

copies of the information, examinations, and other evidences taken before me and —, J. P., touching the offence wherewith such prisoner has been charged, &c.,

Witness my hand and seal this E. F., J. P.,
— day of —, 1861. [Seal.] Committing Justice.

The package is then put in a sealed envelope and addressed and marked thus,

"The Clerk of the County Court, County of —. Informations, examinations, &c., in the case of *The Queen v. —*, charged with larceny (or as the case may be)."

If the papers are in the hands of the County Attorney, that officer makes copies and adds the certificate, which of course will be slightly varied from the above form: and he in like manner encloses them in an envelope similarly addressed to the County Court Clerk. The certified copies are in both cases handed to the party applying for them.

The County Judge would probably require notice of the application to the County Attorney, and where the papers are in his hands, the demand of a certified copy, and notice of application may be joined as in the following form:—

County of — }
To wit: } To E. F., Crown Attorney for the County of —.

Take notice that on — next at noon, or so soon thereafter as counsel can be heard, His Honor the Judge of the County Court of this County will be moved to admit to bail —, now confined in the gaol of this county, on a charge of —, under a warrant of commitment by —, Justice of the Peace. And you are required to transmit to the Clerk of the said County Court a certified copy of all the informations, examinations, and other evidences touching the offence wherewith the said — has been charged.

Dated this — day of —
Counsel (or Attorney) for the
said —.

The County Crown Attorney may allow the counsel for the prisoner to have copies made of the papers, adding the certificate merely—or make the copies himself; and the latter would seem in all cases the better course, for until used in court the papers should not be out of the hands of the proper officers. The Crown Attorney will be entitled to payment per folio for the certified copies. A copy also should be made of the warrant of commitment in the gaoler's hands, and verified by affidavit to be laid before the County Judge. At the time appointed, the County Judge hears the counsel for the applicant, and the Crown Attorney, if present, and acts as the case requires.

Notice of the application to the County Attorney should not be dispensed with by the Judge; for by the first subsec. of sec. 1 of the Local Crown Attorney's Act, that officer, after receiving the examination, &c., from the Magistrates, shall, "when necessary, cause such charges to be further investigated, and additional evidence collected if required." And it may be that he is about to have the

matter further investigated, or is in course of collecting additional evidence, or that the person is charged or about to be charged with another crime. Therefore the necessity of the notice to him.

While the circumstances under which *Justices of the Peace* may bail are stated in the 52nd and 53rd secs. of cap. 102, *Consol. Stat. Canada*, there appears to be no restriction on the County Judge in the sec. 54 (as altered and recast by the act of last session), immediately following, which confers the jurisdiction. He may "in his discretion order such accused person" to be admitted to bail; but the crimes of treason and murder are expressly excluded from the County Judge's cognizance, and he has no power to admit to bail in such cases.

The amount of sureties in case of an order to bail is regulated by the Judge, and will of course depend on the nature of the crime and the position and circumstances of the party charged; and the Judge may require that the sureties shall justify, by affidavit, or that notice of the time and place of entering into the recognizance, and of the names of the proposed sureties, be given to the Crown Attorney, that he may be present on the occasion, and see that the sureties are sufficient.

The Judge's order may be in the following form:

The Queen v. A. P., a prisoner in the gaol of the County of —
committed on a charge of —

Upon reading a certified copy of the information, examinations and papers, touching the offence wherewith the said prisoner is charged—the notice of motion to the County Crown Attorney, and affidavits filed; and upon hearing the prisoner by his counsel, and the County Crown Attorney on the part of the Crown—I do order that the said — be admitted to bail, on entering into a recognizance with two sufficient sureties (himself in the sum of \$ — and the sureties in \$ — each), before any two of her Majesty's Justices of the Peace, in the town (or city) of — for his appearance at the next Court of Oyer and Terminer and General Gaol Delivery (or as the case may be), to be holden in and for the said county of —, to answer to the Queen in respect to the said charge of —, and not to depart the court without leave.

And I do further order that [notice of the time and place of entering into such recognizance, and of the names of the proposed sureties, be given to the County Crown Attorney, that he may be present, if he thinks fit, or that] the said Justices do examine such sureties upon oath, as to their sufficiency for the amounts for which they are respectively to be bound.

Dated at — this — day of —

— Judge.

Furnished with this authority, and notice if required being served on the Local Crown Attorney, the counsel for the prisoner proceeds to obtain his discharge, thus:—

The order is brought to two Justices of the Peace, who take the recognizance as required, and issue a warrant of deliverance in the form given on page 1080 of the *Consol. Stat. of Canada*, and annex to it the Judge's order. Both