

THE JUSTICES ACT, 1902-1926.

(2° Edward VII., No. 11).

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JUSTICES ACT, 1902-1926.

No. 11 of 1902.

As amended by No. 19 of 1919*, No. 28 of 1920†, and No. 34 of 1926‡

**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, 1902-1926*. It is divided into parts, as follows:—

Short title and
division of Act.
Amended by No. 28
of 1920, s. 4.

PART I.—PRELIMINARY.

PART II.—JUSTICES.

PART III.—JURISDICTION.

PART IV.—GENERAL PROCEDURE.

PART V.—PROCEEDINGS IN CASE OF INDICTABLE
OFFENCES.

PART VI.—PROCEEDINGS IN CASE OF SIMPLE OF-
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PART VII.—SURETY OF THE PEACE AND FOR GOOD
BEHAVIOUR.

PART VIII.—APPEALS FROM THE DECISIONS OF JUS-
TICES.

PART IX.—PROTECTION OF JUSTICES IN THE EXECU-
TION OF THEIR OFFICE.

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 The several Acts mentioned in the First Schedule are hereby repealed and amended to the extent in the said schedule indicated, but no proceedings or acts or things done under any of the said Acts before the commencement of this

Repeal of existing
Acts.

*Assented to 28th October, 1919. †Assented to 31st December, 1920.

‡ Assented to 8th December, 1926.

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as practicable, according to the provisions of this Act, and subject thereto, according to the provisions of the said repealed Acts respectively, which shall for that purpose be deemed to continue in force notwithstanding the repeal thereof; and all persons lawfully in custody or bound by recognisance, at the commencement of this Act, under the provisions of any of the said repealed Acts, shall be deemed to be in lawful custody or to be so bound as aforesaid under the provisions of this Act, and may be dealt with accordingly.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—

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;

Complaint.

“Complaint” includes the terms “information,” “information and complaint,” and “charge,” and, unless the contrary appears, means an information and complaint before Justices;

Decision.

“Decision” includes a committal for trial and an admission to bail as well as a conviction, order, order of dismissal, or other determination;

Defendant.¹
Amended by No. 19
of 1919, s. 4.

“Defendant” means a person complained against before Justices of an indictable offence, simple offence, or other matter;

Gaol.

“Gaol” includes prison and police gaol;

Hearing.

“Hearing” includes the examination of a person charged with an indictable offence;

Indictable Offence.

“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;

- “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.
- “Matter” means any act, omission, fact, or event (except an indictable offence not punishable summarily) upon complaint whereof justices may give any decision against or in respect of any person; Matter.
Inserted by No. 10
of 1919, s. 2.
- “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 any matter (not being a simple offence); Order.
Amended by No. 19
of 1919, s. 4.
- “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.
- “Road District” means a district established under the Roads Act, 1888, or other Act amending or in substitution for that Act; Road District.
- “Simple offence” means any offence (indictable or not) punishable, on summary conviction before Justices, by fine, imprisonment, or otherwise; Simple offence.
- “Summary conviction” or “conviction” means a conviction by Justices for a simple offence; Summary conviction.
- When one word or phrase includes another, the derivatives of the one include those of the other. Derivatives.

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 General saving of
powers of Justices.

this Act are inconsistent with the existence or exercise of such power or authority.

PART II.—JUSTICES.

Appointment of Justices generally. Amended by No. 19 of 1919, s. 3.

6. The Governor may appoint such and so many Justices (male and female) 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.

Mayors to be Justices.

9. (1.) 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.

Chairmen of road boards to be Justices. No. 34 of 1926, s. 2.

(2.) The Chairman for the time being of every road board shall, by virtue of his office and without any further commission or authority than this Act, be a Justice for the magisterial district or districts in which the road board is situated.

(3.) No person who becomes a justice under the provisions of this section shall be authorised to exercise any of the powers and authorities of a Justice of the Peace until

his name has been entered in a special roll which shall be kept for the purpose by the secretary of the Premier's Department, who shall enter the name of such person therein upon production of a certificate from the town clerk or the secretary of the road board, that such person is the mayor or chairman, as the case may be, and shall give notice thereof in writing to such person.

10. The Governor may prohibit any person who is a Justice of the Peace by virtue of such office of Mayor or Chairman of a road board 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 Chairman of a road board or has been appointed by the Governor to be a Justice of the Peace.

Unless prohibited.
No. 34 of 1926,
s. 3.

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.

Interest as rate-payer, etc., no disqualification.

(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.

Oath of office. No. 34 of 1926, s. 4.

16. A Justice, other than a Justice appointed by virtue of section twelve of this Act, shall not exercise any of the functions of his office until he has taken or made 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 of 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.

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— General provision.

(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.

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 throughout 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 Districts. 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 Magisterial Districts to continue under this Act until altered.

Powers of one Justice.

Acts by 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.

After decision one Justice may issue warrant of execution or commitment.

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.

Warrants of execution after appeal.

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.

Hearing and Quorum.

Hearing of complaints.
Original Section 29 repealed and new section substituted No. 19 of 1919, s. 5.

29. Subject to this Act, and notwithstanding the provisions of any other Act, every complaint for an indictable offence or a simple offence or other matter shall be heard by and before two or more Justices:

Proviso added by No. 28 of 1920, s. 2.

Provided that, with the consent of all parties concerned, any such complaint may be heard by and before one Justice, but a memorandum of such consent shall be forthwith made and signed by the Justice.

Majority to decide.
Amended by No. 19 of 1919, s. 4.

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 the Justices present, or a majority of them, or if they are equally divided, by the senior Justice 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.

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.

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

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.

Jurisdiction of one Justice in certain circumstances. See 14 Vict., No. 5, s. 32.

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

Police and Resident Magistrates.

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

Special powers given to Police and Resident Magistrate who may in all cases act alone.

Every Police or Resident Magistrate hereafter or heretofore appointed shall be deemed to have and to have had authority as such throughout the State.

New paragraph added by No. 19 of 1919, s. 6.

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

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

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.

Extent of Jurisdiction.

Justices may act outside 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.

Warrants of commitment and remand by Justices of limited jurisdiction.

36. A warrant of commitment or 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.

Duty of police officers.

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.

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

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

Order *in lieu* of *mandamus*.

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 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.

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.

Penalty for insulting or interrupting Justices.

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.

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.

Complaint by whom laid.

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:

Proviso added.
No. 19 of 1913,
s. 7.

Provided also, that when several simple offences are alleged to be constituted of the same acts or omissions or by a series of acts done or omitted to be done in the prosecution of a single purpose, charges of such offences may be joined in the same complaint against the same person; but if in any such case it appears to the Justices that the defendant is likely to be prejudiced by such joinder, they may require the complainant to elect upon which of the charges he will proceed or may direct that the defendant shall be tried separately on each or any of the charges.

Description of persons and property.

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

What is sufficient description of offence.

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.

Variance and Amendment.

Want of form for variance in warrant, etc.}

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.

Amendment.

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 commit the defendant, or discharge him upon recognisance for his appearance at the time and place to which the hearing is adjourned.

Minute of 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.

Complaints, how made.

Complaint on oath where warrant issued.

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.

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 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.

Where summons to be issued.

Limitation.

51. In any case of a simple offence or other matter, 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.

Limitation of proceedings.
Amended by No. 19 of 1919, s. 4.

Summons.

52. When a complaint is made before a Justice that any person is guilty of, or is suspected of having committed, or is liable to be dealt with in respect of any indictable offence, simple offence, or other matter, within the jurisdiction of such Justice, then such Justice may issue his summons.

When Justice may issue summons.
Amended by No. 1 of 1919, s. 4.

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 may be issued by clerk of petty sessions.

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.

Summons to state matter of the complaint.

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*.

Ex parte proceedings.

Service, Indorsement, and Proof of Service.

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.

Service thereof.

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.

Proof of service.

(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.

(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.

Warrant and summons, in what cases issued.

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,

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:

Proviso.

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.

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.

Warrant in the first instance for simple offence.

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 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.

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

Direction of warrant.

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

Any police officer may execute warrant.

Form of Warrant.

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.

What warrants shall order.

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.

Warrants to be in force till executed.

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.

Sunday warrants.

Arrest without 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.

Bail of persons arrested without warrant.

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:

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

Exclusion of strangers. 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.

Counsel or solicitor not to be excluded. 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 and Solicitor.

Conduct of case. 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.

Evidence.

Evidence, how taken. 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.

Prosecutor and complainant a competent witness. Amended by No. 19 of 1919, s. 4. 70. Upon any complaint of an indictable offence, or simple offence or other matter, the prosecutor or complainant shall be a competent witness to support such complaint.

Defendant and wife or husband, when competent. 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.

(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 other matter the husband or wife of the defendant shall be a competent and compellable witness.

Amended by No. 19 of 1919, s. 4.

72. If the complaint in any case of a simple offence or other matter 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.

Proof of negative, etc.
Amended by No. 19 of 1919, s. 4.

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.

Mode of taking evidence.

Witnesses in General.

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.

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

(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.

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.

After summons warrant.

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

Witness not answering.

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.

Production of documents before Justices.

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:

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.

Remand of defendant.
Amended by No. 19 of 1919, s. 4.

79. In any case of a charge of an indictable offence, if from the absence of witnesses, or from any other reasonable cause, it become 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 re-

mand 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 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. The powers given by this and the next succeeding section may be exercised by one Justice if only one is present.

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.

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.

Bringing up during remand.

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.

Ball of defendant during examination.

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.

Remand to another place.

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

Effect of depositions, etc.

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 recognisance, 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.
Amended by No. 19 of 1919, s. 4.

86. In any case of a charge of a simple offence or other matter, 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 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.

Place of committal or detention.

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 to which committal to be made.

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.

Witness may be discharged on recognisance.

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

Recognisances taken out of Court.

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, and such Justice shall on demand by or on behalf of any law officer (as defined by the Crown Suits Act, 1898), certify by writing under his hand, in the form contained in the Fourth Schedule to the said Act or to the like effect, that such forfeiture has taken place.

Forfeited recognisances, how to be enforced.
Amended by No. 19, of 1919, s.18.

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.

Revocation of
order of bail.
No. 34 of 1926,
s. 5.

94a. 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 Session, a Police or Resident Magistrate may, if satisfied that it is in the interests of justice so to do, revoke the order admitting such person to bail or discharging him on recognisance, and order him to be committed to prison, and may thereupon issue his warrant for that purpose in the prescribed form.

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

Disobedience of summons.

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 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.

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 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.

Evidence for
defence.

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.

[Section 108 repealed by No. 19 of 1919, s. 4.]

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.

Power to take
statements of wit-
nesses dangerously
ill.
See 37 Vict., No.
4, s. 4.

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.

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
evidence.
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.

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.

Prisoner to be present when statement taken.
See *ibid.*, s. 5.

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.

Certificate.

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.

Duplicate certificate of consent to bail.

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.

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.

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.

Warrant of deliverance.

Witnesses where Committed for Trial.

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.

Recognisance of witnesses, etc.

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.*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.

Duty of Attorney
General, 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.

Authority of Judge.

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 held, 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.

*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.

Every direction of Justices to bring a defendant before them under this section shall be reduced into writing and signed and have effect as a warrant, and shall be obeyed and carried into effect by all constables, gaolers, and other persons to whom it is directed, according to its tenor.

Added by No. 19
of 1919, s. 6.

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.

Restitution of
property.

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.

Or its value.

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.

Amended by No. 19
of 1919, s. 4.

PART VI.—PROCEEDINGS IN CASE OF SIMPLE OFFENCES AND
OTHER MATTERS.

Complainant's Default.

Dismissal or ad-
journment in ab-
sence of complain-
ant.

Amended by No. 19
of 1919, s. 4.

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 other matter, 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.

Defendant's Default.

Ex parte hearing
in absence of
defendant.

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—

- (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.

Or Justices may
adjourn the case.

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.

Hearing.

Both parties ap-
pearing.

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

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.

Proceedings at the hearing on defendant's confession.

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.

Where defendant does not admit the case.

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.

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

Practice.

141. The practice before Justices upon the hearing of a complaint of a simple offence or other matter 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.

Conduct of summary proceedings regulated.

Amended by No. 19 of 1919, s. 4.

Dismissal.

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.

Dismissal of complaint.

[Section 143 repealed by No. 19 of 1919, s. 10.]

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

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:—

- (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 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.

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.

No certiorari.

Copies of Depositions, etc.

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.

Copies of proceedings in summary cases.

Imprisonment.

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.

Imprisonment in first instance.

150. When Justices, upon making a conviction for a simple offence, adjudge the defendant to be imprisoned, and the defendant has previously been adjudged to be imprisoned upon a conviction for any other offence (whether an indictable offence or not), or is adjudged at the same petty sessions to be imprisoned for any other offence, 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.
Amended by No. 19 of 1919, s. 4.*

Subject as aforesaid, and to subsection six of section one hundred and sixty-seven, 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.

- Costs on conviction or order.** 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 dismissal.** 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.
- The sum allowed or costs to be specified in the conviction or order.** 153. The sum so allowed for costs shall, in all cases, be specified in the conviction or order or order of dismissal.
- Costs, how recoverable.** 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.

Enforcement of Recognisances.

- Enforcing recognisances. Inserted by No. 34 of 1926, s. 6.** 154a. (1.) When any person bound with or without sureties,—
- (a) by any recognisance entered into pursuant to the order or decision of any court of summary jurisdiction to attend or appear before any such court, or to keep the peace, or be of good behaviour, or observe or comply with any other condition, or
- (b) by any recognisance entered into pursuant to section one hundred and eighty-seven or two hundred of this Act,

fails in any condition of the recognisance, complaint thereof may be made against those bound by the recognisance, or any one or more of them, and proceedings in respect thereof may be issued and taken as in the case of a matter cognisable under this Act, and on the hearing an order may be made forfeiting the recognisance and ordering the payment by the person or persons proceeded against of the sum or sums in which he or they is or are respectively bound.

(2.) The provisions of this section shall be without prejudice to any other method of enforcement.

(3.) This section shall apply and have effect whether the failure in the condition of the recognisance has occurred before or after the commencement of this Act.

Execution.

155. (1.) When a conviction or order adjudges or requires the payment of a pecuniary penalty or compensation or sum of money or costs, then the conviction or order shall direct that the same shall be recoverable in default of payment by execution against the goods and chattels of the person liable, and that in default of payment and of sufficient goods and chattels he shall be imprisoned for a period determined in accordance with the provisions of section one hundred and sixty-seven, and subject to the provisions of that section: Provided that the Justices may, in lieu of directing that such penalty, compensation, or sum of money or costs shall be recoverable by execution, direct that in default of payment the person in default shall be imprisoned as aforesaid.

Enforcement of convictions and orders.
Original section 155 repealed and new section substituted.
No. 19 of 1919, s. 12.

(2) This section applies to an order directing any person to make any periodical payments, and such order shall direct that whenever and as often as default is made in any such payment, the person in default shall be liable to such process of execution and imprisonment or to such imprisonment only as is hereinbefore provided.

(2a) It shall not be necessary for the person entitled to receive the said periodical payments to enforce such order for and in respect of each such payment as and whenever default has been made in payment thereof, and whenever default has been made in respect of more than one periodical payment the person in default shall be liable in respect of the aggregate amount in payment whereof default has been made to such process of execution and imprisonment or imprisonment only as he would be liable to if the default were in respect of one payment equal to the said aggregate amount: Provided such aggregate amount shall not exceed the sum of periodical payments for six months.

Inserted by No. 34 of 1926, s. 7.

This subsection shall have effect in respect of defaults made before or after the commencement of the Justices Act Amendment Act, 1926.

See *Ibid.*, ss. (2).

(3) Every such conviction or order as aforesaid shall have effect according to its tenor, and any necessary warrant of execution or commitment may be issued for the purpose of enforcing the same.

(4.) The provisions of this section shall apply to all convictions or orders of Justices, notwithstanding the provisions of any other Act: Provided that nothing herein shall render any person liable to imprisonment who is expressly exempted from such liability by any Act.

(5) Every conviction or order adjudging or requiring the payment (whether periodically or otherwise) of a pecuniary penalty or compensation, or sum of money or costs, which has been heretofore pronounced or made by Justices or which has heretofore or shall hereafter become enforceable as if so pronounced or made, shall, for the purposes of enforcement, be deemed to direct recovery in default of payment by execution and imprisonment as aforesaid, and this section shall apply thereto accordingly.

Discharge or
retainer 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
committed.
Amended by No. 19
of 1919, s. 13.

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, whereupon 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 a period determined according to the scale in section one hundred and sixty-seven, subject to any reduction ordered under that section, 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.

Added by No. 19
of 1919, s. 13.

When portion of the penalty, compensation, sum of money, or costs directed to be levied by the warrant of execution has been levied or paid, due credit shall be given and allowed for such portion in the warrant of commitment.

Commitment for
non-payment of
a penalty or sum
ordered to be paid.
Original Section 158
repealed and new
section inserted by
No. 19 of 1919, s.14.

158. In any case in which a conviction or order for a penalty or compensation or for the payment of a sum of money or costs does not direct that the same shall be recoverable by execution, but directs that in default of payment the person

in default shall be imprisoned, then any Justice may issue his warrant of commitment of the person in default to gaol, there to be imprisoned for a period determined according to the scale in section one hundred and sixty-seven, subject to any reduction ordered under that section, unless the sum adjudged to be paid and all 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. Due credit shall be given and allowed in the warrant of commitment for any portion of such penalty, compensation, sum of money or costs paid before the issue thereof.

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 payment's 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 jurisdic-

Warrant may be executed throughout State.

tion, 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.

Mode of Execution.

Procedure on
execution.

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

- (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.
- (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.

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.

Satisfaction of execution by payment.

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.

No person executing defective warrant to be deemed a trespasser.

165a. (1) If a claim is made to or in respect of goods seized under a warrant of execution or in respect of the proceeds or value of the goods by a person not being the person against whom the process has been issued, the clerk of the local court nearest to where the seizure was made, upon application of the officer charged with the execution of the warrant whether an action has been brought against the officer or not, may enter an interpleader claim, and may issue a summons thereon calling before the court the person making the claim, and thereupon any action which has been brought in the Supreme or any other court in respect of the claim shall be stayed.

Interpleader.
New section inserted by No. 19 of 1910, s. 15

(2.) The clerk shall also, if the magistrate so directs, by the same summons call before the court any other person whom the magistrate may deem interested in the proceedings.

(3.) Upon the return of the summons the magistrate of the local court shall have and may exercise such and the same powers as a Judge of the Supreme Court has, and may exercise upon the application of the Sheriff in the case of goods taken in execution under process issued from the Supreme Court, and may without any consent of parties dispose of the merits of the claim, and decide the same in a summary manner and on such terms as shall be just.

(4.) The magistrate may allow any person to intervene and take part in the proceedings at any stage.

(5.) The Governor may by rules made in manner provided in the Local Courts Act, 1904, prescribe, with regard to proceedings under this section, such and the like matters as he is empowered to prescribe under section one hundred and fifty-eight of that Act.

Imprisonment.

Mitigation of punishment by Justices.

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.

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.

Scale of imprisonment for non-payment of money. Original section 167 repealed and new section substituted, No. 19 of 1919, s. 16.

167. (1.) The period of imprisonment to be inserted in a warrant of commitment issued under section one hundred and fifty-seven or one hundred and fifty-eight of this Act shall, where the total amount payable under the warrant is under two pounds, be three days, and in other cases shall be calculated at the rate of three days for every pound payable (disregarding any fractional part of a pound): provided that in no case shall the period of imprisonment exceed six months.

(2.) Any such imprisonment shall in general be without hard labour, but shall be with hard labour if the Justices pronouncing or making the conviction or order shall have determined that such imprisonment shall be with hard labour, which determination such Justices are hereby empowered to make notwithstanding that the imposition of hard labour be not expressly authorised by the Act on which the conviction or order is founded.

(3.) Notwithstanding anything in this section, when an order or conviction 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 to be inserted pursuant to this section in the warrant of commitment issued in such case shall not exceed one month.

(4.) When the person imprisoned under any such warrant of commitment shall pay any portion of the amount payable under the warrant, then the period of imprisonment shall be thereby reduced by a period which shall bear the same ratio to the period of imprisonment as the portion paid bears to the total amount that was payable, and the prisoner shall be entitled to be released on the expiry of the reduced period. In calculating any reduction hereunder fractional parts of days shall be disregarded.

(5.) Notwithstanding anything herein, any Justices giving any decision may thereby order that the period of imprisonment to be inserted in any warrant of commitment to be issued in respect of any penalty, compensation, sum of money, or costs payable under the decision shall be reduced to such an extent as the Justices think just.

(6.) Any sentence of imprisonment imposed by Justices for any offence shall, if the Justices so order, commence to run from the expiry of any term of imprisonment for any cause whatsoever which the person sentenced may be undergoing under any such warrant of commitment as aforesaid, and any term which any person is liable to undergo hereunder for non-payment of any pecuniary penalty, compensation, sum of money, or costs shall, if the Justice issuing the warrant in respect thereof so orders, commence to run from the expiry of any other term of imprisonment for any cause whatsoever which the person so liable may be undergoing.

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.

Complaint praying for surety of the peace.

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.

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 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 support.

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 appearance of defendant.

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.

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

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

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 recognisances.

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 recognisance.

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.

**Procedure in cases of sureties to keep the peace or be of good behaviour.
New section inserted by No. 19 of 1919, s. 17.**

182a. Upon the making of any such complaint as aforesaid, the matter may be proceeded with and heard and adjudicated upon as in the case of other matters complaint whereof is made in manner provided in this Act, and the Justices shall, in dealing with the matter of any such complaint, have such and the like powers as they have in dealing with other matters, and it shall be no objection to any order made under this Part that any of the special rules of procedure prescribed in this Part have not been observed.

PART VIII.—APPEALS FROM THE DECISIONS OF JUSTICES.

Ordinary Appeal.

183. When any person is summarily convicted, or an order is made against any person by Justices, and imprisonment is adjudged without the option of a fine, and such person did not plead guilty or admit the truth of the complaint, he may appeal, subject to the following provisions:—

Appeal to Circuit Court, or Court of General or Quarter Sessions.
Amended by No. 19 of 1919, s. 18.

- (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 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 Jus-

Security for appearance of appellant.

tice 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.

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

Proviso added by
No. 19 of 1919,
s. 19.

Provided further that, notwithstanding anything hereinbefore contained, in no case shall any surety be accepted unless he justifies to the satisfaction of the Justice, and that sureties shall not be dispensed with, except by a police or resident magistrate, unless a deposit of money is made as aforesaid.

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 the 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.

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.

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

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.

Procedure where decision reversed on appeal.

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 Order to Review.

Order to review.
Original sections
197-206 repealed
and new sections
(197-206) inserted.
No. 19 of 1919,
ss. 20-21.

197. When any person who feels aggrieved as complainant, defendant, or otherwise by the decision of any Justices shows by affidavit to a Judge of the Supreme Court sitting in court or chambers a *prima facie* case of error or mistake in law or fact on the part of such Justices, or that the Justices had no jurisdiction to give such decision or exceeded their jurisdiction in giving such decision, the Judge may, whether any other remedy is provided by law or not, within one month from the giving of the decision grant the applicant (hereinafter called "the appellant") an order (hereinafter called "an order to review") calling upon the party interested in maintaining the decision and also, if the Judge for any special reason so directs, upon the Justices to show cause (at a time to be therein mentioned or so soon thereafter as the matter can come on for hearing) why the decision should not be reviewed.

Order to review:
Before whom re-
turnable.

198. An order to review may be made returnable before the Supreme Court sitting as the Full Court or before a single Judge sitting in Court.

Grounds to be
stated in order.

199. The order to review shall state the grounds upon which it is sought to review the decision appealed against, but on the return of the order the Court or Judge shall have power to amend or add to the grounds stated.

Appellant to give
security.

200. The appellant shall, within ten days after the granting of an order to review, enter into a recognisance before a Justice, with or without a surety or sureties according (subject as hereinafter provided) to the decision of the Justice, in such sum (not less than twenty pounds) as the Justice shall determine conditioned to prosecute his appeal without delay and to submit to the judgment on the order to review and to pay such costs as the Court or Judge may thereon award, and the appellant shall before proceeding to set the order down for hearing pay the clerk of the petty sessions at which the decision complained of was delivered the prescribed fees:

Provided that in no case shall any surety be accepted unless he justifies to the satisfaction of the Justice, and that sureties shall not be dispensed with, except by a Police or Resident Magistrate, unless a sum of money, fixed by the Justice, but not less than twenty pounds, be deposited by the appellant with a clerk of petty sessions, as security for the performance of the conditions of the recognisance.

201. On such recognisance being given, execution shall be stayed until the order to review is disposed of or the Supreme Court or a Judge otherwise orders, and the appellant, if then in custody, shall be liberated upon the recognisance being further conditioned for his appearance before Justices within a reasonable time (not less than ten days after judgment has been given on the order to review) to abide by such judgment unless the decision appealed against is reversed.

Stay of execution. Release of appellant on further recognisance.

202. The appellant shall, within the time fixed by the Judge who granted the order, cause an official copy of the order to review to be served on each party, who is thereupon called upon to show cause, and such service shall be effected such number of days before the hearing as is indicated below, that is to say:—

Service of order to review.

Where the distance from the place where the order is returnable to the place where the service is effected is—	The number of days which must elapse between the service and the hearing shall be—
Not more than 200 miles	Ten days.
More than 200 but not more than 400 miles	Sixteen days.
More than 400 but not more than 600 miles	Twenty-one days.
More than 600 miles	Thirty days.

203. Every order to review shall, within the time fixed by the Judge who granted the order, be entered for hearing in the central office of the Supreme Court, and shall be inserted in the proper list, and come on for hearing as the Chief Justice may direct.

Entry of order to review for hearing.

204. An appeal from the refusal of a Judge, whether sitting in Court or Chambers, to grant an order to review or to grant it upon any ground or grounds, shall be to the Full Court as defined in the Supreme Court Act, 1880.

Appeal from refusal to grant order to review.

205. On the return of the order to review, the Court or Judge may, on a consideration of the evidence and materials adduced and brought before the Justices, and if the Court or Judge thinks fit of any further evidence either oral or by affidavit, discharge such order to review, or may confirm, vary, amend, rescind, set aside, or quash the decision appealed against, and any order, conviction, warrant, or other proceeding founded thereon, and may remit the case for hearing or rehearing to the said Justices or to any other Justices, with

Powers of Full Court or Judge on return of order to review.

or without any direction in law, and may prohibit the Justices and all other persons concerned from proceeding or further proceeding in respect of the decision, and may make such other order as to such Court or Judge seems just, and may also, for such purposes or any of them and without prejudice to the generality of the powers hereinbefore conferred, exercise all or any of the powers or jurisdiction which the Court possesses or might exercise upon *certiorari*, *mandamus*, prohibition, or *habeas corpus*: Provided that notwithstanding that the Court or Judge may be of opinion that any point raised by the order to review might be decided in favour of the appellant, discharge the order if he or it considers that no substantial miscarriage of justice has occurred.

Costs. 206. Subject to this Act the Court or Judge may make such order as to costs as it or he deems just.

No appeal from judge. 206a. There shall be no appeal to the Full Court from any determination of a single Judge made on the return of any order to review, but the Judge on such return may, if he thinks it desirable, refer such order to review for hearing and determination by the Full Court at the request of any party thereto.

Enlargement or abridgment of time. 206b. The Supreme Court or a Judge shall have power to enlarge or abridge the time appointed by the preceding sections of this Part or fixed by any order for doing any act or taking any proceeding upon such terms (if any) as the justice of the case may require, and any such enlargement may be ordered although the application for the same is not made until after the expiration of the time appointed or allowed.

Evidence of proceedings in court below. 206c. The Court or Judge, on the hearing of an order to review, shall have power to determine and ascertain what evidence was given or what proceedings taken before the Justices on such evidence or statement of what occurred before the Justices, including the notes of the Justices (if any), as the Court or Judge may deem sufficient, and may rehear the testimony of any witness.

Dismissal for want of prosecution. 206d. If any appellant makes default in prosecuting his appeal without delay or in taking any necessary steps in the presentation thereof, any other party may apply to the Judge in Chambers by summons served on such appellant for an order discharging the order to review, and the Judge shall make such order as shall be just with regard to the subject matter of the application and to costs.

206e. Whenever a decision is given on an order to review, the prescribed officer shall send to the proper clerk of petty sessions a memorandum of the decision of the Court or Judge, and such memorandum shall be sufficient evidence of the decision for all purposes.

Procedure where decision reversed.

206f. Any conviction, sentence or order affirmed, amended, varied, adjudged, imposed or made by the decision of the Supreme Court or a Judge thereof in relation to any order to review, may be enforced (subject to any variation made therein) by any Justices (whether the Justices in respect of whose decision the order to review was granted or not) in the same way as if it had been adjudged, imposed, or made by them, and any Justices may issue, make, adjudge, or impose all such summonses, warrants, orders, convictions, and sentences as may be necessary to carry into effect any directions contained in any decision of the Supreme Court or Judge given in relation to any order to review, and no action or proceedings shall be taken against any Justices for enforcing any such conviction, sentence, or order notwithstanding any defect therein.

Enforcement of decision of Supreme Court.

206g. If any costs ordered to be paid by either party to an appeal hereunder are not paid, the prescribed officer shall, upon application of the party entitled to such costs, grant to him a certificate that such costs have not been paid, and shall therein specify the amount of such costs.

If costs not paid certificate to be granted. ~~206g. 206g. 206g.~~

206h. 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, but the provisions of this section are without prejudice to any other method of enforcement.

Enforcement of order for costs.

206i. Any person who appeals by way of order to review 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.

Appellant by way of order to review deemed to have abandoned other rights of appeal.

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.

Control of Supreme Court over summary convictions.

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.

Amendment.

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 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.

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.

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.

Respecting the amendment of convictions, etc.

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.

Want of summons or complaint.

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

Distribution of Penalty.

Service of Notices.

215. Where a party acts or is represented by a solicitor, any document, notice, or proceeding required under this Part of this Act to be served by or upon such party may be served by or upon such solicitor, and service of any such document, notice, or proceeding upon such solicitor or delivery of the same at his office or sending the same to him properly addressed by post prepaid shall be deemed to be good service upon the party whom such solicitor represents, or for whom he acts, as upon the day when the same is so served or delivered, or upon which in the ordinary course of post it would be delivered.

Service by or upon solicitor acting for party.
Original Section 215 repealed and new section inserted.
No. 19 of 1919, ss. 22-23.

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

Enforcement of conviction when appeal abandoned.

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.

Absconding appellant may be arrested.

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 recognisance for the appearance of such person to receive judgment or render himself in execution.

No Certiorari necessary.

Certiorari not to be required for proceedings under this Act.

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.

Costs.

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

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.

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.

Amended by No. 28 of 1920, s. 3.

*By the Justices Act Amendment Act, 1919, s. 24, it is enacted as follows:—
The Judges of the Supreme Court or any two of them may by rule alter any of the forms in the fourth schedule of the principal Act in such way as they may deem to be necessitated by the amendments made by this Act.

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

Where Action lies against Justices.

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.

Justice sued for act not within his jurisdiction.

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.

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.

Warrant by one Justice upon an order of another.

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

No action where proceedings confirmed on appeal.

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.

Actions in cases prohibited.

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.

Limitation.

Limitation of actions.

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.

Notice.

Notice of actions.

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.

Amends and Payment into Court.

Tender and payment of money 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 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 Plaintiff.

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 plaintiff 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.

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

Evidence.

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

Verdict for defendant.

- (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.

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 damages which he seeks to recover, or proves

Damages against a Justice when plaintiff really guilty.

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.

The First Schedule.

Section 2.

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 and 2 Ed. VII., No. 14	The Criminal Code	Section 672 of the First Schedule.

George the Fifth, 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

The Third Schedule.

Section 16.

OATH OF ALLEGIANCE.

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

17 Geo. V. c. 4 Proclamation 13th May, 1927.

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.

The Fourth Schedule.

Section 96.

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 _____, 19 _____, 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.

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 _____, 19____, 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 abovementioned, 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 _____, 19____, before the undersigned, one of His Majesty's Justices of the Peace for the said State [or for the Magisterial District of _____], who says that on the day of _____, 19____, 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 _____, 19____, 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 _____, 19____, 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 _____, 19____.

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 , 19 , 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 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 , 19 ,
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 , 19 .

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 , 19 , 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 , 19 , at o'clock in the
forenoon, before such Justices as may then be there, to answer the said com-
plaint, and to be further dealt with according to law.

Given under my hand, at , in the said State, this
day of , 19 .

J.S., J.P.

[or Clerk of Petty Sessions].

Indorsement of Service.

On the day of , 19 , at , I
served the within-named A.B. with the within summons by delivering a dupli-
cate 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 _____, 19____, 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 _____, 19____, 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 _____, 19____.

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

Indorsement of Service.

On the _____ day of _____, 19____, 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 _____, 19____, 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 _____, 19____.

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 daytime], 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 _____, 19 _____.

J.S., J.P.

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 _____, 19 _____, 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 _____, 19 _____, 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 _____, 19 _____.

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.

Alteration to form
gazetted 28th
January, 1921.
No. 19 of 1919,
s. 24.

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 other matter.*

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 _____, 19____, 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 the _____ day of _____, 19____, 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 _____, 19____.

J.S., J.P.

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 _____, 19____, 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 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 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 _____, 19____.

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 _____, 19____.

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 _____, 19____, 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 _____, 19____.

J.S., J.P.

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 _____, 19____, 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 _____, 19____, 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 _____, 19____, 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 _____, 19____.

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 _____, 19 _____, 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 _____, 19 _____.

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 _____, 19 _____, 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. 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 _____, 19 _____, 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 _____, 19____, 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 _____, 19____.
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 _____, 19____, 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.

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 _____, 19____.
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 _____, 19 _____.

J.S., J.P.

26.—*Recognisance to give evidence.*

WESTERN AUSTRALIA, {
[Perth] to wit. }

Be it remembered that on the _____ day of _____, 19 _____, 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 _____, 19 _____, 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.

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 _____, 19 _____.

J.S., J.P.

28.—*Recognisance on appeal.*

[Same as Recognisance, Form 19.]

Condition.

Whereas the said A.B. was, on the _____ day of _____, 19 _____, at _____, convicted before E.F. [and others] [one of] His Majesty's Justices of the Peace of 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 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.

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 , 19 , 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].

A.B.

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

J.S., J.P.

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

Alteration to form
 gazetted 28th
 January, 1921.
 No. 19 of 1919,
 s. 24.

WESTERN AUSTRALIA, }
 [Perth] to wit. }

Be it remembered that on the day of , 19 , at , in the said State, A.B., of , in the said State, is convicted before the undersigned, two of His Majesty's Justices of the Peace for the said State [or for the Magisterial District of], 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 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 we direct that the said several sums shall be recoverable in default of payment by execution against the goods and chattels of the said A.B., and that in default of payment and of sufficient goods and chattels he shall be imprisoned [with hard labour] in His Majesty's prison [or the (police) gaol] at for a period determined in accordance with the provisions of Section 167 of "The Justices Act, 1902-1920," and subject to the provisions of that section.

*

Given under our hands at . in the said State, the day and year first above mentioned.

J.S., J.P.

H.M., J.P.

* The Justices may add, if they think fit: "but we order the period of imprisonment prescribed by such section to be reduced as follows:—[here set out any reduction ordered in period of imprisonment by the Justices]."

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

WESTERN AUSTRALIA, }
 [Perth] to wit. }

Alteration to form
 gazetted 28th
 January, 1921.
 No. 19 of 1919,
 s. 24.

Be it remembered that on the _____ day of _____, 19____, at _____, in the said State, A.B., of _____, in the said State. _____, is convicted before the undersigned, two of His Majesty's Justices of the Peace for the said State [or for the Magisterial District of _____], 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 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 we direct that in default of payment of the said several sums the said A.B. shall be imprisoned [with hard labour] in His Majesty's prison [or the (police) gaol] at _____, for a period determined in accordance with Section 167 of "The Justices Act, 1902-1920," and subject to the provisions of that section.*

Given under our hands at _____, in the said State, the day and year first above mentioned.

J.S., J.P.

H.M., J.P.

* The Justices may add, if they think fit: "but we order the period of imprisonment prescribed by such section to be reduced as follows:—[here set out any reduction ordered in period of imprisonment by the Justices]."

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. }

Alteration to form
 gazetted 28th
 January, 1921.
 No. 19 of 1919,
 s. 24.

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 for the Magisterial District of _____], 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 [*with hard labour*] for a period (to commence at and from the determination of the imprisonment aforesaid) determined in accordance with Section 167 of "The Justices Act, 1902-1920," and subject to the provisions of that section.*

Given under our hands, at _____, the day and year first above mentioned.

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

*The Justices may add, if they think fit: "but we order the period of imprisonment prescribed by such section to be reduced as follows:—[here set out any reduction ordered in period of imprisonment by the Justices]."

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.

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 [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 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.

40.—*Order of Dismissal of Complaint.*

New form gazetted
28th January, 1921.
No. 19 of 1910, s.
24.

WESTERN AUSTRALIA, }
[Perth] to wit. }

Be it remembered that on the _____ day of _____, 19 _____, a complaint was made by C.D. that A.B. [*etc., as in the summons to the defendant or in the warrant*], and on this _____ day of _____, 19 _____, at _____, in the State of Western Australia, the said complaint came on for hearing before the undersigned [*two*] of His Majesty's Justices of the Peace for the said State [*or as the case may be*] whereupon it appears to us that the said complaint is not proved [*or the complainant did not appear*] and we 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 the _____ day of _____, 19 _____*] We 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] that the said C.D. be imprisoned [*with hard labour*] in His Majesty's prison [*or the (police) gaol*] at _____, for a period determined in accordance with Section 167 of "The Justices Act, 1902-1920," and subject to the provisions of that section, but so that such period shall not exceed one month [*or such lesser period as the Justices may decide*].

Given under our hands at _____, in the said State, this day of _____, 19 _____.

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

† The words between the brackets may be omitted if the Justices so decide.

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 _____, 19 _____, 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 where and when 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 _____, 19 _____.

J.S., J.P.

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

New form gazetted
28th January, 1921.
No. 19 of 1919, s.
24.

WESTERN AUSTRALIA, }
[Perth] to wit. }

Be it remembered that, on the day of , 19 , complaint was made before , one of His Majesty's Justices of the Peace for the State of Western Australia [or as the case may be], by C.D. that A.B. [state the facts entitling the complainant to the order], and on the day of , 19 , we, the undersigned [two] of His Majesty's Justices of the Peace for the said State, having heard the said complaint, order the said A.B. to pay to the said C.D. the sum of £ forthwith [or on the day of , 19], [or to pay to A.B. the sum of £ every week] [or as the case may be], the first of such payments to be made forthwith [or as the case may be], and also to pay to the said C.D. forthwith [or as the case may be] the sum of £ for costs: And we direct that if default shall be made in payment of the said sum of £ [or whenever and as often as default is made in any of the periodical payments hereinbefore directed to be made] or in payment of the said sum of £ for costs the said several sums shall be recoverable by execution against the goods and chattels of the said A.B., and in default of payment and of sufficient goods and chattels he shall be imprisoned [with hard labour] for a period determined in accordance with the provisions of Section 167 of "The Justices Act, 1902-1920," and subject to the provisions of that section. †

Given under our hands, at , in the said State, this
day of , 19 .

J.S., J.P.

H.M., J.P.

† The Justices may add, if they think fit: "but we order the period of imprisonment prescribed by such section to be reduced as follows:—[here set out any reduction ordered in the period of imprisonment by the Justices.]"

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

New form gazetted
28th January, 1921.
No. 19 of 1919, s.
24.

WESTERN AUSTRALIA, }
[Perth] to wit. }

Be it remembered that, on the day of , 19 , complaint was made before , one of His Majesty's Justices of the Peace for the State of Western Australia [or as the case may be], by C.D. that A.B. [state the facts entitling the complainant to the order], and on the day of , 19 , we the undersigned [two] of His Majesty's Justices of the Peace for the said State, having heard the said complaint, order the said A.B. to pay to the said C.D. the sum of £ forthwith [or on the day of , 19], [or to pay to the sum of £ every week] [or as the case may be], the first of such payments to be made forthwith [or as the case may be], and also to pay to the said C.D. forthwith [or as the case may be] the sum of £ for costs: And we direct that if default shall be made in payment of the said sum of [or whenever and as

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 _____, 19 _____.

J.S., J.P.

* See Form 63.

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.

New form gazetted 28th January, 1921. No. 19 of 1919, s. 24.

Whereas on the _____ day of _____, 19 _____, at _____ upon the hearing of a complaint by C.D., of _____, against A.B., of _____, E.F. and G.H., two of His Majesty's Justices of the Peace for the said State [or as the case may be] ordered the said A.B. to pay to the said C.D. the sum of £ _____ on or before the _____ day of _____, 19 _____ [or as the case may be] [or to pay to the sum of £ _____ every week] [or as the case may be] the first of such payments to be made forthwith] [or as the case may be], and also to pay to the said C.D., the sum of £ _____ for costs on or before the _____ day of _____, 19 _____ [or as the case may be].* And it was thereby directed that if default should be made in payment of the said sum of £ _____ [or whenever and as often as default should be made in any of the periodical payments aforesaid], or in payment of the said sum of £ _____ for costs the said several sums should be recoverable by execution against the goods and chattels of the said A.B. And whereas default has been made by the said A.B. as follows:—

In payment of the sum of	£
In the following periodical payments, namely—	
Payment due on.....	£
Payment due on.....	£
Payment due on.....	£
	_____ £
In payment for costs of the sum of	£
	_____ £
Total overdue	£

* See Form 63.

[or as the case may be].

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 sum of £ , together with the reasonable charges of taking and keeping the goods and chattels, are not paid, that then you sell the 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 , 19 .

J.S., J.P.

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 , 19 , 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 for 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 , 19 .

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 , 19 , 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 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 _____, 19 _____.

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 _____, 19 _____, at _____ upon 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) gaol] 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 good 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 _____, 19 _____.

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 _____, 19____, 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 _____ for his 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 _____, 19____: And whereas the clerk [or as the case may be] of the said Court on the _____ day of _____, 19____, 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 _____, 19____.

J.S., 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 _____, 19____.

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 _____, 19 .

J.S., J.P.

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 witness 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 _____, 19 .

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 _____, 19 . 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 _____, 19 .

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 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 _____, 19 .

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 _____, 19 _____, 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 _____, 19 ____ .
 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 _____, 19 ____, 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 _____, 19 ____ .
 J.S., J.P.

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 _____, 19 ____, 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 required to enter in 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 _____, 19 _____
 J.S., J.P.

New form gazetted
 28th January, 1921.
 No. 19 of 1919, s.
 24.

59.—Warrant of commitment upon 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 _____, 19 _____, convicted before J.S. and X.Y., two of His Majesty's Justices of the Peace in and for the said State [or as the case may be] 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 [as in the conviction], and should pay to C.H. the sum of £ _____ for costs; and it was directed [as in the conviction]. And whereas the time in and by the said conviction appointed for payment of the said several sums has elapsed, but the said A.B. has not paid the same except to the extent of £ _____ paid off the penalty and £ _____ paid off the costs [or as the case may be]: These are therefore to command you, the said police officers, to apprehend the said A.B., and to convey him to the prison [or 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], there to imprison him [and keep him to hard labour] for the term of _____ unless [the balance of] 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.

The total amount payable under this warrant is £ _____, made up as follows:—

Amount ordered to be paid	£
Since paid	£
	£
Costs and charges of taking and conveying A.B. to gaol	£
Total	£

and if the said A.B. shall pay any portion of the amount payable under this warrant, then the period of imprisonment shall be thereby reduced by a period which shall bear the same ratio to the period of imprisonment as the portion paid bears to the total payable, and the prisoner is to be released on the expiry of the reduced period. In calculating any such reduction fractional parts of days are to be disregarded.

Given under my hand, at _____, in the said State, this _____ day of _____, 19 _____.

H.M., J.P.

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

New form gazetted 28th January, 1921. No. 19 of 1919, s. 24.

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

Whereas on the _____ day of _____, 19 _____, upon the hearing of a complaint by C.D. against A.B. before S.T. and N.Y., two of His Majesty's Justices of the Peace for the State of Western Australia [or as the case may be], that [as in the order], the said Justices adjudged the said A.B. to pay to the said C.D. the sum of £ _____ forthwith [or on the day of _____, 19 _____], [or to pay to _____ the sum of £ _____ every week (or as the case may be), the first of such payments to be made forthwith] [or as the case may be], and also to pay to the said C.D. the sum of £ _____ for costs; and the said Justices further directed that, if default should be made in payment of the said sum of £ _____ [or whenever and as often as default should be made in any of the aforesaid periodical payments] or in payment of the said sum of £ _____ for costs, the said A.B. should be imprisoned [with hard labour] for a period determined in accordance with the provisions of Section 167 of "The Justices Act, 1902-1920," and subject to the provisions of that section [but so that the period of imprisonment prescribed by such section should be reduced (here set out the extent of the reduction)].

And whereas default has been made by the said A.B. as follows:

In payment of the sum of £
In the following periodical payments, namely—
Payments due on (date) £
Payments due on (date) £
In payment of the costs £
Total overdue £

[or as the case may be]: Now, therefore I, H.K., one of His Majesty's Justices of the Peace for the State [or as the case may be], hereby 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 sum of £ _____ and the costs and charges of conveying him to the said prison

[or gaol], amounting to the further sum of £ , are sooner paid. Provided that if the said A.B. shall pay any portion of the total amount (namely, £), payable under this warrant, then the period of imprisonment shall be thereby reduced by a period which shall bear the same ratio to the period of imprisonment as the portion paid bears to the total payable, and the prisoner is to be released on the expiry of the reduced period, and in calculating any such reduction fractional parts of days are to be disregarded.

Given under my hand, at
 this day of , 19 . , in the said State,
 H.K., 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 , 19 , 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 , 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
 this day of , 19 . , in the said State,
 J.S., J.P.

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 _____, 19 _____.

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.

New form gazetted
28th January, 1921
No. 19 of 1919,
s. 24.

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

Whereas [as in either of the foregoing warrant of execution Forms 45 and 46 to the asterisk (*) and then thus]: And it was directed that the said several sums should be recoverable in default of payment by execution against the goods and chattels of the said A.B., and that in default of sufficient goods and chattels he should be imprisoned [with hard labour] in His Majesty's prison [or the (police) gaol] at _____ [as in the conviction] [or and it was directed that in default of payment and of sufficient goods and chattels the said A.B. should be imprisoned (with hard labour) in His Majesty's prison (or gaol) at _____, for [as in the order]. And whereas on the _____ day of _____, 19 _____, a warrant was issued to _____ commanding them to levy the [as in warrant] by execution against the goods and chattels of the said A.B. [And whereas portion only, namely £ _____ of the said several sums directed to be levied by the said warrant has been levied (or paid)]. And whereas it appears to me as well by the return of _____ to the said warrant of execution as otherwise that no sufficient goods and chattels could be found whereon to levy the [balance of the] sums aforesaid: These are therefore to command you the said police officers to apprehend the said A.B. and to convey him to the prison [or gaol] at _____, and deliver him up 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 same prison [or gaol], there to imprison him [and keep him to hard labour] for the term of _____ unless the [balance of 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.

Now therefore I, J.S., one of His Majesty's Justices of the Peace for the State [or as the case may be], hereby 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 sum of £ _____ and the costs and charges of conveying him to the said prison [or gaol] amounting to the further sum of £ _____ are sooner paid: Provided that if the said A.B. shall pay any portion of the total amount [namely £ _____] payable under this warrant, then the period of imprisonment shall be thereby reduced by a period which shall bear the same ratio to the period of imprisonment as the portion paid bears to the total payable and the prisoner is to be released on the expiry of the reduced period, and in calculating any such reduction fractional parts of days are to be disregarded.

(Given under my hand at _____, in the said State, this
day of _____, 19 _____.

J.S., J.P.

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 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.—*Goaler'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.

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 _____, 19 _____.

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 _____, 19 _____.

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 _____, 19 _____, 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., and 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 _____, 19 _____.

J.S., J.P.

Section 96.

*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 Summonses 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 Hearing, 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 of Quarter Sessions	3	0
Discharge or Liberate of Person in Custody	1	0
Copy Depositions (per folio of 72 words), including stationery	0	::

* [Extract from Government Gazette of 9th October, 1914.]

Crown Law Department,
Perth, 8th October, 1914.

HIS Excellency the Governor in Executive Council has approved of the following scale of Fees to be taken in Courts of Petty Sessions under the powers conferred by Section 96 of the Justices Act, 2 Edward VII., 1911; such amended scale of Fees to come into force on the 1st November next.

H. G. HAMPTON,
Under Secretary for Law.

THE FIFTH SCHEDULE.

Fees to be taken in Courts of Petty Sessions.

	s.	d.
1. For every complaint on oath	2	6
2. For every complaint not on oath	1	0
3. For every summons to defendant	1	0
4. For every order or conviction drawn up	2	0
5. For every copy of an order or conviction	1	0
6. For every search in the records	1	0
7. Summons to witness, each	1	0
8. Service of all summonses, or orders of Court	1	0
9. Mileage on service of summonses, orders of Court, or execution of warrant, one shilling per mile (one way only), excepting where a railway is available. If a railway is available, railway fare, and ten shillings per day, or five shillings per half day, for time occupied in travelling.		
10. Warrant in the first instance	1	0
11. Warrant of any other kind	2	6
12. Execution thereof, and mileage according to item 9	2	6
†13. Recognisance for appearance of accused when remanded	2	0
†14. For every renewal thereof	1	0
15. Recognisance for the peace or good behaviour	2	0
†16. Copy depositions or Magistrate's notes of evidence (per folio of 72 words), including stationery	0	3

(The scale of fees on special case now obsolete and is omitted.)

† Not payable in cases of indictable offences.

Note.—Where police prosecute, a 10ve fees are only payable on conviction of offenders.

* The Fifth Schedule---continued.

Special Case.

s. 6. Section 116.

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

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.

The Seventh Schedule.

Section 169.

JUSTICES ACT, 1902-1926.

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 _____, 19____, to the _____ day of _____, 19____.

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 _____, 19____.

(Signed)

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