrant on certificate of indictment having been found to apprehend person indicted.*

To the principal police officer at _____, in the State of Western Australia,
and all other police officers in the said State.

Whereas it has been certified by [the Registrar of the Supreme Court, or as
the case may be] that [etc., stating the certificate (Form 4)]: These are therefore
to command you, in His Majesty's name, forthwith to apprehend the said A.B. and
to bring him before me or some other Justice or Justices of the Peace, to be
dealt with according to law.

Given under my hand, at _____, in the said State, this _____ day
of _____, 190____.

J.S., J.P.

REMANDS.

15.—*Warrant remanding a prisoner.*

To the principal police officer at _____, in the State of Western Australia,
and to all other police officers in the said State, and to the superintendent
of His Majesty's prison [or keeper of the (Police) gaol] at _____, in
the said State.

Whereas A.B. was this day charged before the undersigned [one] of His
Majesty's Justices of the Peace for the said State [or, etc.], for that [etc., as in the
warrant to apprehend], and it appears to [me] to be necessary to remand the said
A.B.: These are, therefore, to command you, the said police officers, in His
Majesty's name, forthwith to convey the said A.B. to His Majesty's prison [or
to the gaol at _____], and there to deliver [him] to the superintendent
[or keeper] thereof, together with this warrant, and [I] hereby command you, the
said superintendent [or keeper], to receive the said A.B. into your custody in
the said prison [or gaol] and there safely keep [him] until the _____ day
of _____, 190____, or such earlier day as may be lawfully ordered in that behalf,
when [I] hereby command you to have [him] at _____, in the said State, at
_____ o'clock in the forenoon, before such Justices as may then be there, further to
answer the said charge.

Given under [my] hand, at _____, in the said State, this _____ day
of _____, 190____.

J.S., J.P.

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16.—*Warrant of committal for safe custody during an adjournment of the hearing.*

To the principal police officer at _____, in the State of Western Australia, and to all other police officers in the said State, and to the superintendent of His Majesty's prison [or keeper of the (Police) gaol] at _____, in the said State.

Whereas on the _____ day of _____, 190____, complaint was made before the undersigned [or as the case may be], [one] of His Majesty's Justices of the Peace for the said State [or, etc.], for that [etc., as in the summons or warrant], and whereas the hearing of the same is adjourned to the _____ day of _____, 190____, at _____ o'clock in the forenoon, at _____, in the said State, and it is necessary that the said A.B. should in the meantime be kept in safe custody: These are therefore to command you, the said police officers, in His Majesty's name, forthwith to convey the said A.B. to His Majesty's prison [or to the (Police) gaol] at _____, and there deliver [him] into the custody of the superintendent [or keeper] thereof, together with this warrant, and [I] hereby command you, the said superintendent [or keeper], to receive the said A.B. into your custody in the said prison [or gaol], and there keep [him] until the _____ day of _____, 190____, when [I] hereby require you 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 as may then be there, to answer further the said complaint, and to be further dealt with according to law.

Given under [my] hand, at _____, in the said State, this _____ day of _____, 190____.

J.S., J.P.

RECOGNISANCES, ETC.

17.—*Certificate of consent to bail by the committing Justice indorsed on the commitment.*

[I] hereby certify that [I] consent to the within-named A.B. being bailed by recognisance, himself in the sum of _____ and [two] sureties in the sum of [each].

J.S., J.P.

18.—*The like on a separate paper.*

Whereas A.B. was, on the _____ day of _____, 190____, committed by [me] to the prison [or gaol] at _____, in the State of Western Australia charged with [etc., naming the offence shortly]:

[I] hereby certify that [I] consent to the said A.B. being bailed by recognisance, himself in the sum of _____ and [two] sureties in the sum of [each].

Dated this _____ day of _____, 190____.

J.S., J.P.

19.—*Recognisance for the appearance of a defendant, where the case is adjourned or not at once proceeded with.*

WESTERN AUSTRALIA, }
[Perth] to wit. }

Be it remembered that on the _____ day of _____, 190____, A.B., of _____, in the said State _____, and L.M.; of _____ in the said State _____, personally came before the undersigned, [one] of His Majesty's Justices of the Peace for the said State [or, etc.], and severally acknowledged themselves to owe to our Sovereign Lord the King the several sums following—that is to say, the said A.B. the sum of _____, and the said L.M.

Justices.

the sum of sterling, to be made and levied of their several goods and chattels, lands, and tenements respectively, to the use of our said Lord the King, his heirs and successors, if [he], the said A.B., shall fail in the condition indorsed.

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

Condition.

The condition of the within-written recognisance is such that if the said A.B. charged upon the complaint of C.D. with (*here insert briefly nature of charge such as larceny; assault, etc.*), shall personally appear at in the said State, on the day of , 190 , at o'clock in the forenoon, before such Justices as may then be there, [further] to answer the said charge made by C.D. against the said A.B., then the said recognisance to be void, or else to stand in full force and virtue.

J.S., J.P.

20.—*Notice of such recognisance to be given to the defendant and his surety.*

Take notice that you, A.B., of , in the State of Western Australia, , are bound in the sum of , and you, L.M., of , in the said State, , in the sum of , that you, A.B., appear personally at , in the said State, on the day of , 190 , at o'clock in the forenoon, before such Justices of the Peace as shall then be there, to answer further a certain charge made by C.D., the further hearing of which was adjourned to the said time and place; and unless you appear accordingly the recognisance entered into by you, A.B., and by L.M., as your surety, will forthwith be put in suit and enforced against you and him.

Dated this day of 190 .

J.S., J.P.

21.—*Certificate of non-appearance or default to be indorsed on the defendant's recognisance.*

[I] hereby certify that the said A.B. did not appear at the time and place in the condition of the within-written recognisance mentioned.

J.S., J.P.

22.—*Recognisance of Bail on Committal for Trial.*

[Same as Recognisance, Form 19.]

J.S., J.P.

Condition.

The condition of the within recognisance is such that whereas the said A.B. was this day charged before [me], the Justice within mentioned, that [*etc., as in the warrant*]: if, therefore, the said A.B. shall appear at the next criminal sittings of the Supreme Court [*or as the case may be*] to be held at , in the State of Western Australia, on the day of , 190 , and surrender [himself] into the custody of the superintendent [*or keeper*] of His Majesty's prison [*or gaol*] there, and plead to such information as may be filed against [him] in respect of the charge aforesaid, and take [his] trial upon the same, and not depart from the said Court, without leave, then the said recognisance to be void, or else to stand in full force and virtue.

Justices.

23.—*Notice of recognisance to be given to the defendant and his bail.*

Take notice that you A.B., of _____, in the State of Western Australia, _____, are bound in the sum of _____, and you, L.M. and N.O., in the sum of _____ each, that you, A.B., appear [*etc., as in the condition of the recognisance*], and do not depart from the said court without leave; and unless you, the said A.B., personally appear and plead and take your trial accordingly, the recognisance entered into by you and your sureties will forthwith be put in suit and enforced against you and them.

Dated this _____ day of _____, 190 .

J.S., J.P.

24.—*Recognisance of the peace or for good behaviour.*

[Same as Recognisance, Form 19.]

Condition.

The condition of the within-written recognisance is such, that if the said A.B. shall keep the peace towards His Majesty the King and His people, and especially towards C.D., of _____ [*or be of good behaviour*] for the term of [six months] now next ensuing, then the said recognisance to be void, or else to stand in full force and virtue.

25.—*Notice of such recognisance to be given to the defendant and his sureties.*

Take notice that you, A.B., of _____, in the State of Western Australia, _____, are bound in the sum of _____, and you, L.M. of _____, and N.O., of _____, in the sum of _____, that you, A.B., keep the peace towards His Majesty the King and His people, and especially towards C.D., of _____ [*or be of good behaviour*] for the term of [six months] from the _____ day of _____ [last], and unless you so keep the peace [*or as the case may be*] accordingly, the recognisance entered into by you, A.B., and by L.M. and N.O. as your sureties, will forthwith be put in suit and enforced against you and them.

Dated this _____ day of _____, 190 .

J.S., J.P.

26.—*Recognisance to give evidence.*

WESTERN AUSTRALIA, }
[Perth] to wit. }

Be it remembered that on the _____ day of _____ 190 , C.D., of [_____] in the said State, _____, came before [*me*] one of His Majesty's Justices of the Peace in and for the said State [*or, etc.*], and acknowledged [*himself*] to owe to our Sovereign Lord the King the sum of _____ sterling, to be made and levied of [*his*] goods and chattels, lands, and tenements, to the use of our said Lord the King, his heirs and successors, if [*he*] the said C.D. shall fail in the condition indorsed.

Taken and acknowledged before [*me*] the day and year first above-mentioned, at _____, in the said State.

J.S., J.P.

Condition.

The condition of the within-written recognisance is such that whereas A.B. was this day charged before [*me*], J.S., the Justice of the Peace within-mentioned, for that [*etc., as in the caption of the depositions*]: If, therefore [*he*], the said C.D., shall appear at the next criminal sitting of the Supreme Court [*or as the case may be*], to be holden at _____, in the State of Western Australia, on _____ the _____ day of _____ 190 , and there give evidence upon an information to be then preferred against the said A.B. for the offence aforesaid, then the said recognisance to be void, or else to stand in full force and virtue.

Justices.

27.—*Notice of recognisance to be given to the witnesses.*

WESTERN AUSTRALIA, }
[Perth], to wit. }

Take notice that you, C.D., of _____, in the said State, are bound in the sum of _____, to appear at the next [*as in the Condition*], and then and there to give evidence against A.B., and unless you then appear and give evidence accordingly the recognisance entered into by you will be forthwith put in suit and enforced against you.

Dated this _____ day of _____, 190 _____.
J.S., J.P.

28.—*Recognisance on appeal.*

[Same as Recognisance, Form 19.]

Condition.

Whereas the said A.B. was, on the _____ day of _____ 190 ___, at _____, convicted before E.F. [and others], [one of] His Majesty's Justices of the Peace for the said State [or, etc.] of an offence against the provisions of the _____ section of the _____ Act [*or as the case may be, describing the Act or By-law under which the offence is created*]; and it was by the said conviction adjudged that the said A.B. should for such [his] offence forfeit and pay [*etc., as in the conviction*], and should also pay to the said C.D. the sum of _____ [his] costs [or Whereas on the _____ day of _____, at _____, upon the hearing of a complaint made by C.D., of _____, against A.B., of E.F. [and others], [one of] His Majesty's Justices for the said State [or, etc.], adjudged that the said A.B. should pay to the said C.D. the sum of _____, on or before the _____, then next, and should also pay to the said C.D. the sum of _____ for costs]: And whereas the said A.B. has given notice of his intention to appeal from the said conviction [*or order*] to the Supreme Court [*or as the case may be*], holden at _____. Now, the condition of the within-written recognisance is such that if the said A.B. shall prosecute the said appeal without delay and submit to the judgment of the said Court, and pay such costs as the said Court shall award, then this said recognisance to be void, or else to stand in full force and virtue.

DEPOSITIONS, ETC.

29.—*Depositions of witnesses.*

Western Australia, }
[Perth] to wit. }

The examination of C.D., of _____, and E.F., of _____, taken this _____ day of _____ 19 ___, at _____ in the said State, before the undersigned [one], of His Majesty's Justices of the Peace for the said State [or, etc.], in the presence and hearing of A.B., who is charged this day before [me] that [he] [*etc., describing the offence as in a warrant of commitment*].

C.D., on his oath [*or affirmation*] says as follows [*etc., state the deposition of the witness as nearly as possible in the words he uses, and when his deposition is complete let him sign it*].

E.F., upon his oath [*or affirmation*] says as follows [*etc.*]

Taken and sworn [*or affirmed*] before [me] _____ at _____ in the said State, on the day and year first above-mentioned.

J.S., J.P.

Justices.

30.—*Statement of the defendant.*

WESTERN AUSTRALIA, }
[Perth] to wit. }

A.B. stands charged before the undersigned [one] of His Majesty's Justices of the Peace for the said State [or, etc.], this day of , 190 , that [he], [etc., as in the caption of the depositions], and the charge being read to the said A.B. and the witnesses for the prosecution, C.D. and E.F. being severally examined in [his] presence, the said A.B. is now addressed by [me] as follows:—"Having heard the evidence, do you wish to say anything in answer to the charge? You are not obliged to say anything unless you desire to do so, but whatever you say will be taken down in writing, and may be given in evidence against you upon your trial." Whereupon the said A.B. says as follows—[*here state whatever the prisoner may say, and in his very words as nearly as possible; get him to sign it if he will.*]

Taken before [me] at
year first above-mentioned.

A.B.
in the said State, the day and

J.S., J.P.

CONVICTIONS.

31.—*Conviction for a penalty to be levied by execution, and in default of sufficient execution imprisonment.*

WESTERN AUSTRALIA, }
[Perth] to wit. }

Be it remembered that, on the day of , 190 , at in the said State, A.B., of in the said State [], is convicted before the undersigned, [one] of His Majesty's Justices of the Peace for the said State [or, etc.], 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, and if the said several sums are not paid forthwith [or on or before next] then* [I] order that the same be levied by execution against the goods and chattels of the said A.B., and in default of sufficient goods and chattels* [I] adjudge the said A.B. to be imprisoned in His Majesty's prison [or the (Police) gaol] at in the said State [there to be kept to hard labour], for the space of , unless the said several sums and all costs and charges of the said execution [and of taking and conveying the said A.B. to prison] are sooner paid.

Given under [my] hand, at , in the said State, the day and
year first above-mentioned.

J.S., J.P.

*Or where the issuing of warrant of execution would be more injurious to the defendant or his family, than imprisonment or it appears that he has no goods whereon to levy, then instead of the words between the asterisks * say—"Inasmuch as it appears to [me] that the issuing of a warrant of execution would be more injurious to the said A.B. and his family than imprisonment" [or "that the said A.B. has no goods or chattels whereon to levy the said sums], [I] adjudge" [*etc., as above, to the end, but omitting the words "of the said execution and"*].

32.—*Conviction for a penalty, and in default of payment imprisonment.*

WESTERN AUSTRALIA, }
[Perth] to wit. }

Be it remembered that, on the day of , 190 , at in the said State, A.B., of , in the said State , is convicted before the undersigned, [one] of His Majesty's Justices of the Peace for the said State [or, etc.], that [he] the said A.B. [*etc., stating the offence and the time and*

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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, and if the said several sums are not paid forthwith [or on or before next] [I] adjudge the said A.B. to be imprisoned in His Majesty's prison [or the (police) gaol] at , in the said State [there to be kept to hard labour], for the space of , unless the said several sums [and the costs and charges of commitment and of conveying the said A.B. to prison] are sooner paid.

Given under [my] hand, at , in the said State, the day and year first above-mentioned.

J.S., J.P.

33.—*Conviction when the punishment is imprisonment.*

WESTERN AUSTRALIA, }
[Perth] to wit. }

Be it remembered that, on the day of 19 , at A.B., of , is convicted before the undersigned [two] of His Majesty's Justices of the Peace [or a Police or Resident Magistrate] for the said State [or for the Magisterial District of], that [he] the said A.B. [stating the offence and the time and place when and where it was committed], and [we] adjudge the said A.B. for [his] said offence be imprisoned in His Majesty's prison [or the (police) gaol] at in the said State [there to be kept at hard labour] for the space of .

Given under [our] hand, at , the day and year first above written.

J.S., J.P.

H.M., J.P.

34.—*Conviction when the punishment is imprisonment, and costs are awarded to be levied by execution.*

WESTERN AUSTRALIA, }
[Perth] to wit. }

Be it remembered that, on the day of 19 , at A.B., of , [], is convicted before the undersigned [two] of His Majesty's Justices of the Peace for the said State, [or, etc.,] that [he], the said A.B. [etc., stating the offence and the time and place when and where it was committed], and [we] adjudge the said A.B. for [his] said offence to be imprisoned in His Majesty's prison [or in the (police) gaol] at in the said State [there to be kept to hard labour], for the space of . and [we] also adjudge the said A.B. to pay the said C.D. the sum of for [his] costs; and if the said sum for costs is not paid forthwith [or on or before next] then* [we] order that the said sum be levied by execution against the goods and chattels of the said A.B., and in default of sufficient goods and chattels* [we] adjudge the said A.B. to be imprisoned in the said prison for the term of , to commence at and from the termination of [his] imprisonment aforesaid, unless the said sum for costs and all costs and charges of the said execution [and of taking and conveying the said A.B. to prison] are sooner paid.

Given under [our] hand, at , in the said State, the day and year first above-mentioned.

J.S., J.P.

H.M., J.P.

* Or where the issuing of warrant of execution would be more injurious to the defendant or his family than imprisonment, or it appears that he has no goods whereon to levy, then instead of the words between the asterisks say—"Inasmuch as it appears to [us] that the issuing of a warrant of execution would be more injurious to the said A.B. and his family than imprisonment" for "that the said A.B. has no goods or chattels whereon to levy the said sums", [we] adjudge "etc., as above, to the end, but omitting the words "of the said execution and".

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35.—*Conviction where the defendant is made subject to police supervision.*

WESTERN AUSTRALIA, }
[Perth] to wit. }

Be it remembered, etc. [*proceed as in Form 34 to the words "said offence" and conclude as follows :*] be subject to police supervision for the term of

Given under [*our*] hand, at _____, in the said State the day and
year first above-mentioned.

J.S., J.P.

H.M., J.P.

36.—*Summary conviction for indictable offence.*

(*Criminal Code, Chapter XLIII.*)

WESTERN AUSTRALIA, }
[Perth] to wit. }

Be it remembered that on the _____ day of _____, 19____,
at _____, A.B., being charged before [*us*], the undersigned [*two*] of His
Majesty's Justices of the Peace [*or a Police or Resident Magistrate*] for the said
State [*or for the Magisterial District of* _____], that [*he*] the said A.B.
[*stating the offence and the time and place when and where committed*], and the value
of the property in question not exceeding Fifty pounds [*or the said A.B. having*
pleaded guilty to the charge], and the said A.B. consenting to our dealing with
the offence summarily, he is convicted of the charge, and [*we*] adjudge the said
A.B. for his said offence to be imprisoned in His Majesty's prison [*or the (police)*
gaol] at _____, [there to be kept at hard labour] for the term of _____.

Given under [*our*] hand at _____, in the said State the day and
year first above-mentioned.

J.S., J.P.

H.M., J.P.

37.—*Summary conviction for indictable offence.*

(*Criminal Code, Chapter XLVII.*)

WESTERN AUSTRALIA, }
[Perth] to wit. }

Be it remembered that on the _____ day of _____, 19____,
at _____, A.B., being charged before [*us*], the undersigned, [*two*] of His
Majesty's Justices of the Peace [*or a Police or Resident Magistrate*] for the said
State [*or for the Magisterial District of* _____], that [*he*], the said A.B.
[*stating the offence and the time and place when and where committed*], and the
amount of injury done not exceeding Fifty pounds [*or the said A.B. having*
pleaded guilty to the charge], and the said A.B. consenting to our dealing with
the offence summarily [*proceed as in last form to end*].

Given under [*our*] hand at _____, in the said State, the day and
year first above-mentioned.

J.S., J.P.

H.M., J.P.

Justices.

38.—*Summary conviction of child for indictable offence.*

(*Criminal Code, Chapter LXIX.*)

WESTERN AUSTRALIA, }
[Perth] to wit. }

Be it remembered that on the day of 19 ,
at , A.B., being charged before [us], the undersigned, [two] of His
Majesty's Justices of the Peace [or a Police or Resident Magistrate], for the said
State [or for the Magisterial District of], that [he], the said A.B.
[stating the offence and the time and place when and where committed], and the age of
the said A.B. on the day of [date of offence] having in [our]
opinion not exceeded twelve years and C.D., the parent [or guardian] of the said
A.B., consenting to [our] deciding upon the charge summarily, the said A.B. is
therefore convicted before [us] of the said offence, and [we] adjudge the said A.B.,
for [his] said offence, to be imprisoned in the gaol at [there to be
kept at hard labour] for the term of [or, if a fine is imposed, proceed as in other
forms of conviction in such case], [and to be privately whipped with [six] strokes
of a birch rod (or cane or leather strap) in the presence of (the persons described in
Chapter LXIX. of the Criminal Code).

Given under [our] hand at , in the said State, the day and
year first above-mentioned.

J.S., J.P.
H.M., J.P.

39.—*Summary conviction of young person for indictable offence.*

(*Criminal Code, Chapter LXX.*)

WESTERN AUSTRALIA, }
[Perth] to wit. }

Be it remembered that on the day of 19 ,
at , A.B. being charged before [us], the undersigned, [two]
of His Majesty's Justices of the Peace [or a Police or Resident Magistrate] for
the said State to [or for the Magisterial District of], that [he]
the said A.B. [stating the offence and the time and place, when and where com-
mitted], and the age of the said A.B. on the day of [date of offence],
[date of offence], having been over twelve years, but not having in [our] opinion
exceeded sixteen years, and the said A.B. having consented to our deciding on the
charge summarily, the said A.B. is therefore convicted before [us] of the said
offence, and [we] adjudge [proceed as in the last form inserting Chapter LXX.
instead of Chapter LXIX].

Given, under [our] hand, at , in the said State,
the day and year first above-mentioned.

J.S., J.P.
H.M., J.P.

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ORDER AND CERTIFICATES OF DISMISSAL.

40.—*Order of dismissal of complaint.*

WESTERN AUSTRALIA, }
[Perth] to wit. }

Be it remembered that on the day of 190 , a complaint was made that [*etc., as in the summons to the defendant or warrant*], and on this day of 190 , at , in the said State, the said complaint came on for hearing before the undersigned [*one*] of His Majesty's Justices of the Peace for the said State [*or, etc.*], whereupon it appears to [*me*] that the said complaint is not proved [*or the complainant did not appear*], and [*I*] therefore dismiss the said complaint [and adjudge that the said C.D., pay to the said A.B. the sum of for the costs incurred by [*him*] in [*his*] defence, and if the said sum is not paid forthwith [*or on or before*],* [*I*] order that the same be levied by execution against the goods and chattels of the said C.D., and in default of sufficient goods and chattels* [*I*] adjudge the said C.D. to be imprisoned in His Majesty's prison [*or the (police) gaol*] at for the term of , unless the said sum and all costs and charges of the said execution [and of taking and conveying the said C.D. to prison] are sooner paid.

Given under [*my*] hand, at , in the said State,
this day of 190 .

J.S., J.P.

* Or where the issuing of warrant of execution would be more injurious to the defendant or his family than imprisonment, or it appears that he has no goods whereon to levy, then instead of the words between the asterisks * say—"Inasmuch as it appears to [*me*] that the issuing of a warrant of execution would be more injurious to the said A.B. and his family than imprisonment" [or "that the said A.B. has no goods or chattels whereon to levy the said sums"], [*I*] adjudge " [*etc., as above, to the end, but omitting the words "of the said execution and "*].

41.—*Certificate of Dismissal.*

WESTERN AUSTRALIA, }
[Perth] to wit. }

[*I*] the undersigned [*one*] of His Majesty's Justices of the Peace for the said State [*or, etc.*], hereby certify that on the day of 190 , at , in the said State, A.B. was charged before [*me*], that [*he*] the said A.B. [*etc., stating the offence and the time and place when and where alleged to have been committed*], and that [*I*] thereupon dismissed the said complaint.

Given under [*my*] hand, at , in the said State
this day of 190 .

J.S., J.P.

ORDERS.

42.—*Order for payment of money to be levied by execution, and in default of execution imprisonment.*

WESTERN AUSTRALIA, }
[Perth] to wit. }

Be it remembered that, on the day of 190 , complaint was made before the undersigned, [*one*] of His Majesty's Justices of the Peace for the said State [*or, etc.*], that [*stating the facts entitling the complainant to the order, with the time and place when and where they occurred*], and on the day of 190 , at in the said State, having heard the said complaint, [*I*] adjudge the said A.B. to pay to the said C.D. the sum of forthwith [*or as the case may be*], and also to pay to the

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said C.D. forthwith [*or as the case may be*], the sum of for costs, and if the said several sums are not paid as aforesaid* [*I*] order that the same be levied by execution against the goods and chattels of the said A.B., and in default of sufficient goods and chattels* [*I*] adjudge the said A.B. to be imprisoned in His Majesty's prison [*or the (police) gaol*] at , [there to be kept to hard labour], for the term of , unless the said several sums and all costs and charges of the said execution [and the costs and charges of commitment and of conveying the said A.B. to prison] are sooner paid.

Given under [*my*] hand, at , in the said State,
this day of 190 .

J.S., J.P.

* Or where the issuing of a warrant of execution would be more injurious to the defendant or his family than imprisonment, or it appears that he has no goods whereon to levy, then instead of the words between the asterisks ** say—"Inasmuch as it appears to [*me*] that the issuing of a warrant would be more injurious to the said A.B. and [*his*] family than imprisonment" [or "that the said A.B. has no goods or chattels whereon to levy the said sums"], [*I*] adjudge" [*etc., as above, to the end, but omitting the words "of the said execution and"*].

43.—Order for payment of money, and in default of payment imprisonment.

WESTERN AUSTRALIA, }
[Perth] to wit. }

Be it remembered that, on the day of 190 , complaint was made before the undersigned, [*one*] of His Majesty's Justices of the Peace for the said State [*or, etc.*], that [*stating the facts entitling the complainant to the order, with the time and place when and where they occurred*], and on the day of , at , in the said State, having heard the said complaint, [*I*] adjudge the said A.B. to forfeit and pay to the said C.D. the sum of forthwith, [*or as may be*], and also to pay to the said C.D. the sum of for costs, and if the said several sums be not paid as aforesaid [forthwith], [*I*] adjudge the said A.B. to be imprisoned in His Majesty's prison [*or the (police) gaol*] at , [there to be kept to hard labour] for the term of , unless the said several sums [and the costs and charges of commitment and of conveying the said A.B. to prison] are sooner paid.

Given under [*my*] hand, at , in the said State
this day of , 190 .

J.S., J.P.

44.—Order for any matter where the disobeying of it is punishable with imprisonment.

WESTERN AUSTRALIA, }
[Perth.] to wit. }

Be it remembered that, on the day of , 190 , complaint was made before the undersigned, [*one*] of His Majesty's Justices of the Peace for the said State [*or, etc.*], that [*stating the facts entitling the complainant to the order, with the time and place when and where they occurred*], and on the day of at in the said State, having heard the said complaint, [*I*] adjudge the said A.B. to [*here state the matter required to be done*], and if upon a copy of the minute of this order being served upon the said A.B., either personally or by leaving the same for [*him*] at [*his*] last known or usual place of abode, [*he*] shall neglect or refuse to obey the same, [*I*],

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adjudge the said A.B. to be imprisoned in His Majesty's prison [or the (police) gaol] at , [there to be kept to hard labour] for the term of [unless the said order is sooner obeyed *if the statute authorise this*], and [I] also adjudge the said A.B. to pay to the said C.D. the sum of for costs, and if the said sum is not paid forthwith [or on or before next], [I] order the same to be levied by execution against the goods and chattels of the said A.B., and in default of sufficient goods and chattels [I] adjudge the said A.B. to be imprisoned in the said prison for the term of , to commence at and from the termination of [his] imprisonment aforesaid, unless the said sum for costs, and all the costs and charges of the said execution [and of taking and conveying the said A.B. to prison] are sooner paid.

Given under [my] hand, at , in the said State, this day
of , 190 .

J.S., J.P.

WARRANTS OF EXECUTION, ETC.

45.—*Warrant of execution upon a conviction for a penalty.*

To the principal police officer at , in the State of Western Australia, and all other police officers in the said State.

Whereas A.B., late of in the said State of Western Australia , was on the day of 190 , at convicted before E.F. [and others] [one of] His Majesty's Justices of the Peace for the said State [or, etc.], of an offence against the provisions of the section of the Act [or as case may be, describing the Act or By-law under which the offence is created], and it was thereby adjudged that the said A.B. should for such [his] offence forfeit and pay [etc., as in the conviction], and should also pay to the said C.D. the sum of [his] costs, and it was thereby ordered that if the said several sums should not be paid [forthwith] the same should be levied by execution against the goods and chattels of the said A.B.*: And whereas the said A.B. being [now] required to pay the said sums, has not paid the same [or any part thereof]: These are therefore to command you, in His Majesty's name, forthwith to take the goods and chattels of the said A.B., and if within the space of days after taking them the said sums, together with the reasonable charges of taking and keeping the goods and chattels, are not paid, that then you sell the said goods and chattels and pay the money arising by such sale to the clerk of petty sessions at in the said State, and if no goods and chattels can be found that you certify the same to me.

Given under my hand, at , in the said State, this day
of , 190 .

J.S., J.P.

* See Form 68.

46.—*Warrant of execution upon an order for the payment of money.*

To the principal police officer at , in the State of Western Australia, and all other police officers in the said State.

Whereas on the day of , 190 , at , upon the hearing of a complaint made by C.D. of , against A.B. of , E.F. [and others] [one of] His Majesty's Justices of the Peace for the said State [or, etc.], adjudged that the said A.B. should pay to the said C.D. the sum of on or before the then next [or as the case may be], and also should pay to the said C.D. the sum of for costs, and it was thereby ordered that if the said several sums were not paid on or before the said day of then next, the same should then be levied by

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execution against the goods and chattels of the said A.B.*: And whereas the said C.D. has not paid the said several sums of [or any part thereof]: These are therefore to command you, in His Majesty's name, forthwith to take the goods and chattels of the said A.B., and if within the space of days after taking them the said last-mentioned sums, together with the reasonable charges of taking and keeping the said goods and chattels are not paid, that then you sell the said goods and chattels and pay the money arising from such sale to the clerk of petty sessions at in the said State, and if no goods and chattels can be found, then that you certify the same to me.

Given under my hand, at , in the said State, this day
of , 190 .

J.S., J.P.

*See Form 63.

47.—*Warrant of execution for costs upon an order for dismissal of a complaint.*

To the principal police officer at , in the State of Western Australia,
and all other police officers in the said State.

Whereas on the day of 190, at , upon the hearing of a complaint made by C.D. against A.B. before E.F. [and others] [one of] His Majesty's Justices of the Peace for the said State [or, etc.], dismissed the complaint, and adjudged that the said C.D. should pay to the said A.B. the sum of costs, and that if the said sum were not paid [forthwith] the same should be levied by execution against the goods and chattels of the said C.D.* And whereas the said C.D. being [now] required to pay to the said A.B. the said sum for costs, has not paid the same or any part thereof: These are therefore to command you, in His Majesty's name, forthwith to take the goods and chattels of the said C.D., and if within the space of days next after taking them the said sum, together with the reasonable charges of taking and keeping the goods and chattels, are not paid, that then you sell the said goods and chattels, and pay the money arising from such sale to the clerk of petty sessions at , in the said State, and if no goods and chattels can be found, that you certify the same to me.

Given under my hand, at , in the said State, this day
of , 190 .

J.S., J.P.

* See Form 64.

48.—*Warrant of execution for costs upon a conviction where the offence is punishable by imprisonment.*

To the principal police officer at , in the State of Western Australia,
and all other police officers in the said State.

Whereas A.B., of , in the said State of Western Australia [], was on the day of , 190 , at , convicted before E.F. [and others], [one of] His Majesty's Justices of the Peace for the said State [or, etc.], of an offence against the provisions of the section of the Act [or as the case may be, describing the Act or by-law under which the offence is created], and it was adjudged that the said A.B. should be imprisoned in His Majesty's prison [or the (police) gaol] at , [there to be kept to hard labour], for the term of , and it was also adjudged that the said A.B. should pay to the said C.D. the sum of for costs, and it was thereby ordered that if the said sum of for costs should not be paid [forthwith] the same should be levied by

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execution against the goods and chattels of the said A.B.* And whereas the said A.B., being required to pay the said sum of _____, has not paid the same [or any part thereof]: These are therefore to command you, in His Majesty's name, forthwith to take the goods and chattels of the said A.B., and if within the space of _____ days next after taking them the said last-mentioned sum, together with the reasonable charges of taking and keeping the goods and chattels, are not paid, that then you sell the said goods and chattels and pay the money arising from such sale to the clerk of petty sessions at _____, in the said State, and if no goods and chattels can be found that you certify the same to me.

Given under my hand, at _____, in the said State, this _____ day
of _____, 190 .

J.S., J.P.

* See Form 65.

49.—*Warrant of execution for costs upon an order where the disobeying of the order is punishable with imprisonment.*

To the principal police officer at _____, in the State of Western Australia, and all other police officers in the said State.

Whereas on the _____ day of _____, 190 , at _____, upon a complaint made by C.D., of _____, against A.B., of _____, E.F. [and others] [one of] His Majesty's Justices of the Peace for the said State [or, etc.], adjudged that the said A.B. should [etc., as in the order], and it was thereby also adjudged that the said A.B. should pay to the said C.D. the sum of _____ for costs, and it was ordered that if the said sum should not be paid [forthwith] the same should be levied by execution against the goods and chattels of the said A.B., and that in default of sufficient goods and chattels the said A.B. should be imprisoned in His Majesty's prison [or the (police) goal] at _____ for the term of _____, to commence at and from the termination of [his] imprisonment aforesaid, unless the said sum for costs and all costs and charges of the said execution and of the commitment should be sooner paid.* And whereas a copy of the minute of the said order was served upon the said A.B., but the said A.B. has not paid the said sum for costs, or any part thereof: These are therefore to command you, in His Majesty's name, forthwith to take the goods and chattels of the said A.B., and if within the space of _____ days after taking them the said last-mentioned sum, together with the reasonable charges of taking and keeping the goods and chattels, are not paid, that then you sell the said goods and chattels, and pay the money arising from such sale to the clerk of petty sessions at _____, in the said State, and if no goods and chattels can be found then that you certify the same to me.

Given under my hand, at _____, in the said State, this _____ day
of _____, 190 .

J.S., J.P.

* See Form 65.

50.—*Warrant of execution for costs of an appeal against a conviction or order.*

To the principal police officer at _____, in the State of Western Australia, and all other police officers in the said State.

Whereas [etc., as in the warrants of execution (Forms 44 and 45) to the end of the statement of the conviction or order, then thus]: And whereas the said A.B. appealed to [as the case may be] _____, against the said conviction [or order], in which appeal the said A.B. was the appellant, and the said C.D. was the respondent, and which said appeal was heard at the said Court on the day of _____, 190 , and the said Court 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

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costs of the said appeal, which said sum was to be paid to the clerk [*or as the case may be*] of the said Court at , on or before the day of , 190 : And whereas the clerk [*or as the case may be*] of the said Court on the day of , 190 , duly certified that the said sum for costs had not then been paid *: These are therefore to command you, in His Majesty's name, forthwith to take the goods and chattels of the said A.B., and if within the space of days next after the taking them the said last-mentioned sum, together with the reasonable charges of taking and keeping the said goods and chattels, are not paid, that then you sell the said goods and chattels, and pay the money arising from such sale to the clerk of petty sessions at , in the said State, and if no goods and chattels can be found, then that you certify the same to me.

Given under my hand, at , in the said State, this day
of , 190 .

J.N., J.P.

* See Form 66.

51.—*Return to a warrant of execution.*

I, W.T., police officer of , in the State of Western Australia, hereby certify to J.S., Esquire, one of His Majesty's Justices of the Peace for the State of Western Australia [*or, etc.*], 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 , 190 .

W.T.

WARRANTS OF COMMITTAL, ETC.

52.—*Warrant of commitment for trial or for sentence.*

To all police officers in the State of Western Australia, and to the superintendent [*or keeper*] of His Majesty's prison [*or the gaol*] at , in the said State.

Whereas A.B. was this day charged before me, J.S., one of His Majesty's Justices of the Peace for the said State [*or, etc.*], on the oath of C.D., of , in the State of , and others, that [*etc., stating shortly the indictable offence*], [and the said A.B. being asked admitted that he is guilty of the said offence]. And thereupon it was ordered that the said A.B. should be committed to take his trial [*or to be sentenced*] for the said offence at the criminal sittings of the Supreme Court [*or as the case may be*], to be holden at, etc.: These are therefore to command you, the said police officers, to convey the said A.B. to His Majesty's prison [*or the gaol*] at and deliver [him] to the superintendent [*or keeper*] thereof, together with this warrant; and [I] hereby command you, the said superintendent [*or keeper*] of the said prison, [*or gaol*] to receive the said A.B. into your custody in the said prison, [*or gaol*] and [him] there keep until the said sittings of the said Court, or until [he] shall be thence delivered by due course of law.

Given under [*my*] hand, at , in the said State, this day
of , 190 .

J.S., J.P.

*Justices.*53.—*Warrant to convey accused person before a Justice of the place in which the offence was committed.*

To the principal police officer at _____, in the State of Western Australia,
and all other police officers in the said State.

Whereas A.B., of _____, in the said State has this day been charged before the undersigned [one] of His Majesty's Justices of the Peace for the said State [or, etc.] that [etc., as in the summons or warrant]: And whereas [I] have taken the deposition of C.D., a witness examined by me in this behalf, but [I] am informed that the principal witnesses to prove the said offence against the said A.B. reside at _____, in the said State, where the said offence is alleged to have been committed: These are therefore to command you forthwith to convey the said A.B. to _____, in the said State, and take [him] before some Justice or Justices in and near to the place where the offence is alleged to have been committed to answer further the said complaint before him or them; and [I] hereby further command you to deliver to the said Justice or Justices the complaint in this behalf, and also the said deposition of C.D. now given into your possession for that purpose, together with this warrant.

Given under [my] hand, at _____, in the said State, this _____ day
of _____, 190 .

J.S., J.P.

54.—*Warrant of commitment of a person indicted.*

To all police officers in the State of Western Australia, and to the superintendent [or keeper] of His Majesty's prison [or the gaol] at _____, in the said State.

Whereas by warrant under [my] hand, dated the _____ day of _____, 190 , after reciting that it had been certified by J.D. [etc., as in the certificate], [I] commanded the principal police officer at _____, in the State of Western Australia, and all other police officers of the said State, in His Majesty's name, forthwith to apprehend the said A.B. and to bring [him] before some Justice or Justices for the said State [or, etc.]: And whereas the said A.B. having been apprehended and brought before [me], it is proved to [me] upon oath that the said A.B. is the same person who is charged in the said information: These are therefore to command you in His Majesty's name, forthwith to convey the said A.B. to His Majesty's prison [or the gaol] at _____ and deliver [him] to the superintendent [or keeper] thereof, together with this warrant, and [I] command you, the said superintendent [or keeper] of the said prison [or gaol] to receive the said A.B. into your custody in the said prison [or gaol] and to keep [him] there until [he] shall be thence delivered by due course of law.

Given under [my] hand, at _____, in the said State this _____ day
of _____, 190 .

J.S., J.P.

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

To the superintendent [or keeper] of His Majesty's prison [or the gaol] at _____, in the State of Western Australia.

Whereas it has been duly certified by the Registrar of the Supreme Court [or as the case may be], that [etc., stating the certificate Form 4]: And whereas [I] am informed that the said A.B. is in your custody in the said prison [or gaol] at _____, charged with some offence or other matter, and it is now proved upon oath before [me] that the said A.B. so indicted as aforesaid, and the said A.B. in your custody as aforesaid, are one and the same person: These are therefore to command you, in His Majesty's name, to detain the said A.B. in your custody in

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the prison aforesaid until [he] shall be lawfully removed therefrom for the purpose of being tried upon the said information, or until [he] shall otherwise be removed or discharged out of your custody by due course of law.

Given under [my] hand, at _____, in the said State, this _____ day
of _____, 190 .

J.S., J.P.

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

To all police officers in the State of Western Australia, and to the superintendent [or keeper] of His Majesty's prison [or the gaol] at _____, in the said State.

Whereas on the _____ day of _____ 190 , upon the hearing of a charge before the undersigned, [one] of His Majesty's Justices of the Peace for the said State [or, etc.], that [etc., as in the summons or warrant] E.F., of _____, in the said State _____, being required to make oath [or affirmation] as a witness to testify what [he] knew concerning the said charge, refused so to do [or being duly sworn as a witness, refused to answer certain questions concerning the premises which were put to him] without offering any just excuse for such refusal: These are therefore to command you the said police officers to convey the said E.F. to His Majesty's prison [or the gaol] at _____, in the said State, and deliver [him] to the superintendent [or keeper] thereof, together with this warrant, and [I] hereby command you the said superintendent [or keeper] of the said prison [or gaol] to receive the said E.F. into your custody in the said prison [or gaol] and keep [him] there for the space of _____ days for [his] contempt, unless in the meantime he consents to be examined and to answer concerning the premises.

Given under [my] hand, at _____, in the said State, this _____ day
of _____, 190 .

J.S., J.P.

57.—*Warrant of commitment for want of sureties of the peace or for good behaviour.*

To all police officers in the State of Western Australia, and to the superintendent [or keeper] of His Majesty's prison [or the gaol] at _____, in the said State.

Whereas on the _____ day of _____ 190 , upon the hearing of a charge before the undersigned, [one] of His Majesty's Justices of the Peace for the said State [or, etc.], that [etc., as in the complaint] the said A.B., being ordered to enter into his own recognisance in the sum of £ _____, with [two] sufficient sureties in the sum of £ _____ each, to keep the peace, etc. [or as the case may be—see condition of the recognisance to keep the peace, etc., ante, Form 25], refused and neglected, and still refuses and neglects so to do: These are therefore to command you, the said police officers, to convey the said A.B. to His Majesty's prison [or the gaol] at _____, and deliver him to the said superintendent [or keeper] thereof, together with the warrant. And [I] command you, the said superintendent [or keeper] of the said prison [or gaol], to receive the said A.B. into your custody, and there keep [him] for the term of [six months], unless he in the meantime enters into such recognisances with such sureties as aforesaid to keep the peace, etc. [or as may be].

Given under [my] hand, at _____, in the said State, this _____ day
of _____, 190 .

J.S., J.P.

*Justices.*58.—*Commitment of witness for refusing to enter into recognisance.*

To all police officers in the State of Western Australia, and to the superintendent [or keeper] of His Majesty's prison [or the gaol], at _____, in the said State.

Whereas on the _____ day of _____, 190____, and upon the hearing of a charge before the undersigned, [one] of His Majesty's Justices of the Peace for the said State [or etc.], that [etc., as in the summons or warrant] E.F., of _____, in the said State _____, having been examined as a witness touching the premises, and being required to enter into a recognisance conditioned to give evidence against the said A.B., refused so to do: These are therefore to command you, the said police officers, to convey the said E.F. to His Majesty's prison [or the gaol] at _____, in the said State, and deliver [him] to the said superintendent [or keeper] thereof, together with this warrant, and [I] hereby command you the said superintendent [or keeper] of the said prison [or gaol], to receive the said E.F. into your custody in the said prison [or gaol], there to keep [him] until after the trial of the said A.B. for the offence aforesaid, unless in the meantime the said E.F. duly enters into such recognisance as aforesaid in the sum of _____ pounds, before some Justice of the Peace, conditioned to appear at the next criminal sittings of the Supreme Court [or as the case may be] to be held at _____ in the said State, on the _____ day of _____ [or as the case may be], and there to give evidence upon any complaint which may be then and there preferred against the said A.B. for the offence aforesaid, and also to give evidence upon the trial of the said A.B. for the said offence.

Given under [my] hand, at _____, in the said State, this _____ day of _____, 190____.

J.S., J.P.

59.—*Warrant of commitment upon a conviction for a penalty in the first instance.*

To all police officers in the State of Western Australia, and to the superintendent [or keeper] of His Majesty's prison [or the gaol] at _____, in the said State.

Whereas A.B., of _____, in the State of Western Australia, _____ was on the _____ day of _____, 190____, convicted before the undersigned [one] of His Majesty's Justices of the Peace in and for the State of Western Australia, [or etc.], for that [stating the offence as in the conviction], and it was adjudged that the said A.B. for [his] said offence should forfeit and pay the sum of _____ [etc., as in the conviction], and should pay to the said C.D. the sum of _____ costs, and it was further adjudged that if the said several sums should not be paid [forthwith] the said A.B. should be imprisoned in His Majesty's prison [or the gaol] at _____, [and there kept to hard labour] for the term of _____, unless the said several sums, [and the costs and charges of conveying the said A.B. to prison] should be sooner paid: And whereas the time in and by the said conviction appointed for the payment of the said several sums has elapsed, but the said A.B. has not paid the same or any part thereof: These are therefore to command you, the said police officers, to apprehend the said A.B. and convey [him] to the prison [or gaol] at _____ aforesaid, and deliver [him] to the superintendent [or keeper] thereof, together with this warrant, and [I] hereby command you, the said superintendent [or keeper] of the said prison [or gaol], to receive the said A.B. into your custody in the said prison [or gaol], there to imprison [him] [and keep [him] to hard labour] for the term of _____, unless the said several sums [and the costs and charges of conveying [him] to the said prison [or gaol], amounting to the further sum of _____] are sooner paid.

Given under [my] hand, at _____, in the said State, this _____ day of _____, 190____.

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60.—*Warrant of commitment on an order in the first instance.*

To all police officers in the State of Western Australia, and to the superintendent [or keeper] of His Majesty's prison [or the gaol] at _____, in the said State.

Whereas on the _____ day of _____, 190____, upon the hearing of a complaint before the undersigned, [one] of His Majesty's Justices of the Peace for the said State [or, etc.], that [etc., as in the order], [I] adjudged the said A.B. to pay to the said C.D. the sum of _____, on or before the _____ day of _____ 190____, and also to pay to the said C.D. the sum of _____ costs, and [I] also adjudged that if the said several sums should not be paid on or before the said _____ day of _____ 190____, the said A.B. should be imprisoned in His Majesty's prison [or the gaol] at _____ [and there be kept to hard labour] for the term of _____, unless the said several sums [and the costs and charges of conveying A.B. to the said prison (or gaol) should be sooner paid: And whereas the said A.B. has not paid the said sums or any part thereof: These are therefore to command you, the said police officers, to apprehend the said A.B. and convey [him] to the said prison [or gaol] at _____ aforesaid, and there deliver [him] to the superintendent [or keeper] thereof, together with this warrant, and [I] hereby command you, the said superintendent [or keeper] to receive the said A.B. into your custody in the said prison [or gaol], there to imprison [him] and keep [him] to hard labour for the term of _____, unless the said several sums [and the costs and charges of conveying [him] to the said prison [or gaol], amounting to the further sum of _____], are sooner paid.

Given under [my] hand, at _____, in the said State, this _____ day of _____, 190____.

J.S., J.P.

61.—*Warrant of commitment on an order where the disobeying of it is punishable by imprisonment.*

To all police officers in the State of Western Australia, and to the superintendent [or keeper] of His Majesty's prison [or the gaol] at _____, in the said State.

Whereas on the _____ day of _____, 190____, upon the hearing of a complaint before the undersigned, [one] of His Majesty's Justices of the Peace for the said State [or, etc.], that [etc., as in the order], [I] adjudged the said A.B. to [etc., as in the order], and ordered that if upon a copy of the minute of that order being served upon the said A.B. either personally or by leaving the same for [him] at [his] last known or usual place of abode [he] should refuse or neglect to obey the same, the said A.B. should be imprisoned in His Majesty's prison [or the gaol] at _____ in the said State [there to be kept to hard labour for the term of _____ of _____, unless the said order should be 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 has not as yet obeyed the said order: These are therefore to command you, the said police officers, to apprehend the said A.B. and convey [him] to the prison [or gaol] at _____ aforesaid, and deliver him to the superintendent [or keeper] thereof, together with this warrant and [I] hereby command you, the said superintendent or officer in charge of the said prison, [or gaol] to receive the said A.B. into your custody in the said prison [or gaol], there to imprison [him] and keep [him] to hard labour for the term of _____.

Given under [my] hand, at _____, in the said State, this _____ day of _____, 190____.

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62.—*Warrant of commitment on a conviction where the punishment is by imprisonment.*

To all police officers in the State of Western Australia, and to the superintendent [or keeper] of His Majesty's prison [or the gaol], at _____, in the said State.

Whereas A.B., of _____, was this day duly convicted before the undersigned, [one] of His Majesty's Justices of the Peace for the said State [or etc.], that [stating the offence as in the conviction as in Forms 33, 36, and 37], and it was adjudged that the said A.B. should be imprisoned in His Majesty's prison [or the gaol], at _____, [there to be kept to hard labour] for the term of _____ : These are therefore to command you, the said police officers, to convey the said A.B. to the prison [or gaol], at _____, aforesaid, and deliver [him] to the superintendent [or keeper] thereof, together with this warrant, and [I] command you, the said superintendent [or keeper] of the said prison [or gaol] to receive the said A.B. into your custody in the said prison [or gaol] there to imprison [him] and keep [him] to hard labour for the term of _____

Given under [my] hand, at _____ in the said State, this _____ day
of _____, 190 _____.

J.S., J.P.

EXECUTION AND IMPRISONMENT.

63.—*Warrant of commitment for want of execution upon a conviction for a penalty or upon an order for payment of money.*

To all police officers in the State of Western Australia, and to the superintendent [or keeper] of His Majesty's prison [or the gaol], at _____, in the said State.

Whereas [etc., as in either of the foregoing warrants of execution Forms 45 and 46, to the asterisk (*), and then thus] : And it was adjudged that in default of sufficient goods and chattels the said A.B. should be imprisoned in His Majesty's prison [or the gaol] at _____, [there to be kept to hard labour] for the term of _____, unless the said several sums and all costs and charges of the said execution and of taking and conveying the said A.B. to prison should be sooner paid : And whereas, on the _____ day of _____ in the year aforesaid, a warrant was issued to the principal officer of police at _____ in the said State, commanding him to levy the said sums of _____ and _____ by execution against the goods and chattels of the said A.B. : And whereas it appears to me as well by the return of the said police officer to the said warrant of execution as otherwise that no sufficient goods and chattels could be found whereon to levy the sums above-mentioned : These are therefore to command you, the said police officers, to apprehend the said A.B. and convey [him] to the prison [or gaol] at _____ aforesaid, and deliver [him] to the superintendent [or keeper] thereof, together with this warrant, and I hereby command you, the said superintendent [or keeper] to receive the said A.B. into your custody in the said prison [or gaol], there to imprison [him] and keep him to hard labour for a term of _____ unless the said several sums and all the costs and charges of the said execution [and of the commitment and conveying of the said A.B. to the said prison (or gaol)] amounting to the further sum of _____, are sooner paid to you.

Given under my hand, at _____ in the said State, this _____ day
of _____, 190 _____.

J.S., J.P.

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64.—*Warrant of commitment for want of execution for costs on dismissal of a complaint.*

To all police officers in the State of Western Australia and to the superintendent [or keeper] of His Majesty's prison [or the gaol] at _____, in the said State.

Whereas [etc., as in Form 47 to the asterisk (*), and then proceed as in Form 63, "And it was adjudged, etc.," reciting order of dismissal according to its terms].

65.—*Warrant of commitment for want of execution for costs where offence is punishable by imprisonment, or upon an order where disobeying the order is punishable with imprisonment.*

To all police officers in the State of Western Australia, and to the superintendent [or keeper] of His Majesty's prison [or the gaol] at _____, in the said State.

Whereas [etc., as in Forms 48 and 49 respectively, to the asterisk (*), and then proceed as in Form 63, "And it was adjudged, etc.," reciting conviction or order according to its terms].

66.—*Warrant of commitment for want of execution for costs of appeal against conviction or order.*

To all police officers in the State of Western Australia, and to the superintendent [or keeper] of His Majesty's prison [or the gaol] at _____, in the said State.

Whereas [etc., as in Form 50 to the asterisk (*), and then thus: "And whereas on the _____ day of _____ in the year aforesaid, a warrant was issued, etc.," and then proceed as in Form 63].

GAOLER'S RECEIPT.

67.—*Gaoler's receipt for the prisoner.*

I hereby certify that I have received from W.T., police officer, of _____, in the State of Western Australia, the body of A.B., in good health [or as the case may be], together with a warrant under the hand of J.S., Esquire, [one] of His Majesty's Justices of the Peace for the said State [or, etc.].

P.K.,
Superintendent [or keeper] of the Prison.

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DELIVERANCE.

68.—*Warrant of discharge on bail being given for a prisoner already committed.*

To the Superintendent [or keeper] of His Majesty's prison [or the gaol] at _____,
in the State of Western Australia.

Whereas A.B., late of _____, in the said State, has, before the undersigned [one] of His Majesty's Justices of the Peace for the said State [or etc.], entered into his own recognisance and found sufficient sureties for [his] appearance at the next Criminal Sittings of the Supreme Court [or as the case may be], to be held at _____, in the said State, to answer a charge that [etc., as in the commitment] for which [he] was committed to your said prison [or gaol]. These are therefore to command you, in His Majesty's name, that if the said A.B. is now in your custody in the said prison for the said cause and for no other you forthwith suffer [him] to go at large.

Given under [my] hand, at _____, in the said State, this _____ day
of _____, 190 .

J.S., J.P.

69.—*Warrant to discharge a person committed for want of sureties of the peace or for good behaviour.*

To the Superintendent [or keeper] of His Majesty's prison [or the gaol] at _____,
in the State of Western Australia.

Whereas A.B., late of _____, in the said State, has, before the undersigned [one] of His Majesty's Justices of the Peace for the said State [or etc.] entered into his own recognisance and found sufficient sureties to keep the peace [etc., as in the condition of the recognisance]. These are therefore to command you [etc., as in the preceding Warrant of Discharge].

Given under [my] hand, at _____, in the said State, this _____ day
of _____, 190 .

J.S., J.P.

70.—*Order to discharge a witness upon prisoner not being committed for trial.*

To the Superintendent [or keeper] of His Majesty's prison [or the gaol] at _____,
in the State of Western Australia.

Whereas by a warrant, dated the _____ day of _____ 190 , under the hand of L.M. [one] of His Majesty's Justices of the Peace for the said State [or etc.], reciting that upon the hearing of a charge against one A.B. for a certain offence therein mentioned, E.F., having been examined as a witness, refused to enter into a recognisance to give evidence against the said A.B., the said L.M. committed the said E.F. to your custody, and required you to keep [him] until after the trial of the said A.B. for the offence aforesaid, unless in the meantime the said E.F. should enter into such recognisance as aforesaid: And whereas the said A.B. has not been committed for trial or held to bail for the said offence, but has been discharged: These are therefore to direct you to discharge the said E.F. out of your custody and suffer [him] to go at large as to the said commitment.

Given under [my] hand at _____, in the said State this _____ day
of _____ 190 .

J.S., J.P.

2° EDWARDI VII., No. 11.

Justices.

71.—*Case stated.*

In the Supreme Court,
Western Australia.

Between [A.B.] appellant
and
[C.D.] respondent.

{ PERTH, }
{ to wit. }

1. This is a case stated by us, two of His Majesty's Justices of the Peace for the said State (or for the Magisterial District of), sitting at , being a Court of Petty Sessions under the Justices Act, 1902, on the application in writing of the appellant, who was dissatisfied with our decision as being erroneous in point of law as hereinafter stated.

2. At the said Court a complaint was preferred by (hereinafter called the appellant [or respondent]) under the statute [here quote statute], against (hereinafter called the respondent [or appellant]) for that he [etc., as in the complaint], which complaint was heard by us on the day of , 19 , when we [here set out the adjudication].

3. And whereas the appellant being dissatisfied with our said decision as being erroneous in point of law (or in excess of jurisdiction) has, pursuant to Section 197 of the Justices Act, 1902, duly applied to us, in writing, to state and sign a case, setting forth the facts and grounds of such decision for the opinion of the Supreme Court, and has duly entered into a recognisance as required in that behalf.

4. Now therefore we the said Justices, in compliance with the said application, do hereby state and sign the following case:—

Case.

5. Upon the hearing of the said complaint the following facts were proved before us [set out in regular sequence, and in numbered paragraphs, such facts as were found by the Court].

6. On the part of the appellant it was contended that, etc.

7. On the part of the respondent it was contended that, etc.

8. Our attention was called to the several reported cases hereinafter set out [set out cases referred to (if any) with references].

Opinion.

9. [Here set out the opinion formed by the Justices either in convicting, making the order, or dismissing the complaint.]

Question.

10. The question on which the opinion of the Supreme Court is desired is whether we, the said Justices, upon the above statement of facts in deciding that [state point decided], came to a correct decision in point of law, and if not, what should be done in the premises.

Dated the day of , 19 .

J.S., J.P.

H.M., J.P.

2° EDWARDI VII., No. 11.

Justices.

Sections 96 and 198.

The Fifth Schedule.

FEES TO BE TAKEN IN COURTS OF PETTY SESSIONS.

	s.	d.
For every Complaint on Oath	2	6
For every Summons	1	0
Drawing and Return of Conviction	2	0
For every Order drawn up	2	0
Summons to Witness, each	1	0
Service of all Summonses (except where complaint made by Police) ...	1	0
Mileage for Service of Summonses (including summons on complaint by police), one shilling per mile (one way only), excepting where a railway is available. If a railway is available, railway fare, where summons served by police, and in other cases railway fare and ten shillings per day, or five shillings per half day, for time occupied in travelling.		
Depositions on Hearings, not more than 1s. per sheet of two pages, from	1s.	to 5s.
For every Oath in Judicial Proceeding	0	6
For every Oath when not in Judicial Proceeding	1	0
Warrant against one person	1	0
Search Warrant	2	0
Distress Warrant	2	0
Mittimus Warrant	2	0
Recognisance and Return to Quarter Sessions	3	0
Discharge or Liberate of person in custody	1	0
Copy Depositions (per folio of 72 words), including stationery	0	3

Special Case.

Drawing Case and Copy of Case, not exceeding five folios of 100 words each	10	6
Exceeding five folios as described, for every additional folio	2	6
Recognisance	5	0
For every Enlargement or Renewal thereof	3	6
Certificate of Refusal	2	6

Section 116.

The Sixth Schedule.

Abduction of girl under sixteen.
 Assault punishable under Section 316 of the Criminal Code.
 Attempt to commit a crime.
 Attempt to obtain money by false pretences.
 Concealing birth of child by secret burying or otherwise.
 Indecent assault.
 Offences against morality (Chapter XXII. of Criminal Code).
 Perjury and subornation of perjury.
 Riot.

2° EDWARDI VII., No. 11.

Justices.

The Seventh Schedule.

Section 169.

JUSTICES ACT, 1902.

Account of Clerk of Petty Sessions or Keeper of Gaol.

Return to the Treasury of all fines, penalties, and sums of money received by the Clerk of Petty Sessions [*or* by the superintendent of His Majesty's prison *or* keeper of the gaol] at _____ from the _____ day of _____ 190 , to the _____ day of _____ 190 .

Name of party convicted.	Date.	Offence.	Costs.	Amount thereof paid.	Fine.	Amount thereof paid.	Amount of fine how applied.	Punishment when fine not paid.	Names of convicting magistrates.	Reason of non-payment or other observations.

Dated the _____ day of _____ 190 .

(Signed)

Clerk of Petty Sessions [*or* superintendent *or* keeper]
of the abovenamed prison [*or* gaol].