



ACTS

RELATING TO THE

POWERS, DUTIES AND PROTECTION

OF

JUSTICES OF THE PEACE

IN

UPPER CANADA,

PASSED IN THE FIRST SESS. OF THE FOURTH PARLT. OF CANADA.

WITH A FULL SYNOPTICAL INDEX.

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SYNOPTICAL INDEX

TO THE

THREE FOLLOWING ACTS

RELATING TO THE

DUTIES, &c., OF JUSTICES OF THE PEACE.

ACCOMPLICES OR ACCESSORIES :

Persons aiding, abetting or counselling the commission of offences, may be proceeded against with the principal offender, or before or after his conviction, either in the same Division or in that in which the offence of aiding, &c., was committed,—Cap. 178, Sec. 5. (p. 5.)

ACCUSED :—*See* Defendant.

ACTIONS AGAINST A JUSTICE : (Cap. 180.)

For things done within his jurisdiction, to be on the case as for a tort,—Sec. 1. (p. 86.)

Malice must be proved therein, or plaintiff shall be non-suited,—Sec. 1. —Except where he has exceeded his jurisdiction,—Sec. 2. (p. 86.)

Where he has exceeded his jurisdiction, any person injured thereby may maintain an action; but not for an act done under a Conviction or Order until the same is quashed, nor for an act done under a Warrant for appearance if a previous summons was disobeyed,—Sec. 2. (p. 86.)

When a Conviction or Order is made by one Justice, and a Warrant is granted thereon, any action for a defect in the Conviction, &c., or for want of jurisdiction, must be brought against the Justice making such Conviction,—Sec. 3. (p. 87.)

A Justice refusing to do any magisterial act may be required by either of the Superior or County Courts to do and execute the same, and no action shall lie against him for any act done in obedience to the order of such Court,—Sec. 4. (p. 87.)

After confirmation of any Conviction or Order, on appeal, no action shall lie for any act done under a warrant granted upon it,—Sec. 5. (p. 88.)

In any action brought contrary to this Act, Judge may set aside the proceedings,—Sec. 6. (p. 88.)

No action shall be brought unless within six months after the act complained of,—Sec. 7. (p. 88.)

One month's notice (in writing) must be given to a Justice of any intended action against him. Nature of notice,—Sec. 8. (p. 88.)

Venue to be laid, and action brought, in the County or Division where the act was committed or where the Justice complained against resides. Defendant may plead the General Issue, and give special matter in evidence. Action shall not be brought in any County or Division Court if Justice object thereto within six days after notice of such action; no new notice required of Action in another Court. County Courts to have jurisdiction in all such Actions, when the damages claimed do not exceed £30,—Sec. 9. (p. 88.)

The Justice may at any time tender (or pay into Court) a sum of money as amends for the injury complained of. If Jury award plaintiff no greater sum as damages, a verdict shall be given for defendant and his costs be deducted from the said money. If plaintiff accept the money in satisfaction of damages, he may obtain an order for the payment thereof from a Judge of the Court, and Defendant shall pay his taxed costs,—Sec. 10. (p. 89.)

If plaintiff, at the trial, fail to prove that Action was brought within time limited,—that due notice was given,—that the cause of action was stated therein,—and that such cause of action arose in the County, &c., laid as

ACTIONS AGAINST A JUSTICE—Continued :

Venue in the declaration, then Plaintiff shall be non-suit,—Sec. 11. (p. 89.)

When Plaintiff is entitled to recover, and shall prove payment of any penalty, or imprisonment, under any Conviction or Order, and shall seek to recover such penalty, or damages for such imprisonment, he shall not recover the same (beyond 2d. as damages for imprisonment), nor any costs, if he was guilty of the offence of which he was convicted, and had undergone no greater punishment than the law assigned,—Sec. 12. (p. 90.)

Party obtaining verdict (or judgment by default), shall be entitled to full costs, to be taxed as between attorney and client,—Sec. 13. (p. 90.)

Inconsistent enactments repealed,—Sec. 15. (p. 90.)

Act to apply for protection of all persons for any thing done in cases to which Acts repealed by this Act would have applied,—Sec. 16. (p. 91.)

ADJOURNMENT OF EXAMINATION :

Hearing of case may be adjourned and Defendant committed (Schedule D.) to gaol, or admitted to bail on a recognizance, (Schedule E.)—Cap. 178, Sec. 15. (p. 11.) ; also, Cap. 179, Sec. 6. (p. 53.)

On it appearing that Defendant has been misled by any defect or variance in Summons or Warrant,—Cap. 178, Sects. 1, 3, 8. (pp. 2, 4, 7.) ; also, Cap. 179, Sects. 5, 6. (pp. 52, 53.)

On account of the absence of Complainant or Defendant,—Cap. 178, Sec. 12. (p. 9.) —Of Witnesses,—Cap. 179, Sec. 13. (p. 58.)

Defendant may be remanded by Warrant (Schedule Q 1.) for not more than eight days at a time, or if for a less time than three days, by a verbal order,—Cap. 179, Sec. 13. (p. 58.)

ADMISSIONS—(Indictable Offences) :

Defendant to be cautioned before making any admission or confession, that it may be given against him in evidence on his trial,—Cap. 179, Sec. 10. (p. 56.)

Prosecutor may give in evidence any admission, confession or other statement of accused, made at any time, which by law would be admissible as evidence,—Cap. 179, Sec. 10. (p. 57.)

APPEAL :

On an appeal against a conviction or order, being decided in favor of Respondent, a Warrant of distress or commitment may issue ; and if on such appeal the Court shall order either party to pay costs, they shall be paid through the Clerk of the Peace of such Court, who, if they be not paid, shall grant a certificate (Schedule R.) thereof, on production of which, a Warrant of Distress (Schedule S 1.) may issue, and in default of distress the party may be committed (Schedule S 2.) for two months, unless costs and charges are sooner paid,—Cap. 178, Sec. 23. (p. 16.)

All decisions, convictions and orders, on complaints for offences against any Municipal By-law, to be subject to appeal under provisions of 13 & 14 Vic. Cap. 54,—Cap. 178, Sec. 26. (p. 17.)

After a conviction or order shall have been confirmed on appeal, no action shall lie for any thing done under any Warrant that may have been granted thereon,—Cap. 180, Sec. 5. (p. 88.)

ATTORNEY :—See Counsel.

BACKING OF WARRANTS :

On escape of a party into another division, any Justice therein may, on proof (upon oath) of the signature of Justice signing the Warrant, make an endorsement authorizing execution thereof within his division,—Cap. 178, Sec. 3. (p. 4.) ; also, Cap. 179, Sec. 7. (p. 54.)

BACKING OF WARRANTS—Continued :

A Warrant of Distress may be endorsed (Schedule N 3.) and executed in the same manner,—Cap. 178, Sec. 18. (p. 13.)

For apprehension of a witness in another division, refusing to appear to a Summons,—Cap. 178, Sec. 6. (p. 6.); also, Cap. 179, Sec. 8. (p. 55.)

BAIL :

Defendant, if remanded, may be admitted to bail, on entering into a recognizance (Schedule E.) to appear at the next examination. If he do not then appear, a certificate thereof (Schedule F.) to be endorsed and recognizance to be transmitted to Clerk of the Peace,—Cap. 178, Sects. 3, 8, 12, 15. (pp. 4, 7, 9, 11.); also, Cap. 179, Sec. 13. (p. 59.) (Schedules Q 2, 3, 4.)

Recognizances of bail to be delivered to the Court in which the trial is to be had, on the first day of the sitting,—Cap. 179, Sec. 12. (p. 58.)

A person charged with *felony* may, if the evidence be sufficient to put him on his trial but not to warrant his committal, be bailed by *two* Justices, taking the recognizance (Schedule S 1, 2.) of the accused and his sureties for his appearance at the time of the trial; or if charged with a *misdemeanor*, by *one* Justice. In default of bail, he may be committed. Bail may be required to justify their sufficiency upon oath. Persons committed for felony may be bailed by order of any County Judge (being a Justice for the County); Justices to issue a Warrant of Deliverance. (Schedule S 3.) No person accused of *treason* or *murder* can be admitted to bail, except by order of a Judge of the Queen's Bench or Common Pleas,—who may also so admit any person accused of felony or misdemeanor,—Cap. 179, Sec. 15. (p. 61.)

On the admission of a person to bail after commitment for the offence charged, a Warrant of Deliverance (Schedule S 3.) shall be sent to the Gaoler for his discharge,—Cap. 179, Sec. 16. (p. 62.)

If the evidence against a person charged with felony be such as to cause strong presumption of guilt, he shall be committed without bail,—Cap. 179, Sec. 17. (p. 62.)

BENCH WARRANTS :

May issue when any competent Court shall direct,—Cap. 179, Sec. 2. (p. 51.)

BUILDINGS :

Belonging to any territorial division, may be described in Information and Proceedings as belonging to the inhabitants of such division,—Cap. 178, Sec. 4. (p. 5.)

By-Laws, OFFENCES UNDER :—See Municipal By-laws.

COMMITTAL :—See Gaol, Committal to.

COMPLAINANT :

(*Summary Convictions.*)

May conduct the Complaint, and have the witnesses examined by Counsel or Attorney,—Cap. 178, Sec. 11. (p. 8.)

Not appearing at the examination, the Complaint may be dismissed, or the hearing thereof adjourned,—Cap. 178, Sec. 12. (p. 9.)

May not be heard in reply to evidence produced by Defendant, Cap. 178, Sec. 13. (p. 10.)

Every prosecutor not having a pecuniary interest in the result, and every complainant, shall be a competent witness,—Cap. 178, Sec. 14. (p. 11.)

When an Information is dismissed with costs, they may be levied by distress (Schedule Q 1.) and in default thereof complainant may be committed (Schedule Q 2.) for not exceeding one month, unless costs and charges are sooner paid,—Cap. 178, Sec. 22. (p. 15.)

COMPLAINANT—Continued :

(Indictable Offences.)

May give in evidence any admission or statement of the defendant, made at any time, which by law would be admissible as evidence,—Cap. 179, Sec. 10. (p. 57.)

Shall be bound by Recognizance (Schedule O 1.) to prosecute : Nature of Recognizance,—Cap. 179, Sec. 12. (p. 57.)

COMPLAINT, OF INFORMATION :

(Summary Convictions.)

Proceedings on an Information or Complaint,—Cap. 178, Sec. 1. (p. 1.)
—On Hearing,—Sec. 13. (p. 10.)

On a Complaint against any person for an offence committed within the division, or a complaint on which any Justice may have authority to order the payment of money, a Summons (Schedule A.) may be directed to him, to be delivered personally, or at his place of abode. Justice not obliged to issue Summons in any case where the application for any Order of Justices is to be made *ex parte*. No objection to an Information or Summons for any defect therein to be allowed ; if the party be misled by any such variance, the hearing of the case may be adjourned,—Cap. 178, Sec. 1. (p. 1.)

If Summons be disobeyed, a Warrant (Schedule B.) may issue, upon oath or affirmation substantiating the matter of the information ; or (upon such oath, &c.) a Warrant (Schedule C.) may issue in the first instance ; or, upon proof of service of Summons, the Justice may proceed *ex parte* to the hearing of the Complaint, and may adjudicate thereon,—Cap. 178, Sec. 2. (p. 2.)

In Property in possession of partners, joint tenants, &c., described in Information, it shall be sufficient to name one of such parties. Buildings, &c., belonging to any territorial division, may be described as belonging to the inhabitants of such division,—Cap. 178, Sec. 4. (p. 5.)

Complaint to obtain an Order for payment of money or otherwise must be in writing and on oath, unless otherwise specially provided by any law,—Cap. 178, Sec. 7. (p. 7.)

Complaint to obtain an Order or Summons must be made upon oath (unless otherwise provided by law), and in *all* cases where a Warrant is to be issued in the first instance,—Cap. 178, Sec. 9. (p. 7.)

No variance between the Information and the evidence, as to time or place of alleged offence, to be deemed material, if the offence be proved to have been committed within jurisdiction of examining Justice. If accused shall have been misled thereby, the case may be adjourned, and accused committed to Gaol (Schedule D.) or admitted to bail, upon his Recognizance (Schedule E.) If he fail to appear, Recognizance to be transmitted, with a certificate (Schedule F.) thereof, to the Clerk of the Peace,—Cap. 178, Sec. 8. (p. 7.)

Complaint or Information must be for one offence, &c., only. May be made in person, or by Counsel, Attorney or Agent,—Cap. 178, Sec. 9. (p. 8.)

Must be laid within six months after commission of the offence, &c.,—Cap. 178, Sec. 10. (p. 8.)

May be tried by any one Justice for the territorial division, except in cases where the law requires two or more Justices. Place of examination (in cases to be disposed of by summary conviction,) to be an open Court,—Cap. 178, Sec. 11. (p. 8.)

Course of proceeding on the hearing of Complaints and Informations,—Cap. 178, Sec. 13. (p. 10.)

Certificate (Schedule M.) of an Order of Dismissal (Schedule L.) of a Complaint, to be a bar to any subsequent Information against defendant,—Cap. 178, Sec. 13. (p. 11.)

Information may be dismissed with costs,—Cap. 178, Sec. 17. (p. 13.) ; which may be levied by distress,—Sec. 22. (p. 15.)

One Justice may, in all cases, receive an Information or Complaint, and grant the necessary Summonses or Warrants thereon,—Cap. 178, Sec. 25. (p. 17.)

COMPLAINT, OR INFORMATION—*Continued* :*(Indictable Offences.)*

Proceedings on a Complaint for an indictable offence,—Cap. 179, Sec. 1. (p. 49.)

Must be made in writing, on oath, when a Warrant is sought to be issued (Schedule A.) but may, in cases where it is specially provided by Act of Parliament, be parol when a Summons only is applied for. No objection to the Information shall be allowed for any defect in form or substance; and if any credible witness shall declare on oath (Schedule E 1.) his belief that any stolen property is in any particular house or other place, a Search Warrant (Schedule E 2.) may be granted,—Cap. 179, Sec. 4. (p. 51.)

On receiving the same, the Justice may issue his Summons or Warrant,—Cap. 179, Sec. 5. (p. 52.)

A party charged with an offence committed within another territorial division may, on sufficient proof thereof appearing, be committed to the Gaol of such division for trial; or, if the evidence be not sufficient, the witness shall be bound over to give evidence, and a Warrant (Schedule R 1.) shall issue for taking the accused before some Justice within such division, together with the Information, Depositions and Recognizances; and such Justice shall give to the constable charged therewith, a certificate (Schedule R 2.) of the delivery of the accused, and of the Depositions, &c.,—on production of which to the Sheriff of his own division, (if employed by him, or otherwise to the Treasurer) his costs and expenses shall be paid,—Cap. 179, Sec. 14. (p. 59.)

CONFESSION :

Defendant to be cautioned, before making any admission or confession, that it may be given in evidence against him on his trial,—Cap. 179, Sec. 10. (p. 56.)

Prosecutor may give in evidence any admission, confession or other statement of accused, made at any time, which by law would be admissible as evidence,—Cap. 179, Sec. 10. (p. 57.)

CONSTABLE :

Employed to deliver a Summons, shall attend and depose to the service thereof,—Cap. 178, Sec. 1. (p. 2.); also, Cap. 179, Sec. 5. (p. 52.)

Duty of Constable in executing a warrant directing accused party to be taken before a Justice in another division,—Cap. 179, Sec. 14. (p. 60.)

On receiving a Warrant of Commitment, shall convey the accused person to Gaol, and deliver him to the Gaoler, who shall give him a receipt, (Schedule T 2.) describing the condition of the prisoner,—Cap. 179, Sec. 18, (p. 62.)

CONVICTION :

On admission by defendant of the truth of the Information or Complaint, or on the same being proved by evidence, a Conviction or Order shall be made against him, in one of the forms in Schedules I 1, 3, or K 1, 3, respectively (where no other form is prescribed by law),—Cap. 178, Sects. 13, 16. (pp. 10, 12.)

Costs may be allowed the complainant,—to be specified in the Conviction, and recoverable by distress or imprisonment,—Cap. 178, Sec. 17. (p. 12.)

If Defendant be adjudged to imprisonment, and be then in confinement for another offence, the warrant shall be delivered to the gaoler, and the imprisonment thereunder may commence at the expiration of the first imprisonment,—Cap. 178, Sec. 21. (p. 15.)

On an Appeal against any Conviction, being decided in favor of Respondent, any Justice may issue a warrant of distress or commitment, as though such Appeal had not been made,—Cap. 178, Sec. 23. (p. 16.)

In all cases where the law requires that a Conviction be made by two or more Justices, such Justices shall act together during the whole of the hearing and determination of the case,—Cap. 178, Sec. 25. (p. 17.)

CONVICTION—Continued :

Convictions for offences against Municipal By-laws, to be subject to Appeal under provisions of 13 & 14 Vic. c. 54,—Cap. 178, Sec. 26. (p. 17.)

An action may be brought against a Justice for any act done under a Conviction in which he has exceeded his powers, but not until such Conviction shall have been quashed,—Cap. 180, Sec. 2. (p. 86.)

After confirmation of a Conviction, on Appeal, no action shall lie for any act done upon a warrant granted upon the same,—Cap. 180, Sec. 5. (p. 88.)

Costs :*(Summary Convictions.)*

May be allowed to either party, to be specified in the Conviction, Order, or Order of Dismissal, and recoverable by distress or imprisonment,—Cap. 178, Sec. 17. (p. 12.)

When sufficient distress cannot be found in the division, and warrant is executed in another division, the amount of penalty or award may be recovered with costs,—Cap. 178, Sec. 18. (p. 13.)

If Information be awarded with costs, they may be levied by distress (Schedule Q 1.) in default of which complainant may be committed (Schedule Q 2.) for not exceeding one month, unless costs and charges be sooner paid,—Cap. 178, Sec. 22. (p. 15.)

When ordered by any Court, upon an Appeal, shall be paid through the Clerk of the Peace of such Court, who, if they be not paid, shall grant a certificate (Schedule R.) thereof, on production of which a warrant of distress (Schedule S 1.) may issue, and in default the party may be committed (Schedule S 2.) for two months, unless costs and charges are sooner paid,—Cap. 178, Sec. 23. (p. 16.)

(Indictable Offences.)

On delivering over to a Justice for another territorial division a prisoner charged with an offence committed therein, the constable shall be paid the amount of his expenses and costs, on producing to the sheriff of the division in which he was apprehended, (if employed by him, or otherwise to the Treasurer,) the certificate (Schedule R 2.) of the Justice of such other division to whom the prisoner has been so delivered over,—Cap. 179, Sec. 14. (p. 60.)

(Actions against Justices.)

Not recoverable, in an action against a Justice, if it be proved that Plaintiff was guilty of the offence for which he was convicted, and had undergone no greater punishment than the law assigned therefor,—Cap. 180, Sec. 12. (p. 90.)

In any action against a Justice, the party obtaining a verdict on an issue or assessment of damages, shall be entitled to full costs, taxed as between Attorney and Client,—Cap. 180, Sec. 13. (p. 90.)

COUNSEL :*(Summary Convictions.)*

Complaint or Information may be made in person or by Counsel, Attorney or Agent,—Cap. 178, Sec. 9. (p. 7.)

Complainant and defendant may respectively conduct the complaint and defence, and examine witnesses, by Counsel or Attorney,—Cap. 178, Sec. 11. (p. 8.)

If Complainant and Defendant appear at the examination, personally or by Counsel or Attorney, the hearing of the case shall proceed,—Cap. 178, Sec. 12. (p. 9.)

(Indictable Offences.)

Deposition of a witness (taken at the examination) who may die or be unable to attend the trial, may be produced as evidence on the trial,

COUNSEL—Continued:

if signed by the Justice,—on proof that defendant had a full opportunity of cross-examining the witness by himself or by his Counsel or Attorney,—Cap. 179, Sec. 9. (p. 56.)

COUNTY :

The word "County," when used, to include unions of any two or more Counties,—Cap. 178, Sec. 32. (p. 18.); also, Cap. 180, Sec. 17. (p. 91.)

COUNTY COURTS :

No action to be brought against a Justice in any County or Division Court, if he object thereto within six days after notice of action being served upon him,—Cap. 180, Sec. 9. (p. 88.)

County Courts to have jurisdiction in all actions against Justices, when the damages claimed do not exceed £30,—Cap. 180, Sec. 9. (p. 89.)

COUNTY JUDGES :

Any County Judge (being a Justice for the County) may order a person committed for felony (not being treason or murder) to be admitted to bail,—Cap. 179, Sec. 15. (p. 61.)

COURTS OF LAW :

May direct a Justice to do any magisterial act, and no action shall lie against him for obeying such direction,—Cap. 180, Sec. 4. (p. 87.)

CROSS-EXAMINATION :

Defendant may cross-examine witnesses, by his Counsel or Attorney, in cases to be disposed of by summary conviction,—Cap. 178, Sec. 11. (p. 8.)—On indictable offences, Justice is not compelled to allow it,—See Death of a witness.

DAMAGES :

A Justice, after notice of an action against him, may at any time tender to plaintiff, or pay into Court a sum of money as amends for the injury complained of. If plaintiff accept, it may be paid him, and defendant shall pay his taxed costs. If he do not accept, and the jury award no greater sum, a verdict shall be given for defendant, and his costs shall be paid out of the money,—Cap. 180, Sec. 10. (p. 89.)

When plaintiff is entitled to recover, and shall prove imprisonment, or payment of penalty, under any conviction or order, and shall seek to recover amount of penalty, or damages for imprisonment,—he shall not recover the same (beyond 2d. damages) if proved guilty of the offence of which he was convicted, and if no greater punishment has been suffered than the law assigns to the offence,—Cap. 180, Sec. 12. (p. 90.)

DEATH OF A WITNESS—(Indictable Offences):

The deposition (taken at the examination) of any witness who may die, may, if signed by the examining Justice, be produced as evidence on the trial, on proof that the accused had a full opportunity of cross-examining the witness, either himself, or by his Counsel or Attorney,—Cap. 179, Sec. 9. (p. 56.)

DEFECTS OF FORM :

No objection to any information for any defect in form or substance to be allowed,—Cap. 178, Sec. 1. (p. 2.); also, Cap. 179, Sec. 4. (p. 51.)
—To a Warrant, or Summons,—Cap. 178, Sects. 1, 3. (pp. 2, 4.);

DEFECTS OF FORM—Continued :

also, Cap. 179, Sects. 5, 6. (pp. 52, 53.)—But if any such defect shall have misled the party summoned or accused, the case may be adjourned,—Cap. 178, Sects. 1, 3. (pp. 2, 4.); also, Cap. 179, Sects. 5, 6. (pp. 52, 53.)

No variance between the information and the evidence adduced in support thereof to be deemed material, if the offence be proved to have been committed within the jurisdiction of the examining Justice. If defendant has been misled thereby, the case may be adjourned,—Cap. 178, Sec. 8. (p. 7.)

DEFENDANT :

(Summary Convictions.)

If misled by any defect or error in the warrant for his apprehension, may request an adjournment of the case,—Cap. 178, Sec. 8. (p. 8.)

Shall (in cases for Summary Conviction) be admitted to make his full answer to the Complaint, and to have witnesses examined by Counsel or Attorney,—Cap. 178, Sec. 11. (p. 8.)

Not appearing at the examination, upon a Summons, Justice may hear and determine the case, or may issue a warrant (Schedule B.) and adjourn hearing of the case: On his being apprehended on such warrant, he shall be brought before the Justice and committed (Schedule H.) for safe keeping, and admitted to Bail (Schedule E.),—Cap. 178, Sec. 12. (p. 9.)

If Complainant and Defendant appear personally or by Counsel or Attorney, the hearing of the case shall proceed,—Cap. 178, Sec. 12. (p. 9.)

May not be heard in reply to evidence given by Complainant in reply to Defendant's evidence,—Cap. 178, Sec. 13. (p. 10.)

Conviction (Schedule I 1, 3.) or Order (Schedule K 1, 3.) to be made upon defendant, after hearing the evidence, or Complaint to be dismissed, and an Order of Dismissal (Schedule L.) made, a Certificate (Schedule M.) whereof shall be given to defendant, which shall be a bar to any subsequent Information against him for the same matter,—Cap. 178, Sec. 13. (p. 10.)

No Warrant of Distress for disobeying an Order of a Justice for the payment of money, shall issue, until Defendant has been served with a copy of the minute of such Order,—Cap. 178, Sec. 16. (p. 12.)

On the issuing of a warrant of Distress, defendant may be suffered to go at large, or be kept in safe custody, or admitted to bail, until Return of the Warrant,—Cap. 178, Sec. 19. (p. 14.)

In default of sufficient distress, may be committed (Schedule N 5.) for such time as the Statute under which he was convicted may direct, unless the sum adjudged, with costs and charges, be sooner paid,—Cap. 178, Sec. 20. (p. 15.)

To be discharged from custody on payment of any penalty, &c., for which he is in confinement, with costs,—Cap. 178, Sec. 24. (p. 16.)

(Judicable Offences.)

If misled by any error or defect in the Warrant, may request an adjournment of the case,—Cap. 179, Sec. 6. (p. 53.)

Concerning the cross-examination of witnesses at the examination, by Defendant, or his Counsel or Attorney,—Cap. 179, Sec. 9. (p. 56.)

Depositions (on examination) to be read to him. His statement in answer to the charge to be taken down (Schedule N.) and signed by the Justice. May be used against him on the trial, if duly signed. To be cautioned before making any admission or confession. Prosecutor may produce in evidence any Statement or admission of accused admissible as evidence,—Cap. 179, Sec. 10. (p. 56.)

Examination of:—See Examination.

If remanded, may be admitted to Bail, on entering into a Recognizance (Schedule Q 2, 3.) to appear at the next examination; if he do not then appear, a certificate thereof (Q 4.) to be endorsed, and Recognizance to be transmitted to the Clerk of the Peace,—Cap. 179, Sec. 13. (p. 58.)

DEFENDANT—Continued:

Must be discharged if the evidence is not sufficient to put him on his trial, or to cause a strong presumption of guilt,—Cap. 179, Sec. 17. (p. 62.)

—Unless the alleged offence has been committed in another Division, in which case he shall be taken, by Warrant, (Schedule R 1,) before a Justice thereof, with all the depositions and recognizances received, Sec. 14. (p. 60.)

May demand a copy of the depositions, between the close of the examination and the trial, on paying therefor not exceeding 3d. per 100 words,—Cap. 179, Sec. 19. (p. 63.)

DEPOSITIONS:—See Evidence.**DISCHARGE:**

On payment of any penalty for which defendant may be in confinement, with costs, the Gaoler shall discharge him from custody,—Cap. 178, Sec. 24. (p. 16.)

Of a witness (Schedule P 2.) who may have been committed for refusing to enter into a recognizance to appear at the trial, upon discharge of the defendant,—Cap. 179, Sec. 12. (p. 58.)

DISMISSAL OF COMPLAINT:**(Summary Convictions.)**

Complainant not appearing, complaint may be dismissed, or the hearing of the case adjourned to a future day,—Cap. 178, Sec. 12. (p. 9.)

After hearing the evidence, Justice shall either convict or make an Order on the Defendant, or shall dismiss the complaint and make an Order of Dismissal, (Schedule L.) and give Defendant a Certificate (Schedule M.) thereof, which shall be a bar to any subsequent information against him for the same matter,—Cap. 178, Sec. 13. (p. 10.)

Costs may be awarded to Defendant, on dismissal of the complaint, to be specified in the Order of Dismissal, and recoverable from complainant by distress or imprisonment,—Cap. 178, Sects. 17, 22. (pp. 12, 15.)

(Indictable Offences.)

If evidence against the accused be not sufficient to put him on his trial, he shall be discharged,—Cap. 179, Sec. 17. (p. 62.)—Unless the offence complained of shall have been committed in another division, in which case a Warrant (Schedule R 1.) shall issue, directing him to be taken, with all the depositions and recognizances received, before a Justice in such Division,—Sec. 14. (p. 59.)

DISTRESS:

Before any Warrant of Distress shall be issued for not obeying any Order of a Justice, Defendant shall be served with a copy of the minute of such Order,—Cap. 178, Sec. 16. (p. 12.)

Costs (when awarded) to be recoverable by distress (Schedule Q 1.) with imprisonment, not exceeding one month, in default thereof (Schedule Q 2.),—Cap. 178, Sects. 17, 22. (pp. 12, 15.)

When a Conviction or Order adjudges a penalty or payment, a Warrant of Distress (Schedule N 1, 2.) for levying the same, may be issued. If sufficient distress be not found within the division, the Warrant (on proof of signature) may be endorsed (Schedule N 3.) by a Justice of another division, and the penalty may be levied therein with costs. If there are no goods, or the issuing of the Warrant would be ruinous, Defendant may be committed to prison,—Cap. 178, Sec. 18. (p. 13.)

Upon the issuing of a Warrant of Distress, Defendant may be suffered to go at large, or kept in safe custody, or admitted to bail, until return of Warrant,—Cap. 178, Sec. 19. (p. 14.)

In default of sufficient distress, upon a return thereof (Schedule N 4.) by the Constable, a Warrant (Schedule N 5.) may issue, committing Defendant to prison for such time as may be directed by the Statute

DISTRESS—Continued :

on which the conviction was founded, unless the sum adjudged, with costs and charges, be sooner paid,—Cap. 178, Sec. 20. (p. 15)
 On payment of any penalty or costs awarded, distress shall not be levied,—Cap. 178, Sec. 24. (p. 16.)
 Warrant of Distress, when ordered, may be issued by any one Justice, who need not have been concerned in hearing and determining the case,—Cap. 178, Sec. 25. (p. 17.)

DIVISION COURTS :

No action to be brought against a Justice in any County or Division Court, if he object thereto within six days after the notice thereof shall have been served upon him,—Cap. 180, Sec. 9. (p. 88.)

ESCAPE :

Proceedings when a person against whom a Warrant may have been issued has escaped, or gone into another Territorial Division,—Cap. 178, Sec. 3. (p. 4.); also, Cap. 179, Sec. 7. (p. 54.)—A Witness,—Cap. 179, Sec. 8. (p. 55.)

EVIDENCE :*(Summary Convictions.)*

Proceedings relative to the summoning of witnesses,—Cap. 178, Sec. 6. (p. 5.)

Complainant and his witnesses to be first heard, to be followed by defendant and his witnesses: Complainant may in certain cases produce further evidence,—Cap. 178, Sec. 13. (p. 10.)

Every prosecutor not pecuniarily interested in the result, and every complainant, shall be a competent witness,—Cap. 178, Sec. 14. (p. 11.)

Witnesses to be examined on oath, administered by the Justice,—Cap. 178, Sec. 14. (p. 11.)

(Indictable Offences.)

Mode of summoning witnesses; nature and form of depositions:—See Examination.

Deposition of a witness, who since the examination may have died, may, if signed by the Justice, be read as evidence on the trial, upon proof that defendant had a full opportunity of cross-examining the witness by his Counsel or Attorney,—Cap. 179, Sec. 9. (p. 56.)

Depositions to be delivered to the Court in which accused is to be tried, on the first day of sitting,—Cap. 179, Sec. 12. (p. 58.)

In absence of sufficient evidence, the examination may be adjourned, and prisoner remanded,—Cap. 179, Sec. 13. (p. 58.)

On a party being accused of an offence committed within another division, and the evidence not being sufficient to put him on his trial, he shall be taken before a Justice in such division, and all the depositions, recognizances, &c., taken in the first instance, shall be delivered to such Justice,—Cap. 179, Sec. 14. (p. 59.)

If evidence against Defendant be not sufficient to put him on his trial, he shall be discharged; but if it be sufficient, or cause a strong presumption of guilt, he shall be committed to gaol by Warrant, (Schedule T 1.) until delivered by due course of law, or admitted to bail,—Cap. 179, Sec. 17. (p. 62.)

Prisoner may demand a copy of the depositions between the close of the examination and the trial, on paying therefor not exceeding three pence per folio,—Cap. 179, Sec. 19. (p. 63.)

EXAMINATION :*(Summary Convictions.)*

Hearing of the case may be adjourned, and defendant committed (Schedule D.) to gaol, or admitted to bail, on a Recognizance (Schedule E.) If he fail to appear at time appointed therein, Recognizance to be

EXAMINATION—*Continued* :

transmitted to Clerk of the Peace, with a certificate (Schedule F.) endorsed thereon,—Cap. 178, Sec. 15. (p. 11.)

If defendant be misled by any variance between the Information and the Evidence, the case may be adjourned as above,—Cap. 178, Sec. 8. (p. 7.)

Every complaint may be heard and tried by one Justice for the division, unless two or more are specially required by law. Place of Examination (in relation to summary convictions) to be deemed an open Court. Prisoner may make his full answer and defence, and may cross-examine witnesses by his Counsel or Attorney. Complainant may conduct the complaint, and may examine witnesses by his Counsel or Attorney,—Cap. 178, Sec. 11. (p. 8.)

If defendant do not appear at the Examination, when summoned, the case may be heard and determined, or it may be adjourned, and a Warrant (Schedule B.) issued; on his apprehension under such Warrant, he shall be committed (Schedule H.) into safe custody for future examination. If complainant do not appear, the complaint may be dismissed, or may be adjourned, and the defendant committed (Schedule D.) into safe custody, or admitted to bail (Schedule L.), and if he fail afterwards to appear, the Recognizance, with a certificate thereof (Schedule F.) endorsed, shall be transmitted to the Clerk of the Peace. If both parties appear, the case shall proceed,—Cap. 178, Sec. 12. (p. 9.)

Course of proceeding on the hearing of Complaints and Informations. Justice, after hearing the parties, and the evidence, to determine the matter, either by Conviction (Schedule I 1, 3.) or Order (Schedule K 1, 3) against defendant, to be lodged with Clerk of the Peace, and filed with the Records of the Sessions; or by an Order (Schedule L.) dismissing the complaint, a certificate (Schedule M.) of which shall be given to defendant, and shall be a bar to any subsequent complaint,—Cap. 178, Sec. 13. (p. 10.)

Every prosecutor not having a pecuniary interest in the result, and every complainant, shall be a competent witness. Witnesses to be examined on oath,—Cap. 178, Sec. 14. (p. 11.)

The issuing of a Summons or Warrant, and all other matters, preliminary to the hearing, may in all cases be done by one Justice, and also all Warrants of Distress or Commitment thereon; but in cases where the law requires that an Information, &c., shall be heard, or a Conviction or Order be made thereon, by two or more Justices, such Justices must act together during the whole of the hearing and determination of the case,—Cap. 178, Sec. 25. (p. 17.)

(Indictable Offences.)

Before any accused person shall be committed, or admitted to bail, the Justice shall take the statement (Schedule M.) of such persons as know the facts of the case, after administering the usual oath or affirmation; statement to be signed by Justice and Witness. Defendant may question witnesses. Deposition (taken as above, in presence of the accused) of any person who may be prevented by illness or death from appearing upon the trial, may be read as evidence (if duly signed, and if prisoner had an opportunity of cross-examining witness by himself or his Counsel or Attorney.) without further proof,—Cap. 179, Sec. 9. (p. 56.)

Depositions of Witnesses, when completed, to be read to the accused, and his answer to the charge to be taken down (Schedule N.) and signed by the Justice:—may upon the trial, be used against prisoner, if duly signed, without further proof. Prisoner to be duly cautioned, before making any admission or confession. Prosecutor may give in evidence any statement or admission of the defendant admissible by law as evidence,—Cap. 179, Sec. 10. (p. 56.)

Place of examination (on indictable offences) not to be deemed an open Court,—Cap. 179, Sec. 11. (p. 57.)

Prosecutor and Witnesses to be bound by recognizance (Schedule O 1.) to appear at the trial, to prosecute and give evidence: notice thereof (Schedule O 2.) to be given to the person bound thereby. Recogni-

EXAMINATION—Continued :

zances, depositions, and recognizances of Bail (if any) to be delivered to the Court in which the trial is to be had, on 1st day of sitting. Witness refusing to enter into recognizance may be committed to Goal by warrant (Schedule P 1.) until after the trial. If defendant be not committed for trial, an Order (Schedule P 2.) may be issued by any Justice of the division, for the discharge of such witness,—Cap. 179, Sec. 12. (p. 57.)

Prisoner may be remanded to Gaol, for not more than 8 days each time, by warrant (Schedule Q 1.) or if for not more than 3 days, by verbal Order; but may be brought up for examination before the expiration of such time. Prisoner, on being remanded, may be admitted to bail (Schedule Q 2, 3.) to appear at the next examination; if he fail to appear, the same shall be certified on the back (Schedule Q 4.), and the recognizance shall be transmitted to the Clerk of the Peace,—Cap. 179, Sec. 13. (p. 58.)

When the evidence for the prosecution is not sufficient to put the accused on his trial he shall be discharged, but if sufficient therefor, or to raise a strong presumption of guilt, he shall be committed to Goal by warrant (Schedule T 1.) until delivered by due course of law; but may (in case of misdemeanor, but not felony) be admitted by Justices to bail,—Cap. 179, Sec. 17. (p. 62.)—How conveyed to Gaol. Goaler to give receipt (Schedule T 2.) for the prisoner,—Sec. 18. (p. 62.)

EXPENSES :—*See Costs.*

FELONY :

A complaint (Schedule A.) being made before a Justice, charging any person within his jurisdiction with felony committed therein or elsewhere, a warrant (Schedule B.) may be issued for his apprehension, or a summons (Schedule C.) may first be issued, in the discretion of the Justice. If he fail to appear, a warrant (Schedule D.) for his apprehension may issue. The warrant first mentioned may be issued at any time after the summons,—Cap. 179, Sec. 1. (p. 49.)

A person charged with felony may, if the evidence be sufficient to put him on trial but not to warrant his committal, be admitted to bail by two Justices, taking a recognizance (Schedule S 1, 2.) of the accused and his sureties for his appearance at the trial: in default of bail he may be committed. Bail may be required to justify their sufficiency on oath. Person committed for felony may be admitted to bail by order of any Judge of a Superior Court, or County Judge (being a Justice for the County;) Justices to issue a warrant of deliverance (Schedule S 3.) None charged with Treason or Murder to be bailed, except by Judges of Queen's Bench or Common Pleas,—Cap. 179, Sec. 15. (p. 61.)

If the evidence against a person charged with felony be such as to raise a strong presumption of guilt, he shall be committed without bail,—Cap. 179, Sec. 17. (p. 62.)

FORMS :

Various Forms for Information, Summons, Warrant, Indictment, Conviction, Order, &c.,—Schedules to Caps. 178 and 179. These Forms to be valid in law,—Cap. 178, Sec. 27. (p. 17.); also, Cap. 179, Sec. 20. (p. 63.)

No objection to an Information for any defect in form or substance to be allowed,—Cap. 178, Sec. 1. (p. 2.); also, Cap. 179, Sec. 4. (p. 51.) —To a Warrant or Summons,—Cap. 178, Sects. 1, 3. (pp. 2, 4.); also, Cap. 179, Sects. 5, 6. (pp. 52, 53.)—But if any such defect shall have misled the party summoned or accused, the case may be adjourned,—Cap. 178, Sects. 1, 3. (pp. 2, 4.; also, Cap. 179, Sects. 5, 6. (pp. 52, 53.)

No variance between the Information and the evidence adduced in support thereof to be deemed material, if the offence be proved to have been committed within jurisdiction of examining Justice. If the party accused has been misled thereby, the case may be adjourned,—Cap. 178, Sec. 8. (p. 7.)

GAOL, COMMITTAL TO:

(Summary Convictions.)

Of defendant, (Schedule D.) on the hearing of the case being adjourned to a future day,—Cap. 178, Sects. 3, 8, 12, 15. (pp. 4, 7, 9, 11.)

Defendant when apprehended under a warrant issued on his non-appearance at the Examination, may be committed (Schedule H.) to Gaol or other place of security, until further examination,—Cap. 178, Sec. 12. (p. 9.)

No person shall be committed for disobeying a Justice's Order until he shall have been served with a copy of the minute of such Order,—Cap. 178, Sec. 16. (p. 12.)

Costs (when allowed) to be recoverable by distress, or by imprisonment, not exceeding one month,—Cap. 178, Sec. 17. (p. 12.)

Whenever it shall appear (on application for a Warrant of Distress) that there are no goods and chattels, or that the issuing thereof would be ruinous to defendant, he may be committed to Gaol, with or without hard labor,—Cap. 178, Sec. 18. (p. 14.)

Upon the issuing of a Warrant of Distress, defendant may be suffered to go at large, or be kept in safe custody, or admitted to bail, until Return is made to the Warrant,—Cap. 178, Sec. 19. (p. 14.)

In default of sufficient distress, defendant may be committed (Schedule N 5.) for such time as the Statute under which he was convicted allows, unless the sum awarded, with costs and charges, be sooner paid,—Cap. 178, Sec. 20. (p. 15.)—For one month, on a distress for costs,—Sec. 22. (p. 16.)

Where Defendant shall be adjudged to be imprisoned, and shall then be in confinement for another offence, the Warrant shall be delivered to the Gaoler, and the term of imprisonment last adjudged may commence at the expiration of the first imprisonment,—Cap. 178, Sec. 21. (p. 15.)

On payment of any penalty, &c., (with costs) for which defendant is in confinement, the Gaoler shall discharge him from custody,—Cap. 178, Sec. 24. (p. 16.)

Warrant of Commitment may be issued by any one Justice, who need not have been concerned in hearing and determining the case,—Cap. 178, Sec. 25. (p. 17.)

(Indictable Offences.)

Persons refusing to be examined as witnesses, may be committed (Schedule L 4.) for not more than ten days,—Cap. 179, Sec. 8. (p. 55.)

Witnesses refusing to enter into Recognizances to appear and give evidence at the trial, may be committed (Schedule P 1.) until after the trial; to be discharged (Schedule P 2.) if defendant be not committed,—Cap. 179, Sec. 12. (p. 57.)

Defendant, on being remanded for further examination for not more than eight days at a time (or on a verbal order if for not more than three days),—Cap. 179, Sec. 13. (p. 58.) (Schedule Q 1.)

A person accused of an offence committed within another territorial division, may, on sufficient proof appearing, be committed to the Gaol of such other division for trial,—Cap. 179, Sec. 14. (p. 59.)

On the evidence appearing sufficient to put the accused on his trial, he shall be committed to Gaol, by Warrant (Schedule T 1.) until delivered by due course of law, but may be admitted to bail, except (in cases of felony) where a strong presumption of guilt exists,—Cap. 179, Sec. 17. (p. 62.)—On evidence appearing sufficient to put him on his trial, but not to warrant his committal, he may be admitted to bail, (in cases of misdemeanor, by one Justice, or in cases of felony, by two Justices,) in default of which he may be committed,—Cap. 179, Sects. 15, 17. (pp. 61, 62.)

Persons committed by any Warrant under this Act, to be conveyed by the Constable receiving such Warrant, and delivered to the Gaoler, who shall give a Receipt (Schedule T 2.) setting forth the condition of the prisoner,—Cap. 179, Sec. 18. (p. 62.)

GAOLER :

To discharge any person committed to his custody, upon payment of the penalty, &c., directed, with costs,—Cap. 178, Sec. 24. (p. 16.)

To give a Receipt (Schedule T 2.) for a prisoner delivered into his custody,—Cap. 179, Sec. 18. (p. 62.)

HEARING OF THE CASE :—See Examination.

ILLEGAL ACTIONS :

In any action brought against a Justice contrary to this Act, the Judge may set aside proceedings,—Cap. 180, Sec. 6. (p. 88.)

IMPRISONMENT :—See Gaol, Committal to.

INCONSISTENT PROVISIONS :

All Acts or provisions inconsistent with the present Acts to be thereby repealed,—Cap. 178, Sec. 31. (p. 18.) ; also, Cap. 179, Sec. 22. (p. 63.)

INDICTMENT :

When found by the Grand Jury in any Court, against any person then at large, the Marshal of the Court, or Clerk of the Peace, shall, after the Sessions, grant to the Prosecutor (on payment of 1s.) a Certificate thereof (Schedule F.) on production of which, a Justice of the Division shall issue a warrant (Schedule G.) for his apprehension, and shall commit him for trial (Schedule H.) or admit him to bail: and if such person shall be already in confinement for any other offence, the Justice shall issue a warrant (Schedule I.) for his detention,—Cap. 179, Sec. 2. (p. 50.)

INFORMATION :—See Complaint.

INSPECTORS OF POLICE :

May do, alone, whatever is authorized to be done by two Justices,—Cap. 178, Sec. 28. (p. 18.) ; also, Cap. 179, Sec. 21. (p. 63.)

To have like powers for preserving order in Police Courts, as are exercised by any Courts of Law,—Cap. 178, Sec. 29. (p. 18.)

Shall have power to enforce the execution of all Summonses, Warrants, &c., by the same means as are provided for other Courts,—Cap. 178, Sec. 30. (p. 18.)

INTERPRETATION CLAUSES :

Words "County" or "Territorial Division" to include unions of any two or more such,—Cap. 178, Sec. 32. (p. 18.) ; also, Cap. 180, Sec. 17. (p. 91.)

What is meant by "Prison,"—Cap. 178, Sec. 34. (p. 18.)

JOINT TENANTS :

Property belonging to, may be described in information and proceedings as belonging to one or more of such parties,—Cap. 178, Sec. 4. (p. 5.)

JUDGES :

A Judge of Queen's Bench or Common Pleas may admit to bail any person charged with treason, murder, felony or misdemeanor,—Cap. 179, Sec. 15. (p. 61.)

JURISDICTION :

Proceedings on a complaint before a Justice, for acts done in another territorial division beyond his jurisdiction,—Cap. 179, Sec. 14. (p. 59.)

Action brought against a Justice for any act done by him within his jurisdiction, shall be an action on the case as for a tort,—Cap. 180, Sec. 1. (p. 86.)

Action may be maintained for any matter in which he may have exceeded his jurisdiction, by any person injured thereby, except for acts done

JURISDICTION—Continued :

under a Warrant for appearance, where a previous Summons was disobeyed. Actions for any acts done under a Conviction or Order shall not be brought until such Conviction or Order shall have been quashed,—Cap. 180, Sec. 2. (p. 86.)

If plaintiff fail to prove, at the trial of any action against a Justice, that the cause of action arose within the jurisdiction of the County or Division Court (if brought in such Court), he shall be non-suit,—Cap. 180, Sec. 11. (p. 89.)

JUSTICES OF THE PEACE:—See Actions against a Justice.

LIMITATION OF ACTIONS :

All actions against a Justice for anything done in virtue of his office, must be brought within 6 months after the act complained of,—Cap. 180, Sec. 7. (p. 88.)—And one month's notice must be given,—Sec. 8. (p. 88.)

If plaintiff fail to prove that action is brought within the time limited, he shall be non-suit,—Cap. 180, Sec. 11. (p. 89.)

MALICIOUS INTENT :

Must be proved, in any action against a Justice for any act done within his jurisdiction, or plaintiff shall be non-suited,—Cap. 180, Sec. 1. (p. 86.)—But not where jurisdiction has been exceeded,—Sec. 2. (p. 86.)

MISDEMEANOR :

A Complaint (Schedule A.) being made before a Justice, charging any person within his jurisdiction with a misdemeanor committed therein or elsewhere, a Warrant (Schedule B.) may issue for his apprehension; or a Summons (Schedule C.) may first issue, at the discretion of the Justice, to be followed at any time by the Warrant: if he fail to appear to the Summons, a Warrant (Schedule D.) may issue for his apprehension,—Cap. 179, Sec. 1. (p. 49.)

A person charged with a misdemeanor may be bailed by a Justice, upon recognizance (Schedule S 1, 2.) of the party and his sureties, for his appearance at the trial. Bail may be sworn as to their sufficiency,—Cap. 179, Sec. 15. (p. 61.)

MONEY, ORDER FOR PAYMENT OF :

Summons (Schedule A.) may issue upon a Complaint upon which a Justice has authority to make any Order for the payment of money or otherwise. How served, &c.,—Cap. 178, Sec. 1. (p. 1.)

Complaint must be in writing, and on oath, unless otherwise specially provided by law,—Cap. 178, Sec. 7. (p. 7.)

See also Penalties.

MUNICIPAL BY-LAWS :

Decisions, Convictions and Orders, upon complaints for offences under Municipal By-laws, to be subject to appeal under provisions of 13 and 14 Vic., cap. 54,—Cap. 178, Sec. 26. (p. 17.)

MURDER :

No person charged with murder shall be admitted to bail, except on the order of a Judge of Queen's Bench or Common Pleas,—Cap. 179, Sec. 15. (p. 61.)

NON-SUIT :

Plaintiff in any action against a Justice, shall be non-suit if he fail to prove that such action was brought within the time limited,—or that due notice was given,—that cause of action was stated therein, or that the same arose within the jurisdiction of the Court,—Cap. 180, Sec. 11. (p. 89.)

NOTICE OF ACTIONS :

One month's notice (in writing) must be given to a Justice of any action intended to be commenced against him. Nature of notice,—Cap. 180, Sec. 8. (p. 88.)

No action shall be brought against a Justice in any County or Division Court, if the object thereto (in writing) within six days after notice of action. No new notice required in order to sue him in another Court,—Cap. 180, Sec. 9. (p. 88.)

If Plaintiff fail to prove at the trial, that one month's notice has been given, or that the cause of action is stated therein, he shall be non-suit,—Cap. 180, Sec. 11. (p. 89.)

OATH OR AFFIRMATION :

Information or Complaint must be made in writing, upon oath, before a Warrant can issue, unless otherwise provided by law,—Cap. 178, Sec. 9. (p. 7.) ; also, Cap. 179, Sec. 4. (p. 51.)

Complaint to obtain an Order or Summons must be on oath unless specially otherwise provided by any law (Summary Convictions),—Cap. 178, Sec. 9. (p. 7.)——Not necessary in cases of Indictable offences, when otherwise provided by law,—Cap. 179, Sec. 4. (p. 51.)

Witnesses to be examined on oath or affirmation administered by the Justice,—Cap. 178, Sec. 14. (p. 11.) ; also, Cap. 179, Sec. 9. (p. 56.)

Oath to be administered to persons applying for a Search Warrant (Schedule E 2.),—Cap. 179, Sec. 4. (p. 51.)——May be administered to Bail as to their sufficiency,—Cap. 179, Sec. 15. (p. 61.)

OFFENCES IN ANOTHER TERRITORIAL DIVISION :

Proceedings on the accusation of a party charged with an offence committed within another Territorial Division,—Cap. 179, Sec. 14. (p. 59.)

OPEN COURT :

Place of examination to be deemed an Open Court, in matters to be disposed of by Summary Convictions,—Cap. 178, Sec. 11. (p. 8.)——Not an open Court in indictable offences,—Cap. 179, Sec. 11. (p. 57.)

ORDER, PRESERVATION OF :

Police Magistrates, Superintendents and Inspectors, and Stipendiary Magistrates, to have like powers for preserving order in Police Courts as are exercised by any Courts of Law,—Cap. 178, Sec. 29. (p. 18.)

ORDERS :

Summons (Schedule A.) may issue upon a complaint on which a Justice has authority to make any Order for the payment of money or otherwise. How served, &c.,—Cap. 178, Sec. 1. (p. 1.)

Complaint on which such an Order may issue must be in writing and on oath, unless specially otherwise provided by any law,—Cap. 178, Sects. 7, 9. (p. 7.)

Form of Order (when not specially prescribed by law,)—Cap. 178, Sec. 16. (p. 12.)

In all cases where authority exists for committing or for levying by distress, for not obeying a Justice's Order, Defendant shall be served with a copy of the Minute of such Order before a Warrant shall issue,—Cap. 178, Sec. 16. (p. 12.)

On an appeal against any Order being decided in favor of Respondent, any Justice may issue a Warrant for the execution thereof,—Cap. 178, Sec. 23. (p. 16.)

In all cases where the law requires that a Conviction or Order shall be made by two or more Justices, such Justices must have acted together during the whole of the hearing and determination of the case,—Cap. 178, Sec. 25. (p. 17.)

Order passed upon any information under a Municipal By-law, to be subject to appeal under provisions of 13 & 14 Vic. Cap. 54,—Cap. 178, Sec. 26. (p. 17.)

ORDERS—Continued :

An Action may be maintained against a Justice for any act done under an Order where he has exceeded his jurisdiction, but not until such Order has been quashed,—Cap. 180, Sec. 2. (p. 86.)

After confirmation of an Order upon appeal, no action shall lie for any act done under a Warrant granted upon the same,—Cap. 180, Sec. 5. (p. 88.)

PARTNERS :

Property belonging to, may be described, in information and proceedings, as belonging to one or more of such partners,—Cap. 178, Sec. 4. (p. 5.)

PENALTIES :

Forms of conviction imposing penalties,—Cap. 178, Sec. 16. (p. 12.) (Schedules I 1, 3.)

When a penalty is adjudged, and no mode of recovering the same is specially provided by Statute, a Warrant of Distress (Schedule N 1, 2.) may issue, and if sufficient distress be not found, upon an endorsement (Schedule N 3.) thereof on the Warrant, it may be executed in another division,—Cap. 178, Sec. 18. (p. 13.)

On payment of penalty and costs, distress shall not be levied,—Cap. 178, Sec. 24. (p. 16.)

POLICE MAGISTRATES, &c. :

A Police Magistrate, Superintendent or Inspector, or Stipendiary Magistrate, may do, *alone*, whatever is authorized to be done by two Justices,—Cap. 178, Sec. 28. (p. 18.) ; also, Cap. 179, Sec. 21. (p. 63.)

A Police Magistrate, &c., to have like powers for preserving order in Police Courts, as are exercised by any Courts of Law,—Cap. 178, Sec. 29. (p. 18.)

Shall have power to enforce the execution of all Summonses, Warrants, &c., by the same means as are provided for other Courts,—Cap. 178, Sec. 30. (p. 18.)

PRISONER :

On payment of any penalty for which defendant may be in confinement, with costs, the Gaoler shall discharge him from custody,—Cap. 178, Sec. 24. (p. 16.)

On an Indictment being found by a Grand Jury against a person already in confinement for another offence, a Warrant (Schedule I.) shall issue for his further detention,—Cap. 179, Sec. 2. (p. 50.)

On delivery of a prisoner to the Gaoler, he shall give to the constable a receipt (Schedule T 2.) stating the condition of the prisoner,—Cap. 179, Sec. 18. (p. 62.)

Proceedings on delivering over to a Justice for another division, a prisoner charged with an offence committed within his jurisdiction,—Cap. 179, Sec. 14. (p. 59.)

PROPERTY :

In possession of partners, joint tenants, or tenants in common, may be described as belonging to one or more of such parties. Buildings and works belonging to a territorial division may be described as belonging to the inhabitants of such division,—Cap. 178, Sec. 4. (p. 5.)

PROSECUTOR:—See Complainant.

PROTECTION OF JUSTICES :

No action shall lie against a Justice for any act done in obedience to the order of either of the Superior Courts or the County Court,—Cap. 180, Sec. 4. (p. 87.)

In any action brought against a Justice contrary to this Act, Judge may set aside the proceedings,—Cap. 180, Sec. 6. (p. 88.)

Act to apply for protection of all persons for any thing done in cases to which Acts repealed by this Act would have applied,—Cap. 180, Sec. 16. (p. 91.)

See also Actions against a Justice.

RECOGNIZANCE :

To be entered into by defendant (Schedule E.) when admitted to bail, for his appearance at the next examination. If he fail to appear, a cer-

RECOGNIZANCE—Continued :

tificate thereof (Schedule F.) to be endorsed, and recognizance to be transmitted to the Clerk of the Peace,—Cap. 178, Sects. 3, 8, 12, 15. (pp. 4, 7, 9, 11.); also, Cap. 179, Sec. 13. (p. 59.) (Schedule Q 2, 3, 4.) To be entered into by Prosecutor and Witnesses, to appear at the trial (Schedule O 1.) Nature of Recognizance. To be delivered to the Court in which the trial is to be had, on the first day of sitting. Witness refusing to enter into Recognizance, may be committed to Gaol by Warrant (Schedule P 1.) until after the trial. If prisoner be not committed for trial, such witness may be discharged on the order (Schedule P 2.) of any Justice of the Division,—Cap. 179, Sec. 12. (p. 57.)

Recognizance (Schedule S 1, 2.) of defendant and sureties on admission to bail, when committed for trial,—Cap. 179, Sec. 15. (p. 61.)

REFUSAL TO ACT :

A Justice refusing to do any magisterial act, may be required to fulfil the same by either of the Superior Courts, or the Judge of the County Court; and no action shall lie against him for any thing done by direction of such Court or Judge,—Cap. 180, Sec. 4, (p. 87.)

REMANDING OF PRISONER:—*See* Adjournment of Examination.

SEARCH WARRANT :

May be issued on Sunday,—Cap. 179, Sec. 3. (p. 51.)

May be granted (Schedule E 2.) on the oath of any credible witness, (Schedule E 1.) that there is reason to suspect that stolen property is in the house or place in question,—Cap. 179, Sec. 4. (p. 51.)

SERVICE OF SUMMONS OR WARRANT :

What shall be deemed good and sufficient service,—Cap. 178, Sec. 1. (p. 2.)

If defendant do not appear at the examination, Constable shall be sworn as to service of Summons,—Cap. 178, Sec. 12. (p. 9.)

STIPENDIARY MAGISTRATES :—*See* Police Magistrates.

STOLEN PROPERTY :

Search Warrant (Schedule E 2.) may be issued on the oath of any credible witness, (Schedule E 1.) that there is reason to suspect that stolen property is in any particular house or other place,—Cap. 179, Sec. 4. (p. 51.)—May be issued on Sunday, Sec. 3. (p. 51.)

SUMMONS :

An Action cannot be maintained against a Justice for any act under a Warrant in which he has exceeded his jurisdiction, if a Summons shall have been previously issued and disobeyed,—Cap. 180, Sec. 2. (p. 86.) (*Summary Convictions.*)

May be issued (Schedule A.) upon a complaint charging a person with an offence committed within the division, or upon which any Justice may have authority to order the payment of money. To be served on the party personally or at his place of abode. No objection to Summons for any defect allowed, but if party be misled thereby, the hearing of the case may be adjourned,—Cap. 178, Sec. 1. (p. 1.)

Justice not obliged to issue a Summons where the application for any Order of Justices is by law to be made *ex parte*,—Cap. 178, Sec. 1. (p. 2.)

If Summons to party accused be not obeyed, a Warrant (Schedule B.) for his apprehension may issue, upon oath or affirmation being made substantiating the matter of the information, and service of Summons; or the Justice may proceed *ex parte* to the hearing of the information, and adjudicate thereon,—Cap. 178, Sec. 2. (p. 2.)

If Summons to a Witness be not obeyed, a Warrant (Schedule G 2.) may issue. May be executed in another division on being endorsed by a Justice therein,—Cap. 178, Sec. 6. (p. 6.)

All Summonses may be issued by one Justice,—Cap. 178, Sec. 25. (p. 17.)

SUMMONS—Continued:*(Indictable Offences.)*

May be issued for the appearance of persons suspected of indictable offences, before or after issue of Warrant,—Cap. 179, Sec. 1. (p. 49.)
See Warrant.

Information or complaint on which such Summons is issued, need not be in writing, when specially so provided by law,—Cap. 179, Sec. 4. (p. 51.)

Form and nature of Summons. (Schedule C.) How served on the party to whom it is directed; on the party not appearing in obedience thereto, a Warrant for his apprehension (Schedule D.) to be issued. No objection to the Summons or Warrant shall be allowed for any defect in form or substance, but if any such variance shall have misled the party charged, the hearing of the case may be adjourned to a future day,—Cap. 179, Sec. 5. (p. 52.)

(To Witnesses)—Shall be issued (Schedule L 1.) to any person likely to give material evidence, who will not voluntarily appear. On his neglecting to obey the same, a Warrant (Schedule L 2.) may (on proof of service) be issued, requiring him to be brought, to testify as aforesaid; or such Warrant may issue in the first instance (Schedule L 3.) if necessary,—Cap. 179, Sec. 8. (p. 54.)

SUNDAY:

Search Warrants or other Warrants may be issued on Sunday,—Cap. 179, Sec. 3. (p. 51.)

SUPERINTENDENT OF POLICE:—See Police Magistrates.**TENANTS IN COMMON:**

Property belonging to joint tenants or tenants in common, may be described in Information and Proceedings, as belonging to one or more of such parties,—Cap. 178, Sec. 4. (p. 5.)

TERRITORIAL DIVISION:

Words "Territorial Division" to include union of any two or more of such divisions,—Cap. 178, Sec. 32. (p. 18.)

TORT:

Action brought against a Justice for any act done by him within his jurisdiction, shall be an action on the case as for a tort,—Cap. 180, Sec. 1. (p. 86.)

TREASON:

A Complaint (Schedule A.) being made before a Justice, charging any person within his jurisdiction with treason committed therein or elsewhere, a Warrant (Schedule B.) may be issued for his apprehension, or a Summons (Schedule C.) may first be issued, in the discretion of the Justice, to be followed at any time by the Warrant. If he fail to appear to the Summons, a Warrant (Schedule D.) may issue for his apprehension,—Cap. 179, Sec. 1. (p. 49.)

Persons charged with treason may not be admitted to bail, except on the Order of the Court of Queen's Bench or Common Pleas, or one of the Judges thereof in vacation,—Cap. 179, Sec. 15. (p. 61.)

TRIAL, COMMITTAL FOR:*(Indictable Offences.)*

Prosecutor and witnesses to be bound over by Recognizance (Schedule O 1.) to appear at the trial. Notice thereof (Schedule O 2.) to be given to each. A witness refusing to enter into recognizance may be committed to Gaol by Warrant (Schedule P 1.) until after the trial. An Order for his discharge (Schedule P 2.) may be issued if accused be not committed for trial,—Cap. 179, Sec. 12. (p. 57.)

Recognizances, depositions and recognizances of bail, to be delivered to the Court in which the trial is to be had, on the first day of sitting,—Cap. 179, Sects. 12, 13. (pp. 58, 59.)

TRIAL, COMMITTAL FOR—Continued:

When the evidence is sufficient to put the accused on his trial, or to raise a strong presumption of his guilt, a Warrant shall issue (Schedule T 1.) Committing him to Gaol until delivered by due course of law or by admission to bail,—Cap. 179, Sec. 17, (p. 62)——To the Gaol of another division, in which the offence has been committed, Sec. 14. (p. 59.)

TRIAL OF ACTIONS AGAINST JUSTICES .

A Justice against whom any action may be brought for any Magisterial act, may plead the general issue and give any special matter, &c., in evidence,—Cap. 180, Sec. 9. (p. 88.)

VENUE :

In every Action against a Justice, the Venue shall be laid in the County or Division where the act complained of was committed, or where such Justice resides,—Cap. 180, Sec. 9. (p. 88.)

If Plaintiff fail to prove at the trial, that the act complained of was committed in the County in which the Venue is laid, he shall be non-suit,—Cap. 180, Sec. 11. (p. 89.)

WARRANT :

An action may be maintained against a Justice for any act done under a Warrant in which he has exceeded his jurisdiction, but not if a Summons were previously issued and disobeyed,—Cap. 180, Sec. 2. (p. 86.) Where a Conviction or Order is made by one Justice and a Warrant is granted thereon by another, any action brought for a defect in such Conviction, &c., or for want of jurisdiction, must be brought against the Justice making such Conviction, &c., and not against the Justice granting the warrant,—Cap. 180, Sec. 3. (p. 87.)

No action shall lie, for any thing done under a warrant, for any defect in the Conviction or Order on which the same was granted, after such Conviction, &c., shall have been confirmed on appeal,—Cap. 180, Sec. 5. (p. 88.)

(Summary Convictions.)

May issue for apprehension (Schedule B.) of a party failing to obey a Summons upon an Information; or Warrant for apprehension (Schedule C.) may issue in the first instance,—Cap. 178, Sec. 2. (p. 2.)

Must be under hand and seal of the Justice. How directed. The particulars it must contain. How executed. Party may be arrested within the division, or in case of fresh pursuit, seven miles beyond. If party escape into another division, any Justice therein may, on proof (upon oath) of the hand-writing of the Justice issuing the Warrant, make an endorsement authorizing its execution in such division. No objection allowed for any defect in form or substance of warrants, but if accused be misled by any such defect, the Justice may adjourn the hearing of the case, and commit (Schedule D.) defendant to Gaol, or admit him to Bail on a Recognizance (Schedule E.) If he fail afterwards to appear, a Certificate thereof (Schedule F.) to be endorsed thereon, and Recognizance to be transmitted to Clerk of the Peace,—Cap. 178, Sec. 3. (p. 3.)

Committing defendant to gaol (Schedule D.) on the hearing of the case being adjourned to a future day,—Cap. 178, Sec. 3. (p. 4.)

For apprehension of a witness neglecting to appear to a summons (Schedule G 2.) or Warrant in the first instance (Schedule G 3.) backed as above, when required,—Cap. 178, Sec. 6. (p. 5.)

To commit defendant into safe custody (Schedule H.) on being apprehended under a Warrant,—Cap. 178, Sec. 12. (p. 9.)

Warrant of Distress (Schedule N 1, 2.) for levying amount of any penalty or payment ordered. May be endorsed (Schedule N 3.) and executed in another division, as other Warrants,—Cap. 178, Sec. 18. (p. 13.)

In default of sufficient distress, a Warrant (Schedule N 5.) may issue, committing defendant for such time as the Statute on which conviction

WARRANT—Continued:

is founded may direct, unless penalty, &c., with costs and charges, be sooner paid,—Cap. 178, Sec. 20. (p. 15.) —On a distress upon Complainant for costs (Schedule Q 2), for not more than one month,—Sec. 22. (p. 16.) —On a distress for costs (Schedule S 2.) ordered by any Court, upon an appeal, for not more than two months,—Sec. 23. (p. 16.) All Warrants may be issued by one Justice, who need not be one engaged in hearing and determining the case,—Cap. 178, Sec. 25. (p. 17.)

(Indictable Offences.)

May be issued by one or more Justices of the Peace, for the apprehension of any person residing or supposed to be within the jurisdiction of such Justices, who may be suspected of an indictable offence committed within the same jurisdiction or elsewhere (Form of Warrant, Schedule B.); or a Summons may be issued first for appearance (Schedule C.), failing which a warrant may be issued (Schedule D.) for his apprehension; or the first mentioned warrant may be issued at any time after the summons,—Cap. 179, Sec. 1. (p. 49.)

Shall be issued for the apprehension of an offender, on production of a certificate of an Indictment found against such person by the Grand Jury in any Court (Form of Warrant, Schedule G.): and on appearing, he shall be committed for trial (Schedule H.), or admitted to bail. If already in confinement for another offence, a Warrant (Schedule I.) shall be issued for his detention,—Cap. 179, Sec. 2. (p. 50.)

Shall be issued for the apprehension of an offender (Schedule D.) on his failing to appear in obedience to a Summons from the Justice. No objection to the Summons or Warrant shall be allowed for any defect in form of substance, but if the party charged shall have been misled by any such variance, the hearing of the case may be postponed,—Cap. 179, Sec. 5. (p. 52.)

Bench Warrants may issue whenever any competent Court may think proper,—Cap. 179, Sec. 2. (p. 51.)

Warrants may be issued on Sunday,—Cap. 179, Sec. 3. (p. 51.)

Information must be made in writing, on oath, before a Warrant can be issued,—Cap. 179, Sec. 4. (p. 51.)

Shall be under the hand and seal of the Justice or Justices issuing the same (Schedule B.) How directed. The particulars it must contain. How executed. Party may be arrested within the limits of the jurisdiction of the Justice issuing the same, or in case of fresh pursuit, seven miles beyond such limits. No objection to be allowed for any defect in form or substance of Warrant, but if such variance shall have misled the party charged, the hearing of the case may be adjourned,—Cap. 179, Sec. 6. (p. 53.)

If the party described in the Warrant shall escape to another territorial division, any Justice within whose jurisdiction he may be supposed to be, may on proof (upon oath) of the signature of the Justice issuing such Warrant, make an endorsement (Schedule K.) authorizing its execution within his jurisdiction; and if the prosecutor or his witnesses shall be in the territorial division where the party shall have been so apprehended, the Justice or Justices in that division may proceed to the examination of the case,—Cap. 179, Sec. 7. (p. 54.)

To bring before a Justice any witness neglecting to obey a Summons (Schedule L 2.) Such Warrant may issue in the first instance (Schedule L 3.) if necessary; and if the witness go into another territorial division, may be endorsed by any Justice therein (Schedule K.) as above,—Cap. 179, Sec. 8. (p. 55.)

To commit any witness refusing to give evidence to gaol (Schedule L 4.) for ten days, unless he consent, meanwhile, to be examined,—Cap. 179, Sec. 8. (p. 55.)

To commit any witness refusing to enter into a Recognizance to appear and give evidence at the trial, to Gaol (Schedule P 1.) until after the trial. If Defendant be not committed for trial, witness may be discharged, upon the order (Schedule P 2.) of any Justice of the Division,—Cap. 179, Sec. 12. (p. 58.)

WARRANT—Continued :

- To remand the prisoner (Schedule Q 1.) to Gaol for not more than 8 days each time (if not more than 3 days, by verbal order),—Cap. 179, Sec. 13. (p. 58.)
- For committing a person accused of an offence committed within another territorial division, to the Gaol of such division, to await his trial, (Schedule R 1.)—Cap. 179, Sec. 14. (p. 60.)
- Warrant of Deliverance (Schedule S 3.) in admitting to bail a person committed for trial for Felony,—Cap. 179, Sec. 15. (p. 61.)
- On admission of a person to bail who shall have been committed on the charge preferred against him, the Justice shall send a Warrant of Deliverance (Schedule S 3.) to the Gaoler, to discharge the prisoner,—Cap. 179, Sec. 16. (p. 62.)
- To commit the defendant to Gaol (on sufficient evidence appearing against him), to take his trial for the offence charged (Schedule T 1.)—Cap. 179, Sec. 17. (p. 62.)

WITNESSES :

(Summary Convictions.)

Summons may be issued (Schedule G 1.) for any important Witness refusing to appear voluntarily. On his neglecting to obey the same, a Warrant (Schedule G 2.) may (on proof of service) be issued, requiring him to be brought to give evidence; or such Warrant may issue in the first instance (Schedule G 3.) if necessary. On any such Witness refusing to give evidence, a Warrant (Schedule G 4.) may issue, committing him for ten days, unless he consent, meanwhile, to be examined,—Cap. 178, Sec. 6. (p. 5.)

Every prosecutor not pecuniarily interested in the result, and every complainant shall be a competent Witness,—Cap. 178, Sec. 14. (p. 11.)

Witnesses shall be examined on oath, administered by the Justice,—Cap. 178, Sec. 14. (p. 11.)

Any Witness refusing to be examined, may be committed (Schedule G 4.) for any time not exceeding ten days,—Cap. 178, Sec. 6. (p. 6.)

(Indictable Offences.)

Summons may be issued (Schedule L 1.) for any important Witness refusing to appear voluntarily. On his neglecting to obey the same, a Warrant (Schedule L 2.) may (on proof of service) be issued, requiring him to be brought to give evidence; or such Warrant may issue in the first instance (Schedule L 3.) if necessary. And if the Witness go into another territorial division, the Warrant may be endorsed (Schedule K.) by any Justice therein. On any such Witness refusing to give evidence, a Warrant (Schedule L 4.) may issue, committing him to Gaol for ten days, unless he consent mean time to be examined,—Cap. 179, Sec. 8. (p. 54.)

Examination of:—See Examination.

To be bound by recognizance (Schedule O 1.) to appear and give evidence at the trial. Nature of Recognizance. A Witness refusing to enter into Recognizance may be committed by Warrant (Schedule P 1.) to Gaol until after the trial; and if the Defendant be not committed for trial, such Witness may be discharged, on the order (Schedule P 2.) of any Justice of the Division,—Cap. 179, Sec. 12. (p. 57.)

On the death of a Witness after the examination, his deposition may be read in evidence on the trial, if signed by the Justice, upon proof that opportunity was afforded for cross examination by the accused or his Counsel or Attorney,—Cap. 179, Sec. 9. (p. 56.)

In absence of Witnesses, the examination may be adjourned, and prisoner remanded,—Cap. 179, Sec. 13. (p. 58.)



ANNO SEXTO-DECIMO

VICTORIÆ REGINÆ.

CAP. CLXXVIII.

An Act to facilitate the performance of the duties of Justices of the Peace, out of Sessions, in Upper Canada, with respect to Summary Convictions and Orders.

[Assented to 14th June, 1853.]

WHEREAS it would conduce much to the improvement of the administration of justice within that part of this Province called Upper Canada, so far as respects Summary Convictions and Orders to be made by Her Majesty's Justices of the Peace therein, if the several Statutes and parts of Statutes relating to the duties of such Justices in respect of such Summary Convictions and Orders were consolidated, with such additions and alterations as may be deemed necessary, and that such duties should be clearly defined by positive enactment: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That in all cases where an Information shall be laid before one or more of Her Majesty's Justices of the Peace for any Territorial Division in Upper Canada, that any person has committed or is suspected to have committed any offence or act within the jurisdiction of such Justice or Justices of the Peace, for which he is liable by law upon a Summary Conviction for the same before a Justice or Justices of the Peace, to be imprisoned or fined or otherwise punished; and also in all cases where a complaint shall be made to any such Justice or Justices, upon which he or they have or shall have authority by law to make any Order for the payment of money or otherwise, then in every such case it shall be lawful

Preamble.
Where an information is laid or a complaint made before a Justice of the Peace that a party has committed an offence, such Justice may issue a Summons to such party.

for such Justice or Justices of the Peace to issue his or their Summons (A), directed to such person, stating shortly the matter of such information or complaint, and requiring him to appear at a certain time and place, before the same Justice or Justices, or before such other Justice or Justices for the same Territorial Division as shall then be there, to answer to the said information or complaint, and to be further dealt with according to law ; and every such Summons shall be served by a Constable or other Peace Officer, or other person to whom the same shall be delivered, upon the person to whom it is so directed, by delivering the same to the party personally, or by leaving the same with some person for him, at his last or most usual place of abode ; and the Constable, Peace Officer, or person who shall serve the same in manner aforesaid, shall attend at the time and place, and before the Justices in the said Summons mentioned, to depose, if necessary, to the service of the said Summons, Provided always, that nothing herein mentioned shall oblige any Justice or Justices of the Peace to issue any such Summons in any case where the application for any Order of Justices is by law to be made *ex parte* : Provided also, that no objection shall be taken or allowed to any Information, Complaint or Summons, for any alleged fact therein, in substance or in form, or for any variance between such Information, Complaint or Summons, and the evidence adduced on the part of the Informant or Complainant at the hearing of such information or complaint as hereinafter mentioned ; but if any such variance shall appear to the Justice or Justices present and acting at such hearing to be such that the party so summoned and appearing has been thereby deceived or misled, it shall be lawful for such Justice or Justices, upon such terms as he or they shall think fit, to adjourn the hearing of the case to some future day.

How summons to be served.

Proviso : Justices not obliged in certain cases to issue Summons.

Proviso : No objection allowed for want of form.

In certain cases of variance, hearing may be adjourned.

If Summons be not obeyed, Justice may issue Warrant.

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

Or may issue Warrant in the first

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

instance, on information upon affidavit in certain cases.

Or if the Summons having been duly served, be not obeyed, the Justice may proceed *ex parte*.

III. And be it enacted, That every such Warrant to apprehend a Defendant, that he may answer to such information or complaint as aforesaid, shall be under the Hand and Seal or Hands and Seals of the Justice or Justices issuing the same, and may be directed to all or any of the Constables or other Peace Officers of the Territorial Division within which the same is to be executed, or to such Constable and all other Constables within the Territorial Division within which the Justice or Justices issuing such Warrant hath or have jurisdiction, or generally to all Constables within such last mentioned Territorial Division ; and it shall state shortly the matter of the information or complaint on which it is founded, and shall name or otherwise describe the person against whom it has been issued, and it shall order the Constable or other Peace Officer to whom it is directed, to apprehend the said Defendant, and to bring him before one or more Justice or Justices of the Peace, as the case may require, of the same Territorial Division, to answer to the said information or complaint, and to be further dealt with according to law ; and that it shall not be necessary to make such Warrant returnable at any particular time, but the same may remain in full force until it shall be executed ; and such Warrant may be executed by apprehending the Defendant at any place within the Territorial Division within which the Justices issuing the same shall have jurisdiction, or, in case of fresh pursuit, at any place in the next adjoining Territorial Division, within seven

Warrant to be under Hand and Seal of Justice.

To whom it shall be directed.

It shall mention the offence and contain name and description of person to be apprehended, &c.

It need not be returnable at any particular time.

When and where and how it may be executed.

miles of the border of such first mentioned Territorial Division without having such Warrant backed as hereinafter mentioned ; and in all cases in which such Warrant shall be directed to all Constables or Peace Officers within the Territorial Division within which the Justice or Justices issuing the same shall have jurisdiction, it shall be lawful for any Constable or Peace Officer for any place within the limits of the jurisdiction for which such Justice or Justices shall have acted when he or they granted such Warrant, to execute such Warrant in like manner as if such Warrant were directed specially to such Constable by name, and notwithstanding that the place in which such Warrant shall be executed, shall not be within the place for which he shall be such Constable or Peace Officer ; and if the person against whom any such Warrant has been issued be not found within the jurisdiction of the Justice or Justices by whom it was issued, or if he shall escape, go into, reside or be, or be supposed or suspected to be in any place within this Province, whether in Upper or Lower Canada, out of the jurisdiction of the Justice or Justices issuing the Warrant, any Justice of the Peace within whose jurisdiction such person shall be or be suspected to be as aforesaid, upon proof alone upon oath of the hand-writing of the Justice or Justices issuing the Warrant, may make an endorsement upon it, signed with his name, authorizing the execution of the Warrant within his jurisdiction ; and such endorsement shall be a sufficient authority to the person bringing the Warrant, and to all other persons to whom it was originally directed, and to all Constables or other Peace Officers of the Territorial Division where the endorsement is made, to execute the same in any place within the jurisdiction of the Justice of the Peace endorsing the same, and to carry the offender, when apprehended, before the Justice or Justices who first issued the Warrant or some other Justice having the same jurisdiction ; Provided always, that no objection shall be taken or allowed to any such Warrant to apprehend a Defendant, so issued upon any such information or complaint as aforesaid under or by virtue of this Act, for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the Informant or Complainant as hereinafter mentioned ; but if any such variance shall appear to the Justice or Justices present and acting at such hearing, to be such that the party so apprehended under such Warrant has been thereby deceived or misled, it shall be lawful for such Justice or Justices, upon such terms as he or they shall think fit, to adjourn the hearing of the case to some future day, and in the mean time to commit (D) the said Defendant to the Common Gaol or any other prison, Lock-up House, or place of security, within the Territorial Division or place within which the said Justice or Justices may be acting, or to such other custody as the said Justice or Justices shall think fit, or to discharge him upon his entering into a Recognizance (E) with or without

Backing of Warrant when taken into another jurisdiction, how performed, and its effect.

Proviso : No objection allowed for want of form in the Warrant.

But if the party charged is deceived by the variance, the hearing may be postponed, and he may be committed or discharged upon Recognizance.

Surety or Sureties, at the discretion of such Justice or Justices, conditioned for his appearance at the time and place to which such hearing shall be so adjourned: Provided always, that in all cases where a Defendant shall be discharged upon Recognizance as aforesaid, and shall not afterwards appear at the time and place in such Recognizance mentioned, then the said Justice, who shall have taken the said Recognizance, or any Justice or Justices who may then be there present, upon certifying (F) upon the back of the said Recognizance the non-appearance of the Defendant, may transmit such Recognizance to the Clerk of the Peace of the Territorial Division within which such Recognizance shall have been taken, to be proceeded upon in like manner as other Recognizances, and such Certificate shall be deemed sufficient *prima facie* evidence of such non-appearance of the said Defendant.

Proviso: if he fail to re-appear, the Justice, after certifying his non-appearance on the back of the Recognizance, may transmit the same to the Clerk of the Peace.

IV. And be it enacted, That in any information or complaint or proceedings thereon, in which it shall be necessary to state the ownership of any property belonging to or in the possession of partners, joint tenants, parceners or tenants in common, it shall be sufficient to name one of such persons, and to state the property to belong to the person so named and another or others, as the case may be; and whenever in any information or complaint, or the proceedings thereon, it shall be necessary to mention, for any purpose whatsoever, any partners, joint tenants, parceners or tenants in common, it shall be sufficient to describe them in the manner aforesaid; and whenever in any such information or complaint, or the proceedings thereon, it shall be necessary to describe the ownership of any work or building made, maintained or repaired at the expense of any Territorial Division, or of any materials for the making, altering or repairing the same, they may be therein described as the property of the inhabitants of such Territorial Division respectively.

Description of property of partners &c., in any information or complaint or proceedings thereon.

Property of a Municipality, &c.

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

Aiders and abettors in the commission of offences punishable on Summary conviction, may be dealt with as principals, and where.

VI. And be it enacted, That if it shall be made to appear to any Justice of the Peace, by the oath or affirmation of any

Power to Justice to sum-

mon witnesses
to attend and
give evidence.

If Summons
be disobeyed
by witness
without just
excuse, Jus-
tice may issue
Warrant.

Justice may,
on proof that
witness will
probably re-
fuse to attend,
issue his War-
rant in the
first instance.
Witnesses re-
fusing to be
examined,
may be com-
mitted.

credible person, that any person within the jurisdiction of such Justice is likely to give material evidence on behalf of the Prosecutor or Complainant or Defendant, and will not voluntarily be and appear as a witness at the time and place appointed for the hearing of such information or complaint, such Justice may, and is hereby required to issue his Summons (G 1.) to such person, under his Hand and Seal, requiring him to be and appear at a time and place mentioned in such Summons, before the said Justice, or before such other Justice or Justices of the Peace for the same Territorial Division as shall then be there, to testify what he shall know concerning the said information or complaint; and if any person so summoned shall neglect or refuse to appear at the time and place appointed by the said Summons, and no just excuse shall be offered for such neglect or refusal, then (after proof upon oath or affirmation of such Summons having been served upon such person, either personally or by leaving the same for him with some person at his last or most usual place of abode) it shall be lawful for the Justice or Justices before whom such person should have appeared, to issue a Warrant (G 2.) under his or their Hands and Seals, to bring and have such person, at a time and place to be therein mentioned, before the Justice who issued the said Summons, or before such other Justice or Justices of the Peace for the same Territorial Division as shall be then there, to testify as aforesaid, and which said Warrant may, if necessary, be backed as hereinbefore is mentioned, in order to its being executed out of the jurisdiction of the Justice who shall have issued the same; or if such Justice shall be satisfied, by evidence upon oath or affirmation, that it is probable that such person will not attend, to give evidence without being compelled so to do, then instead of issuing such Summons it shall be lawful for him to issue his Warrant (G 3.) in the first instance, and which, if necessary, may be backed as aforesaid; and if on the appearance of such person so summoned before the said last mentioned Justice or Justices, either in obedience to such Summons or upon being brought before him or them by virtue of the said Warrant, such person shall refuse to be examined upon oath or affirmation concerning the premises, or shall refuse to take such oath or affirmation, or having taken such oath or affirmation shall refuse to answer such questions concerning the premises as shall then be put to him, without offering any just excuse for such refusal, any Justice of the Peace then present, and having jurisdiction, may, by Warrant (G 4.) under his Hand and Seal, commit the person so refusing to the Common Gaol for the Territorial Division where such person refusing shall then be, there to remain and be imprisoned for any time not exceeding ten days, unless he shall, in the mean time, consent to be examined and to answer concerning the premises.

VII. And be it enacted, That in all cases of complaint upon which a Justice or Justices of the Peace may make an Order for the payment of money or otherwise, such complaint shall be in writing, and on oath, unless it shall be enacted or provided to the contrary by some particular Act of Parliament upon which such complaint shall be framed.

Certain complaints must be in writing.
Exception.

VIII. And be it enacted, That in all cases of informations for any offences or acts punishable upon Summary Conviction, any variance between such information and the evidence adduced in support thereof as to the time at which such offence or act shall be alleged to have been committed, shall not be deemed material if it be proved that such information was in fact laid within the time limited by law for laying the same ; and any variance between the said information and the evidence adduced in support thereof, as to the place in which the offence or act shall be alleged to have been committed, shall not be deemed material, provided that the offence or act be proved to have been committed within the jurisdiction of the Justice or Justices by whom such information shall be heard and determined ; and if any such variance, or any variance in any other respect between such information and the evidence adduced in support thereof, shall appear to the Justice or Justices present and acting at the hearing, to be such that the party charged by such information has been thereby deceived or misled, it shall be lawful for such Justice or Justices, upon such terms as he or they shall think fit, to adjourn the hearing of the case to some future day, and in the mean time to commit (D) the said Defendant to the Common Gaol or other prison, Lock-up House or place of security, or to such other custody as the said Justice or Justices shall think fit, or to discharge him upon his entering into a Recognizance (E) with or without Surety or Sureties, at the discretion of such Justice or Justices, conditioned for his appearance at the time and place to which such hearing shall be so adjourned : Provided always, that in all cases where a Defendant shall be discharged upon Recognizance as aforesaid, and shall not afterwards appear at the time and place in such Recognizance mentioned, then the said Justice who shall have taken the said Recognizance, or any other Justice or Justices who may then be there present, upon certifying (F) upon the back of the said Recognizance the non-appearance of the Defendant, may transmit such Recognizance to the Clerk of the Peace of the Territorial Division within which such Recognizance shall have been taken, to be proceeded upon in like manner as other Recognizances, and such Certificate shall be deemed sufficient *prima facie* evidence of such non-appearance of the said Defendant.

As to any variance between information and the facts or evidence.

If the party charged be deceived by variance between information and evidence, the hearing may be adjourned, and he may be committed or discharged upon recognizance.

Proviso : If he fail to appear, the Justice may certify the facts and transmit the recognizance to the Clerk of the Peace.

IX. And be it declared and enacted, That every such complaint upon which a Justice or Justices of the Peace is, or are.

Complaint or information must be made

upon oath except in certain cases.

or shall be authorized by law to make an Order, and that every information for any offence or act punishable upon Summary Conviction, (unless some particular Act of Parliament shall otherwise permit,) shall respectively be made or laid on oath or affirmation as to the truth thereof, and in all cases of informations where the Justice or Justices receiving the same shall thereupon issue his or their Warrant in the first instance, to apprehend the Defendant as aforesaid; and in every case where the Justice or Justices shall issue his or their Warrant in the first instance, the matter of such information shall be substantiated by the oath or affirmation of the informant, or by some witness or witnesses on his behalf before any such Warrant shall be issued, and every such complaint shall be for one matter of complaint only, and not for two or more matters of complaint, and every such information shall be for one offence only, and not for two or more offences, and every such complaint or information may be laid or made by the Complainant or Informant in person, or by his Counsel or Attorney, or other person authorized in that behalf.

And always where Warrant is issued in the first instance, complaint or information to be for one matter only.

Time limited for information or complaint.

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

As to the hearing of complaints and informations.

XI. And be it enacted, That every such complaint or information shall be heard, tried, determined and adjudged by one or two or more Justice or Justices of the Peace, as shall be directed by the Act or Acts of Parliament upon which such complaint or information shall be framed, or such other Act or Acts of Parliament as there may be in that behalf; and if there be no such direction in any such Act of Parliament, then such complaint or information may be heard, tried, determined and adjudged by any one Justice for the Territorial Division where the matter of such information or complaint shall have arisen; and the room or place in which such Justice or Justices shall sit to hear and try any such complaint or information, shall be deemed an open and public Court to which the public generally may have access, so far as the same can conveniently contain them; and the party against whom such complaint is made or information laid, shall be admitted to make his full answer and defence thereto, and to have the witnesses examined and cross-examined by Counsel or Attorney on his behalf; and every Complainant or Informant in any such case shall be at liberty to conduct such complaint or information respectively, and to have the witnesses examined and cross-examined by Counsel or Attorney on his behalf.

Places in which Justices shall sit to hear complaints, &c., to be deemed an open Court.

Party may plead by Counsel or Attorney.

XII. And be it enacted, That if at the day and place appointed in and by the Summons aforesaid for hearing and determining such complaint or information, the Defendant against whom the same shall have been made or laid, shall not appear when called, the Constable or other person who shall have served him with the Summons in that behalf, shall then declare upon oath in what manner he served the said Summons; and if it appear to the satisfaction of the Justice or Justices that he duly served the said Summons, in that case such Justice or Justices may proceed to hear and determine the case in the absence of such Defendant, or the said Justice or Justices, upon the non-appearance of such Defendant as aforesaid, may if he or they think fit, issue his or their Warrant in manner hereinbefore directed, and shall adjourn the hearing of such complaint or information until the said Defendant shall be apprehended; and when such Defendant shall afterwards be apprehended under such Warrant, he shall be brought before the same Justice or Justices, or some other Justice or Justices of the Peace for the same Territorial Division, who shall thereupon, either by his or their Warrant (H) commit such Defendant to the Common Gaol or other prison, Lock-up House or place of security, or if he or they think fit, verbally to the custody of the Constable or other person who shall have apprehended him, or to such other safe custody as he or they shall deem fit, and order the said Defendant to be brought up at a certain time and place before such Justice or Justices of the Peace as shall then be there, of which said Order the Complainant or Informant shall have due notice; or if upon the day and at the place so appointed as aforesaid, such Defendant shall appear voluntarily in obedience to the Summons in that behalf served upon him, or shall be brought before the said Justice or Justices by virtue of any Warrant, then, if the said Complainant or Informant, having had due notice as aforesaid, do not appear by himself, his Counsel or Attorney, the said Justice or Justices shall dismiss such complaint or information, unless for some reason he or they shall think proper to adjourn the hearing of the same until some other day, upon such terms as he or they shall think fit, in which case such Justice or Justices may commit (D) the Defendant in the mean time to the Common Gaol or other Prison, Lock-up House or place of security, or to such other custody as such Justice or Justices shall think fit, or may discharge him upon his entering into a Recognizance (E) with or without Surety or Sureties at the discretion of such Justice or Justices, conditioned for his appearance at the time and place to which such hearing shall be so adjourned; and if such Defendant shall not afterwards appear at the time and place mentioned in such Recognizance, then the said Justice who shall have taken the said Recognizance, or any Justice or Justices who may then be there present, upon certifying (F) on the back of the Recognizance the non-

If Defendant does not appear at the time and place appointed for hearing the complaint, Justice may proceed to hear and determine, or issue Warrant, and adjourn the hearing till Defendant is apprehended.

If Defendant appear, and complainant, &c. do not, Justice may dismiss the complaint, &c., or adjourn hearing, and commit or discharge Defendant upon Recognizance.

But if Defendant fail to re-appear, the Justice may transmit the Recognizance

to the Clerk
of the peace.

appearance of the Defendant, may transmit such Recognizance to the Clerk of the Peace for the Territorial Division in which such Recognizance shall have been taken, to be proceeded upon in like manner as other Recognizances, and such Certificate shall be deemed sufficient *prima facie* evidence of such non-appearance of the said Defendant; but if both parties appear, either personally or by their respective Counsel or Attorneys, before the Justice or Justices who are to hear and determine such complaint or information, then the said Justice or Justices shall proceed to hear and determine the same.

If both parties
appear, Jus-
tice to hear
and determine
the case.

Proceedings
on the hearing
of complaints
and informa-
tions.

XIII. And be it enacted, That when such Defendant shall be present at such hearing, the substance of the information or complaint shall be stated to him, and he shall be asked if he have any cause to shew why he should not be convicted, or why an Order should not be made against him, as the case may be; and if he thereupon admit the truth of the information or complaint, and shew no cause or no sufficient cause why he should not be convicted, or why an Order should not be made against him, as the case may be, then the Justice or Justices present at the said hearing, shall convict him or make an Order against him accordingly; but if he do not admit the truth of such information or complaint as aforesaid, then the said Justice or Justices shall proceed to hear the Prosecutor or Complainant and such witnesses as he may examine, and such other evidence as he may adduce in support of his information or complaint respectively, and also to hear the Defendant and such witnesses as he may examine, and such other evidence as he may adduce in his defence, and also to hear such witnesses as the Prosecutor or Complainant may examine in reply, if such Defendant shall have examined any witnesses or given any evidence other than as to his the Defendant's general character; but the Prosecutor or Complainant shall not be entitled to make any observations in reply upon the evidence given by the Defendant, nor shall the Defendant be entitled to make any observations in reply upon the evidence given by the Prosecutor or Complainant in reply as aforesaid; and the said Justice or Justices, having heard what each party shall have to say as aforesaid, and the witnesses and evidence so adduced, shall consider the whole matter and determine the same, and shall convict or make an Order upon the Defendant or dismiss the information or complaint, as the case may be; and if he or they convict or make an Order against the Defendant, a Minute or Memorandum thereof shall then be made, for which no fee shall be paid, and the conviction (I 1, 3.) or Order (K 1, 3.) shall afterwards be drawn up by the said Justice or Justices in proper form, under his or their Hand and Seal or Hands and Seals, and he or they shall cause the same to be lodged with the Clerk of the Peace to be by him filed among the Records of the General or Quarter Sessions of the Peace; or if the said

After hearing
evidence, Jus-
tice to deter-
mine the mat-
ter.

If he convict
Defendant, he
shall draw up
an Order to
that effect, and
transmit the
same to the
Clerk of the
Peace,— or if
he dismiss the
complaint, he

Justice or Justices shall dismiss such information or complaint, it shall be lawful for such Justice or Justices, when required so to do, to make an Order of Dismissal of the same (L), and shall give the Defendant on that behalf a Certificate thereof (M), which said Certificate afterwards upon being produced, without further proof, shall be a bar to any subsequent information or complaint for the same matters respectively, against the same party : Provided always, that if the information or complaint in any such case shall negative any exemption, exception, proviso or condition in the Statute on which the same shall be framed, it shall not be necessary for the Prosecutor or Complainant in that behalf to prove such negative, but the Defendant may prove the affirmation thereof in his defence, if he would have advantage of the same.

shall, if required, draw up an Order of Dismissal, and give the Defendant a Certificate thereof.

Proviso : if information or complaint negative any exemption.

XIV. And be it enacted, That every Prosecutor of any such information, not having any pecuniary interest in the result of the same, and every Complainant in any such complaint as aforesaid, whatever his interest may be in the result of the same, shall be a competent witness to support such information or complaint respectively, and every witness at any such hearing as aforesaid, shall be examined upon oath or affirmation, and the Justice or Justices before whom any such witness shall appear for the purpose of being so examined, shall have full power and authority to administer to every such witness the usual oath or affirmation.

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

XV. And be it enacted, That before or during such hearing of any such information or complaint, it shall be lawful for any one Justice or for the Justices present, in their discretion, to adjourn the hearing of the same to a certain time and place to be then appointed and stated in the presence and hearing of the party or parties, or of their respective Attorneys or Agents then present, and in the mean time the said Justice or Justices may suffer the Defendant to go at large, or may commit (D) him to the Common Gaol or other prison, Lock-up House or other place of security within the Territorial Division for which such Justice or Justices shall then be acting, or to such other safe custody as the said Justice or Justices shall think fit, or may discharge such Defendant upon his Recognizance (E), with or without Sureties at the discretion of such Justice or Justices, conditioned for his appearance at the time and place to which such hearing or further hearing shall be adjourned ; and if, at the time or place to which such hearing or further hearing shall be so adjourned, either or both of the parties shall not appear personally or by his or their Counsel or Attorneys respectively, before the said Justice or Justices, or such other Justice or Justices as shall then be there, it shall be lawful for the Justice or Justices then there present to proceed to such hearing or further hearing as if such party or

Justice may adjourn the hearing of any case, and commit Defendant, or suffer him to go at large, or discharge him upon his Recognizance, with or without sureties.

Proceedings if Defendant or Plaintiff appear.

If Defendant fail to re-appear, the Justice may, after certifying his non-appearance on the back of the Recognizance transmit the same to the Clerk of the Peace.

parties were present ; or if the Prosecutor or Complainant do not appear, the said Justice or Justices may dismiss the said information or complaint with or without costs as to such Justices shall seem fit : Provided always, that in all cases when a Defendant shall be discharged upon his Recognizance as aforesaid, and shall not afterwards appear at the time and place mentioned in such Recognizance, then the said Justice or Justices who shall have taken the said Recognizance, or any other Justice or Justices who may then be there present, upon certifying (F) on the back of the Recognizance the non-appearance of such accused party, may transmit such Recognizance to the Clerk of the Peace for the Territorial Division in which such Recognizance shall have been taken, to be proceeded upon in like manner as other Recognizances, and such Certificate shall be deemed sufficient *prima facie* evidence of such non-appearance of the said Defendant.

Form of convictions and orders to be as in Schedule, where no particular form is given in the Statute creating the offence.

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

Defendant to be served with copy of order before distress or commitment.

Power to Justice to award costs—not inconsistent with the Fees to be taken

XVII. And be it enacted, That in all cases of Summary Conviction or of Orders made by a Justice or Justices of the Peace, it shall be lawful for the Justice or Justices making the same, in his or their discretion, to award and order in and by such Conviction or Order that the Defendant shall pay to

the Prosecutor or Complainant respectively such costs as to the said Justice or Justices shall seem reasonable in that behalf, and not inconsistent with the Fees established by law to be taken on proceedings had by and before Justices of the Peace under the Act passed in the Session held in the fourteenth and fifteenth years of Her Majesty's Reign, and intituled, *An Act to establish an uniform rate of Fees to be received by Justices of the Peace in Upper Canada, and to repeal the Act of Upper Canada, passed in the fourth year of the Reign of King William the Fourth, chapter seventeen*, or with the provisions of any other Act or Law in force in Upper Canada regulating fees or costs in proceedings before Justices of the Peace; and in cases where such Justice or Justices, instead of convicting or making an Order as aforesaid, shall dismiss the information or complaint, it shall be lawful for him or them in his or their discretion in and by his or their Order of Dismissal, to award and order that the Prosecutor or Complainant, respectively, shall pay to the Defendant such costs as to the said Justice or Justices shall seem reasonable and according to law as aforesaid, and the sums so allowed for costs shall in all cases be specified in such Conviction or Order or Order of Dismissal as aforesaid, and the same shall be recoverable in the same manner and under the same Warrants as any penalty or sum of money adjudged to be paid in and by such Conviction or Order is to be recoverable, and in case where there is no such penalty or sum of money to be thereby recovered, then such costs shall be recoverable by distress and sale of the goods and chattels of the party, and in default of such distress, by imprisonment, with or without hard labor, for any time not exceeding one calendar month, unless such costs shall be sooner paid.

under 14 & 15
V. c. 119, or
any other Act.

Costs so allowed shall be specified in Conviction or Order or Order of Dismissal, and may be recovered by distress.

XVIII. And be it enacted, That where a conviction adjudges a pecuniary penalty or compensation to be paid, or where an Order requires the payment of a sum of money, and by the Statute authorizing such Conviction or Order, such penalty, compensation or sum of money is to be levied upon the goods and chattels of the Defendant, by distress and sale thereof, and also in cases where, by the Statute in that behalf, no mode of raising or levying such penalty, compensation or sum of money, or of enforcing the payment of the same, is stated or provided, it shall be lawful for the Justice, or any one of the Justices making such Conviction or Order, or for any Justice of the Peace for the same Territorial Division, to issue his Warrant of Distress (N 1, 2.) for the purpose of levying the same, which said Warrant of Distress shall be in writing, under the Hand and Seal of the Justice making the same; and if, after delivery of such Warrant of Distress to the Constable or Constables to whom the same shall have been directed to be executed, sufficient distress shall not be found within the limits of the jurisdiction

Powers to Justice to issue Warrant of distress, in cases where a pecuniary penalty, &c. has been adjudged.

If sufficient distress be not found within limits of his jurisdiction,

the Warrant may be endorsed by a Justice of another territorial division, and the penalty &c. may be levied under such endorsement in such territorial division.

Proviso :
When the issuing a Warrant would be ruinous to Defendant, or when there are no goods, Justice may commit him to Prison.

of the Justice granting such Warrant, then upon proof alone being made upon oath of the hand-writing of the Justice granting such Warrant, before any Justice of any other Territorial Division, such Justice of such other Territorial Division, shall thereupon make an endorsement (N 3.) on such Warrant signed with his Hand, authorizing the execution of such Warrant within the limits of his jurisdiction, by virtue of which said Warrant and endorsement the penalty or sum aforesaid and costs, or so much thereof as may not have been before levied or paid; shall and may be levied by the person bringing such Warrant, or by the person or persons to whom such Warrant was originally directed, or by any Constable or other Peace Officer of such last mentioned Territorial Division, by distress and sale of the goods and chattels of the Defendant in such other Territorial Division : Provided always that whenever it shall appear to any Justice of the Peace to whom application shall be made for any such Warrant of Distress as aforesaid, that the issuing thereof would be ruinous to the Defendant and his family, or whenever it shall appear to the said Justice, by the confession of the Defendant or otherwise, that he hath no goods and chattels whereon to levy such Distress, then and in every such case it shall be lawful for such Justice, if he shall deem it fit, instead of issuing such Warrant of Distress, to commit such Defendant or other person to the Common Gaol, or Lock-up House within the Territorial Division within which such Justice or Justices shall then be acting, there to be imprisoned with or without hard labor, for such time and in such manner as by law such Defendant might be so committed, in case such Warrant of Distress had issued and no goods or chattels had been found whereon to levy such penalty or sum and costs aforesaid.

Justice, after issuing Warrant, may suffer Defendant to go at large or order him into custody, until Return be made unless he gives security by Recognizance, and if he fail to re-appear, Justice may transmit Recognizance to the Clerk of the Peace.

XIX. And be it enacted, That in all cases where a Justice of the Peace shall issue any such Warrant of Distress, it shall be lawful for him to suffer the Defendant to go at large, or verbally or by a written Warrant in that behalf, to order the Defendant to be kept and detained in safe custody, until Return shall be made to such Warrant of Distress, unless such Defendant shall give sufficient security, by Recognizance or otherwise, to the satisfaction of such Justice, for his appearance before him at the time and place appointed for the Return of such Warrant of Distress, or before such other Justice or Justices for the same Territorial Division as may then be there : Provided always, that in all cases where a Defendant shall give security by Recognizance as aforesaid, and shall not afterwards appear at the time and place in the said Recognizance mentioned, then the said Justice who shall have taken the said Recognizance, or any Justice or Justices who may then be there present, upon certifying (F) on the back of the Recognizance the non-appearance of the Defendant, may transmit such Recognizance to the Clerk of the Peace for the Territorial Division within which the

offence shall be laid to have been committed, to be proceeded upon in like manner as other Recognizances, and such Certificate shall be deemed sufficient *prima facie* evidence of such non-appearance of the said Defendant.

XX. And be it enacted, That if at the time and place appointed for the Return of any such Warrant of Distress, the Constable, who shall have had execution of the same, shall return (N 4.) that he could find no goods or chattels or no sufficient goods or chattels whereon he could levy the sum or sums therein mentioned, together with the costs of, or occasioned by, the levy of the same, it shall be lawful for the Justice of the Peace before whom the same shall be returned, to issue his Warrant of Commitment (N 5.) under his Hand and Seal, directed to the same or any other Constable, reciting the Conviction or Order shortly, the issuing of the Warrant of Distress and the Return thereto, and requiring such Constable to convey such Defendant or other person to the Common Gaol or Lock-up House within the Territorial Division for which such Justice shall then be acting, and there to deliver him to the Keeper thereof, and requiring such Keeper to receive the Defendant into such Gaol, or Lock-up House, and there to imprison him, or to imprison him and keep him to hard labor, in such manner and for such time as shall have been directed and appointed by the Statute on which the Conviction or Order mentioned in such Warrant of Distress was founded, unless the sum or sums adjudged to be paid, and all costs and charges of the distress, and also the costs and charges of the commitment and conveying of the Defendant to prison, if such Justice shall think fit so to order (the amount thereof being ascertained and mentioned in such commitment), shall be sooner paid.

In default of sufficient distress, Justice may commit Defendant to Prison.

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

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

XXII. And be it enacted, That when any information or complaint shall be dismissed with costs as aforesaid, the sum which shall be awarded for costs in the Order for Dismissal,

If information be dismissed, costs may be recovered by

distress upon Prosecutor. may be levied by distress (Q 1.) on the goods and chattels of the Prosecutor or Complainant in the manner aforesaid ; and in default of distress or payment, such Prosecutor or Complainant may be committed (Q 2.) to the Common Gaol or other Prison or Lock-up House in manner aforesaid, for any time not exceeding one calendar month, unless such sum, and all costs and charges of the distress, and of the commitment and conveying of such Prosecutor or Complainant to prison (the amount thereof being ascertained and stated in such commitment), shall be sooner paid.

After appeal against Conviction or Order decided in favor of Respondent, Justice may issue Warrant of Distress for execution of the same. XXIII. And be it enacted, That after an appeal against any such Conviction or Order as aforesaid shall be decided, if the same shall be decided in favor of the Respondent, the Justice or Justices who made such Conviction or Order, or any other Justice of the Peace for the same Territorial Division may issue such Warrant of Distress or Commitment as aforesaid for execution of the same, as if no such appeal had been brought, and if upon any such appeal the Court of General or Quarter Sessions shall order either party to pay costs, such Order shall direct such costs to be paid to the Clerk of the Peace of such Court, to be by him paid over to the party entitled to the same, and shall state within what time such costs shall be paid ; and if the same shall not be paid within the time so limited, and the party ordered to pay the same shall not be bound by any Recognizance conditioned to pay such costs, such Clerk of the Peace on application of the party entitled to such costs or of any person on his behalf, and on payment of a Fee of One Shilling, shall grant to the party so applying a Certificate (R) that such costs have not been paid, and upon production of such Certificate to any Justice or Justices of the Peace for the same Territorial Division, it shall be lawful for him or them to enforce the payment of such costs by Warrant of Distress (S 1.) in manner aforesaid, and in default of distress he or they may commit (S 2.) the party against whom such Warrant shall have issued, in manner hereinbefore mentioned, for any time not exceeding two calendar months, unless the amount of such costs and all costs and charges of the distress, and also the costs of the commitment and conveying of the said party to prison, if such Justice or Justices shall think fit so to order, (the amount thereof being ascertained and stated in such commitment), shall be sooner paid.

If costs of appeal be ordered to be paid. If they be not paid within a certain time and be not secured by Recognizance.

On payment of penalty, &c. distress not to be levied, or the party, if imprisoned for non-payment, shall be discharged. XXIV. And be it enacted, That in all cases where a Warrant of Distress shall issue as aforesaid against any person, and such person shall pay or tender to the Constable having the execution of the same, the sum or sums in such Warrant mentioned, together with the amount of the expenses of such Distress up to the time of such payment or tender, such Constable shall cease to execute the same ; and in all cases in

which any person shall be imprisoned as aforesaid for non-payment of any penalty or other sum, he may pay or cause to be paid to the Keeper of the Prison in which he shall be so imprisoned, the sum in the Warrant of Commitment mentioned, together with the amount of the costs, charges and expenses (if any) therein also mentioned, and the said Keeper shall receive the same, and shall thereupon discharge such person if he be in his custody for no other matter.

XXV. And be it enacted, That in all cases of Summary proceedings before a Justice or Justices of the Peace out of Sessions, upon any information or complaint as aforesaid, it shall be lawful for one Justice to receive such information or complaint, and to grant a Summons or Warrant thereon, and to issue his Summons or Warrant to compel the attendance of any witnesses, and to do all other acts and matters which may be necessary, preliminary to the hearing, even in cases whereby the Statute in that behalf such information and complaint must be heard and determined by two or more Justices, and after the case shall have been so heard and determined, one Justice may issue all Warrants of Distress or Commitment thereon; and it shall not be necessary that the Justice who so acts before or after such hearing, shall be the Justice or one of the Justices by whom the said case shall be heard and determined: Provided always, that in all cases where by Statute it is or shall be required that any such information or complaint shall be heard and determined by two or more Justices, or that a Conviction or Order shall be made by two or more Justices, such Justices must be present and acting together during the whole of the hearing and determination of the case.

In cases of Summary proceedings, one Justice may issue Summons, Warrant &c. or after conviction or Order may issue Warrant of Distress, &c. tho' two be required for the hearing.

Proviso: the two must join in the decision, &c.

XXVI. And whereas doubts may exist whether under the provisions of the Act passed in the Session of Parliament held in the thirteenth and fourteenth years of Her Majesty's Reign, chaptered fifty-four, and intituled, *An Act to extend the rights of Appeals in certain cases in Upper Canada*, Appeals will lie from conviction and decisions under By-law of Municipal Councils, Be it therefore enacted, That in all cases of complaints against any person for committing any offence against any By-law of any Municipal Corporation in Upper Canada, all decisions, convictions and orders made by any Justice of the Peace, or by any person by law authorized to act in that capacity, shall be subject to an Appeal in the manner and subject to the provisions prescribed in the above recited Act.

Recital.

13 & 14 V. c. 54.

Appeals to lie in cases under By-laws of a Municipality.

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

Forms in Schedule to be valid in Law.

Any one Inspector, &c. of Police, sitting at a Police Court, empowered to do what is authorized to be done by two or more Justices of the Peace.

XXVIII. And be it enacted, That any one Inspector and Superintendent of Police, Police Magistrate or Stipendiary Magistrate, appointed or to be appointed for any City, Borough, Town, Territorial Division or Place, and sitting at a Police Court or other place appointed in that behalf, shall have full power to do alone whatever is authorized by this Act to be done by two or more Justices of the Peace; and that the several forms hereinafter mentioned may be varied so far as it may be necessary to render them applicable to the Police Courts aforesaid, or to the Court or other place of sitting of such Stipendiary Magistrate.

Inspector and Superintendent of police, &c. to have power to preserve order.

XXIX. And be it enacted, That any Inspector and Superintendent of Police, Police Magistrate or Stipendiary Magistrate as aforesaid, sitting as aforesaid at any Police Court or other place appointed in that behalf, shall have such and like powers and authority to preserve order in the said Court during the holding thereof, and by the like ways and means as now by law are or may be exercised and used in like cases and for the like purposes by any Courts of Law in this Province, or by the Judges thereof respectively, during the sittings thereof.

And for enforcing execution of Process.

XXX. And be it enacted, That the said Inspectors and Superintendents of Police, Police Magistrates or Stipendiary Magistrates, in all cases where any resistance shall be offered to the execution of any Summons, Warrant of Execution or other Process issued by them, shall be hereby empowered to enforce the due execution of the same by the means provided by the laws of Upper Canada for enforcing the execution of the Process of other Courts in like cases.

Inconsistent enactments repealed.

XXXI. And be it enacted, That from and after the day on which this Act shall commence and take effect, all other Acts or parts of Acts contrary to or inconsistent with the provisions of this Act, shall be and the same are hereby repealed.

Interpretation of words "County" and "Territorial Division."

XXXII. And be it enacted, That the word "County" wherever it occurs in this Act, shall include any Union of Counties for judicial purposes, and the words "Territorial Division" shall include any Union of two or more territorial divisions.

Act to apply only to Upper Canada.

XXXIII. And be it enacted, That this Act shall apply only to Upper Canada, except in so far as any provision thereof is expressly extended to Lower Canada, or to any act to be done there.

Meaning of word "Prison."

XXXIV. And be it enacted, That whenever the word "Prison" occurs in this Act, it shall be held to mean any place where parties charged with offences against the law, are usually kept and detained in custody.

XXXV. And be it enacted, That this Act shall commence and have force and effect upon, from and after the first day of July, one thousand eight hundred and fifty-three, and not before. When this Act shall commence.

SCHEDULES.

(A)

SUMMONS TO THE DEFENDANT UPON AN INFORMATION OR COMPLAINT.

Province of Canada,
(County or United Counties, }
or as the case may be) of }

To A. B. of (laborer):

Whereas information hath this day been laid (or complaint hath this day been made) before the undersigned, (one) of Her Majesty's Justices of the Peace in and for the said (County or United Counties, City, Town, &c., as the case may be) of , for that you (here state shortly the matter of the information or complaint): These are therefore to command you in Her Majesty's name, to be and appear on at o'clock in the forenoon, at , before me or such Justices of the Peace for the said (County or United Counties, or as the case may be) as may then be there, to answer to the said information (or complaint), and to be further dealt with according to law.

Given under (my) Hand and Seal, this day of in the year of our Lord , at , in the (County, or as the case may be) aforesaid.

J. S. [L. s.]

(B)

WARRANT WHEN THE SUMMONS IS DISOBEYED.

Province of Canada,
(County or United Counties, }
or as the case may be) of }

To all or any of the Constables or other Peace Officers in the (County or United Counties, or as the case may be) of :

Whereas on last past, information was laid (or complaint was made) before , (one) of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be) of , for that A. B. (&c., as in the Summons): And whereas (I) the said Justice of the

Peace then issued (*my*) Summons unto the said A. B. commanding him in Her Majesty's name, to be and appear on _____, at _____ o'clock in the forenoon, at _____, before (*me*) or such Justices of the Peace as might then be there, to answer unto the said information (*or* complaint,) and to be further dealt with according to law ; And whereas the said A. B. hath neglected to be and appear at the time and place so appointed in and by the said Summons, although it hath now been proved to me upon oath that the said Summons hath been duly served upon the said A. B. : These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said A. B. and to bring him before (*me*) or some one or more of Her Majesty's Justices of the Peace in and for the said (*County or United Counties, or as the case may be*) to answer to the said information (*or* complaint), and to be further dealt with according to law.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____ at _____, in the (*County, or as the case may be*) aforesaid.

J. S. [L. s.]

(C)

WARRANT IN THE FIRST INSTANCE.

Province of Canada, }
 (*County or United Counties,* }
or as the case may be) of

To all or any of the Constables or other Peace Officers in the said (*County or United Counties, or as the case may be*) of _____ :

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

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the (*County, or as the case may be*) aforesaid.

J. S. [L. s.]

(D)

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

Province of Canada,
(County or United Counties, }
or as the case may be) of }

To all and any of the Constables or Peace Officers in the (County or United Counties, or as the case may be) of , and to the Keeper of the (Common Gaol or Lock-up House) at :

Whereas on last past, information was laid (or complaint made) before , (one) of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be) of for, that (&c., as in the Summons); And whereas the hearing of the same is adjourned to the day of (instant,) at o'clock in the (fore) noon, at , and it is necessary that the said A. B. should in the mean time be kept in safe custody: These are therefore to command you, or any one of the said Constables or Peace Officers, in Her Majesty's name, forthwith to convey the said A. B. to the (Common Gaol or Lock-up House,) at , and there deliver him into the custody of the Keeper thereof, together with this Precept: And I hereby require you, the said Keeper, to receive the said A. B. into your custody in the said (Common Gaol or Lock-up House) and there safely keep him until the day of , (instant) when you are hereby required to convey and have him, the said A. B., at the time and place to which the said hearing is so adjourned as aforesaid, before such Justices of the Peace for the said (County or United Counties, as the case may be) as may then be there, to answer further to the said information (or complaint,) and to be further dealt with according to law.

Given under my Hand and Seal, this day of
in the year of our Lord , at , in the (County,
or as the case may be) aforesaid.

J. S. [L. S.]

(E)

RECOGNIZANCE FOR THE APPEARANCE OF THE DEFENDANT WHEN THE CASE IS ADJOURNED, OR NOT AT ONCE PROCEEDED WITH.

Province of Canada,
(County or United Counties, }
or as the case may be) of }

Be it remembered, That on , A. B. of , (laborer,) and L. M. of , (grocer,) and O. P. of , (yeoman,) personally came and appeared before the undersigned, (one) of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be) of , and

severally acknowledged themselves to owe to our Sovereign Lady the Queen the several sums following, that is to say : the said A. B. the sum of and the said L. M. and O. P. the sum of , each, of good and lawful current money of this Province, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, Her Heirs and Successors, if he the said A. B. shall fail in the condition endorsed (*or hereunder written.*)

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

J. S. [L. s.]

The condition of the within (*or the above*) written Recognizance is such that if the said A. B. shall personally appear on the day of , (*instant,*) at o'clock in the (*forenoon*), at , before me or such Justices of the Peace for the said (*County or United Counties, or as the case may be*) as may then be there, to answer further to the information (*or complaint*) of C. D. exhibited against the said A. B. and to be further dealt with according to law, then the said Recognizance to be void, or else to stand in full force and virtue.

NOTICE OF SUCH RECOGNIZANCE TO BE GIVEN TO THE
DEFENDANT AND HIS SURETIES.

Take notice that you, A. B., are bound in the sum of and you, L. M. and O. P., in the sum of , each, that you, A. B., appear personally on at o'clock in the (*fore*) noon at , before me or such Justices of the Peace for the (*County or United Counties, or as the case may be*) of as shall then be there, to answer further to a certain information (*or complaint*) of C. D. the further hearing of which was adjourned to the said time and place, and unless you appear accordingly, the Recognizance entered into by you, A. B., and by L. M. and O. P. as your Sureties, will forthwith be levied on you and them.

Dated this day of , one thousand eight hundred and .

J. S. [L. s.]

(F)

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

I hereby certify, that the said A. B. hath not appeared at the time and place in the said condition mentioned, but therein hath made default, by reason whereof the within written Recognizance is forfeited.

J. S. [L. s.]

(G 1.)

SUMMONS TO A WITNESS.

Province of Canada, }
 (County or United Counties, }
 or as the case may be) of }

To E. F. of _____, in the said (County or United Counties,
 or as the case may be) of _____ :

Whereas information was laid (or complaint was made)
 before _____ (one) of Her Majesty's Justices of the Peace
 in and for the said (County or United Counties, or as the case
 may be) of _____, for that (&c., as in the Summons,) and it
 hath been made to appear to me upon (oath) that you are likely
 to give material evidence on behalf of the (Prosecutor or Com-
 plainant, or Defendant) in this behalf; These are therefore to
 require you to be and appear on _____, at
 o'clock in the (fore) noon, at _____ before me or such
 Justices of the Peace for the said (County or United Counties, or
 as the case may be) as may then be there, to testify what you
 shall know concerning the matter of the said information (or
 complaint).

Given under my Hand and Seal, this _____ day of _____
 in the year of our Lord _____, at _____,
 in the (County, or as the case may be) aforesaid.

J. S. [L. s.]

(G 2.)

WARRANT WHERE A WITNESS HAS NOT OBEYED A SUMMONS.

Province of Canada, }
 (County or United Counties, }
 or as the case may be) of }

To all or any of the Constables and other Peace Officers in the
 said (County or United Counties, as the case may be) of _____ :

Whereas information was laid (or complaint was made)
 before _____ (one) of Her Majesty's Justices of the Peace,
 in and for the said (County or United Counties, or as the case may
 be) of _____ for that (&c., as in the Summons,) and it having
 been made to appear to (me) upon oath, that E. F., of _____,
 in the said (County or United Counties, or as the case may be)
 (laborer) was likely to give material evidence on behalf of the
 (prosecutor,) (I) did duly issue (my) Summons to the said E. F.,
 requiring him to be and appear on _____, at _____
 o'clock in the (fore) noon of the same day, at _____, before me or
 such Justice or Justices of the Peace for the said (County or
 United Counties, or as the case may be) as might then be there,
 to testify what he should know concerning the said A. B., or
 the matter of the said information (or complaint): And whereas

proof hath this day been made before me, upon oath, of such Summons having been duly served upon the said E. F. ; and whereas the said E. F. hath neglected to appear at the time and place appointed by the said Summons, and no just excuse hath been offered for such neglect ; These are therefore to command you to take the said E. F., and to bring and have him on _____, at _____ o'clock in the _____ noon, at _____, before me or such Justice or Justices of the Peace for the said (*County or United Counties, or as the case may be*) as may then be there to testify what he shall know concerning the said information (*or complaint.*)

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the (*County, or as the case may be*) aforesaid.

J. S. [L. s.]

(G 3.)

WARRANT FOR A WITNESS IN THE FIRST INSTANCE.

Province of Canada, }
 (*County or United Counties,* }
or as the case may be) of }

To all or any of the Constables, or other Peace Officers in the said (*County or United Counties, or as the case may be*) of _____ :

Whereas information was laid (*or complaint was made*) before the undersigned (*one*) of Her Majesty's Justices of the Peace in and for the said (*County or United Counties, or as the case may be*) of _____, for that (*&c., as in the Summons*), and it being made to appear before me upon oath that E. F., of _____ (*laborer,*) is likely to give material evidence on behalf of the (*prosecutor*) in this matter, and it is probable that the said E. F. will not attend to give evidence without being compelled so to do ; These are therefore to command you to bring and have the said E. F. before me, on _____, at _____ o'clock in the (*fore*) noon, at _____, or before me or such other Justice or Justices of the Peace for the said (*County or United Counties, or as the case may be*) as may then be there, to testify what he shall know concerning the matter of the said information (*or complaint.*)

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the (*County, or as the case may be*) aforesaid.

J. S. [L. s.]

(G 4.)

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

Province of Canada,
(County or United Counties, }
or as the case may be) of }

To all or any of the Constables, or other Peace Officers in the
said (County or United Counties, or as the case may be) of
and to the Keeper of the Common Gaol of the said (County
or United Counties, as the case may be) at :

Whereas information was laid (or complaint was made) before
(me) (one) of Her Majesty's Justices of the Peace
in and for the said (County or United Counties, or as the case may
be) of , for that (&c., as in the Summons), and
one E. F., now appearing before me such Justice as afore-
said, on , at , and being required
by me to make oath or affirmation as a witness in that
behalf, hath now refused so to do, (or being now here duly
sworn as a witness in the matter of the said information (or
complaint) doth refuse to answer a certain question concerning
the premises which is now here put to him, and more parti-
cularly the following question (here insert the exact words of the
question), without offering any just excuse for such his refusal);
These are therefore to command you, or any one of the said
Constables or Peace Officers to take the said E. F., and him
safely to convey to the Common Gaol at
aforesaid, and there deliver him to the said Keeper thereof,
together with this Precept; and I do hereby command you the
said Keeper of the said Common Gaol to receive the said
E. F. into your custody in the said Common Gaol and there
imprison him for such his contempt for the space of
days, unless he shall in the mean time consent to be examined
and to answer concerning the premises, and for so doing, this
shall be your sufficient Warrant.

Given under my Hand and Seal, this day of
in the year of our Lord, , at , in the (County,
or as the case may be) aforesaid.

J. S. [L. s.]

(H)

WARRANT TO REMAND A DEFENDANT WHEN APPREHENDED.

Province of Canada,
(County or United Counties, }
or as the case may be) of }

To all or any of the Constables, or other Peace Officers in the
said (County or United Counties, or as the case may be) of
and to the Keeper of the (Common Gaol or Lock-up
House) at :

Whereas complaint was made (or information was laid)

before (one) of Her Majesty's Justices of the Peace in and for the (County or United Counties, or as the case may be) of _____, for that (&c., as in the Summons or Warrant); And whereas the said A. B. hath been apprehended under and by virtue of a Warrant, upon such information (or complaint) and is now brought before me as such Justice as aforesaid; These are therefore to command you, or any one of the said Constables, or Peace Officers, in Her Majesty's name forthwith to convey the said A. B. to the (Common Gaol or Lock-up House) at _____, and there to deliver him to the said Keeper thereof, together with this Precept; And I do hereby command you the said Keeper to receive the said A. B. into your custody in the said (Common Gaol or Lock-up House), and there safely keep him until _____ next, the _____ day of _____ (instant), when you are hereby commanded to convey and have him at _____, at _____ o'clock in the _____ noon of the same day, before me, or such Justice or Justices of the Peace of the said (County or United Counties, or as the case may be) as may then be there, to answer to the said information (or complaint,) and to be further dealt with according to law.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the (County, or as the case may be) aforesaid.

J. S. [L. s.]

(I 1.)

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

Province of Canada, }
 (County or United Counties, }
 or as the case may be) of }

Be it remembered, That on the _____ day of _____, in the year of our Lord _____, at _____, in the said (County, or United Counties, or as the case may be) A. B. is convicted before the undersigned, (one) of Her Majesty's Justices of the Peace for the said (County or United Counties, or as the case may be) for that he the said A. B., (&c., stating the offence, and the time and place when and where committed,) and I adjudge the said A. B. for his said offence to forfeit and pay the sum of _____ (stating the penalty, and also the compensation, if any) to be paid and applied according to law, and also to pay to the said C. D. the sum of _____, for his costs in this behalf; and if the said several sums be not paid forthwith on or before the _____ of _____ next,) * I order that the same be levied by distress and sale of the goods and chattels of the said A. B., and in default of sufficient distress, * I adjudge the said A. B. to be imprisoned in the common

Gaol of the said (*County or United Counties, or as the case may be,*) at _____ in the said county of _____, (there to be kept to hard labor) for the space of _____, unless the said several sums and all costs and charges of the said distress (*and of the commitment and conveying of the said A. B. to the said Gaol*) shall be sooner paid.

Given under my Hand and Seal, the day and year first above mentioned, at _____ in the (*County or United Counties or as the case may be*) aforesaid.

J. S. [L. s.]

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

(I 2.)

CONVICTION FOR A PENALTY, AND IN DEFAULT OF PAYMENT,
IMPRISONMENT.

Province of Canada,
(*County or United Counties,* }
or as the case may be) of }

Be it remembered, That on the _____ day of _____, in the _____ year of our Lord _____, at _____, in the said (*County or United Counties, or as the case may be*), A. B. is convicted before the undersigned, (*one*) of Her Majesty's Justices of the Peace for the said (*County or United Counties, or as the case may be*), for that he the said A. B. (*&c., stating the offence, and the time and place when and where it was committed,*) and I adjudge the said A. B. for his said offence to forfeit and pay the sum of _____ (*stating the penalty and the compensation, if any*), to be paid and applied according to law; and also to pay to the said C. D. the sum of _____ for his costs in this behalf; and if the said several sums be not paid forthwith (*or, on or before next,*) I adjudge the said A. B. to be imprisoned in the Common Gaol of the said (*County or United Counties, or as the case may be,*) at _____ in the said County of _____ (*and there to be kept at hard labor*) for the space of _____, unless the said sums and the costs and charges of conveying the said A. B. to the said Common Gaol, shall be sooner paid.

Given under my Hand and Seal, the day and year first above mentioned, at _____ in the (*County, or as the case may be*) aforesaid.

J. S. [L. s.]

(I 3.)

CONVICTION WHEN THE PUNISHMENT IS BY IMPRISONMENT, &c.

Province of Canada,
 (County or United Counties, }
 or as the case may be) of

Be it remembered, That on the _____ day of _____, in the year of our Lord _____, in the said (County or United Counties, or as the case may be) A. B. is convicted before the undersigned (one) of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be) for that he the said A. B. (&c., stating the offence and the time and place when and where it was committed); and I adjudge the said A. B. for his said offence to be imprisoned in the Common Gaol of the said (County or United Counties, or as the case may be,) at _____ in the County of _____ (and there at be kept to hard labor) for the space of _____; and I also adjudge the said A. B. to pay to the said C. D. the sum of _____ for his costs in this behalf, and if the said sum for costs be not paid forthwith, (or on or before _____ next, then * I order that the said sum be levied by distress and sale of the goods and chattels of the said A. B.; and in default of sufficient distress in that behalf, * I adjudge the said A. B. to be imprisoned in the said Common Gaol, (and there kept at hard labor) for the space of _____, to commence at and from the term of his imprisonment aforesaid, unless the said sum for costs shall be sooner paid.

Given under my Hand and Seal, the day and year first above mentioned at _____ in the (County or United Counties, or as the case may be) aforesaid.

J. S. [L. s.]

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

(K 1.)

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

Province of Canada,
 (County or United Counties, }
 or as the case may be) of

Be it remembered, That on _____ complaint was made

before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said (*County or United Counties, or as the case may be*) of for that (*stating the facts entitling the Complainant to the order, with the time and place when and where they occurred*), and now at this day, to wit, on ,

at , the parties aforesaid appear before me the said Justice, (*or, the said C. D. appears before me the said Justice, but the said A. B. although duly called doth not appear by himself, his Counsel or Attorney, and it is now satisfactorily proved to me on oath that the said A. B. has been duly served with the Summons in this behalf, which required him to be and appear here on this day before me or such Justice or Justices of the Peace for this said (County or United Counties, or as the case may be) as should now be here, to answer the said complaint, and to be further dealt with according to law*) ; and now having heard the matter of the said complaint, I do adjudge the said A. B. (to pay to the said C. D. the said sum of forthwith, *or on or before* next, (*or as the Statute may require*), and also to pay to the said C. D. the sum of for his costs in this behalf; and if the said several sums be not paid forthwith (*or on or before* next) then * I hereby order that the same be levied by distress and sale of the goods and chattels of the said A. B. (and in default to sufficient distress in that behalf * I adjudge the said A. B. of be imprisoned in the Common Gaol of the said (*County or United Counties, or as the case may be*) at in the said County of , (*and there kept to hard labor*) for the space of unless the said several sums and all costs and charges of the said distress (*and of the commitment and conveying of the said A. B. to the said Common Gaol,*) shall be sooner paid.

Given under my Hand and Seal, this day of ,
in the year of our Lord, at in the
(*County, or as the case may be*) aforesaid.

J. S. [L. s.]

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

(K 2.)

ORDER FOR PAYMENT OF MONEY, AND IN DEFAULT OF PAYMENT,
IMPRISONMENT.

Province of Canada,
(County or United Counties, }
or as the case may be) of }

Be it remembered, That on complaint was made before the undersigned (one) of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be) of , for that (&c. stating the facts entitling the Complainant to the order, with the time and place when and where they occurred), and now at this day, to wit, on , at , the parties aforesaid appear before me the said Justice, (or the said C. D. appears before me the said Justice, but the said A. B. although duly called doth not appear by himself, his Counsel or Attorney, and it is now satisfactorily proved to me on oath that the said A. B. has been duly served with the Summons in this behalf, requiring him to be and appear here on this day before me or such Justices of the Peace for the said (County or United Counties, or as the case may be) as should now be here, to answer the said complaint, and be further dealt with according to law); and now having heard the matter of the said complaint, I do adjudge the said A. B. (to pay to the said C. D. the sum of forthwith, or on or before next, (or as the Statute may require), and also to pay to the said C. D. the sum of for his costs in this behalf; and if the said several sums be not paid forthwith, (or on or before next), then I adjudge the said A. B. to be imprisoned in the Common Gaol of the said (County or United Counties, or as the case may be) at in the said County of (there to be kept to hard labor) for the space of , unless the said several sums (and costs and charges of commitment and conveying the said A. B. to the said Common Gaol) shall be sooner paid.

Given under my Hand and Seal, this day of , in the year of our Lord , at , in the (County, or as the case may be) aforesaid.

J. S. [L. s.]

(K 3.)

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

Province of Canada,
(County or United Counties, }
or as the case may be) of }

Be it remembered, That on complaint was made before the undersigned, (one) of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the

case may be) of _____, for that (*stating the facts entitling the Complainant to the order, with the time and place where and when they occurred,*) and now at this day, to wit, on _____, at _____, the parties aforesaid appear before me the said Justice, (or the said C. D. appears before me the said Justice, but the said A. B. although duly called doth not appear by himself, his Counsel or Attorney, and it is now satisfactorily proved to me upon oath that the said A. B. has been duly served with the Summons in this behalf, which required him to be and appear here this day before me or such Justice or Justices of the Peace for the said (*County or United Counties, or as the case may be,*) as should now be here, to answer to the said complaint, and to be further dealt with according to law,) and now having heard the matter of the said complaint, I do therefore adjudge the said A. B. to (*here state the matter required to be done*), and if upon a copy of the Minute of this Order being served upon the said A. B. either personally or by leaving the same for him at his last or most usual place of abode, he shall neglect or refuse to obey the same, in that case I adjudge the said A. B. for such his disobedience to be imprisoned in the (Common Gaol of the said (*County or United Counties, or as the case may be,*) at _____ in the said County of _____ (*there to be kept at hard labor*) for the space of _____ (unless the said order be sooner obeyed, (*if the Statute authorize this*); and I do also adjudge the said A. B. to pay to the said C. D. the sum of _____ for his costs in this behalf, and if the said sum for costs be not paid forthwith, (or, on or before _____ next,) I order the same to be levied by distress and sale of the goods and chattels of the said A. B. and in default of sufficient distress in that behalf, I adjudge the said A. B. to be imprisoned in the said Common Gaol, (*there to be kept at hard labor*) for the space of _____ to commence at _____ and from the termination of his imprisonment aforesaid, unless the said sum for costs shall be sooner paid.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the (*County, or as the case may be*) aforesaid.

J. S. [L. S.]

(L)

ORDER OF DISMISSAL OF AN INFORMATION OR COMPLAINT.

Province of Canada, }
 (*County or United Counties,* }
 or as the case may be) of

Be it remembered, That on _____ information was laid (or complaint was made) before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said (*County or United Counties, or as the case may be*) of _____, for that

(*&c.*, as in the *Summons to the Defendant*,) and now at this day, to wit, on _____, at _____, both the said parties appear before me in order that I should hear and determine the said information (*or complaint*), (*or the said A. B. appeareth before me, but the said C. D. although duly called doth not appear,*) whereupon the matter of the said information (*or complaint*) being by me duly considered (it manifestly appears to me that the said information (*or complaint*) is not proved,* and) I do therefore dismiss the same, (and do adjudge that the said C. D. do pay to the said A. B. the sum of _____ for his costs incurred by him in his defence in this behalf: and if the said sum for costs be not paid forthwith, (*or on or before* _____), I order that the same be levied by distress and sale of the goods and chattels of the said C. D., and in default of sufficient distress in that behalf, I adjudge the said C. D. to be imprisoned in the Common Gaol of the said (*County or United Counties, or as the case may be,*) at _____ in the said County of _____ (*and there at be kept to hard labor*) for the space of _____ unless the said sum for costs and all costs and charges of the said distress (*and of the commitment of the said C. D. to the said Common Gaol,*) shall be sooner paid.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the (*County, or as the case may be*) aforesaid.

J. S. [L. s.]

* *If the Informant or Complainant do not appear, these words may be omitted.*

(M)

CERTIFICATE OF DISMISSAL.

I hereby certify that an information (*or complaint*) preferred by C. D. against A. B. for that (*or as in the Summons,*) was this day considered by me, one of Her Majesty's Justices of the Peace in and for the (*County or United Counties, or as the case may be*) of _____, and was by me dismissed (*with costs.*)

Dated this _____ day of _____, one thousand eight hundred and _____.

J. S. [L. s.]

(N 1.)

WARRANT OF DISTRESS UPON A CONVICTION FOR A PENALTY.

Province of Canada,
(*County or United Counties,* }
or as the case may be) of _____ }

To all or any of the Constables, or other Peace Officers in the said (*County or United Counties, or as the case may be*) of _____ :

Whereas A. B., late of _____, (*laborer,*) was on this day (*or*

on last past) duly convicted before _____, (one) of Her Majesty's Justices of the Peace, in and for the said (County or United Counties, or as the case may be) of _____, for that (stating the offence as in the conviction,) and it was thereby adjudged that the said A. B. should for such his offence forfeit and pay, (&c., as in the conviction,) and should also pay to the said C. D. the sum of _____ for his costs in that behalf; and it was thereby ordered that if the said several sums should not be paid (forthwith) the same should be levied by distress and sale of the goods and chattels of the said A. B.; and it was thereby also adjudged that the said A. B., in default of sufficient distress, should be imprisoned in the Common Gaol of the said (County or United Counties, or as the case may be) at _____ in the said County of _____, (and there to be kept at hard labor) for the space of _____, unless the said several sums and all costs and charges of the said distress, and of the commitment and conveying of the said A. B. to the said Common Gaol, should be sooner paid; And whereas the said A. B. being so convicted as aforesaid and being (now) required to pay the said sums of _____ and _____ hath not paid the same or any part thereof, but therein hath made default; These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said A. B.; and if within _____ days next after the making of such distress, the said sums, together with the reasonable charges of taking and keeping the distress, shall not be paid, then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale unto me (the convicting Justice or one of the convicting Justices) that I may pay and apply the same as by law is directed, and may render the overplus, if any, on demand, to the said A. B.; and if no such distress can be found, then, that you certify the same unto me, to the end that such further proceedings may be had thereon as to law doth appertain.

Given under my Hand and Seal, this _____ day of _____ in the year of our Lord _____, at _____ in the (County, or as the case may be) aforesaid.

J. S. [L. s.]

(N 2.)

WARRANT OF DISTRESS UPON AN ORDER FOR THE PAYMENT OF MONEY.

Province of Canada, }
 (County or United Counties, }
 or as the case may be) of }

To all or any of the Constables, or other Peace Officers, in the said (County or United Counties, or as the case may be) of _____ :
 Whereas on _____ last past, a complaint was made before

(one) of Her Majesty's Justices of the Peace in and for the said (*County or United Counties, or as the case may be*), for that (&c., *as in the order*), and afterwards, to wit, on _____, at _____, the said parties appeared before _____ (*as in the order*), and thereupon having considered the matter of the said complaint, the said A. B. was adjudged (*to pay to the said C. D. the sum of _____ on or before _____ then next*), and also to pay to the said C. D. the sum of _____ for his costs in that behalf; and it was ordered that if the said several sums should not be paid on or before the said _____ then next, the same should be levied by distress and sale of the goods and chattels of the said A. B.; and it was adjudged that in default of sufficient distress in that behalf, the said A. B. should be imprisoned in the Common Gaol of the said (*County or United Counties, or as the case may be*) at _____ in the said County of _____ (*and there kept at hard labor*), for the space of _____, unless the said several sums and all costs and charges of the distress (*and of the commitment and conveying of the said A. B. to the said Common Gaol*) should be sooner paid; And * whereas the time in and by the said order appointed for the payment of the said several sums of _____ and _____ hath elapsed, but the said A. B. hath not paid the same or any part thereof, but therein hath made default; These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said A. B.; and if within the space of _____ days after the making of such distress, the said last mentioned sums, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale unto (*me, or some other of the convicting Justices, as the case may be*), that I (*or he*) may pay and apply the same as by law directed, and may render the overplus, if any, on demand, to the said A. B.; and if no such distress can be found, then that you certify the same unto me, to the end that such proceedings may be had therein, as to law doth appertain.

Given under my Hand and Seal, this _____ day of _____ in the year of our Lord _____, at _____ in the (*County, or as the case may be*) aforesaid.

J. S. [L. s.]

(N 3.)

ENDORSEMENT IN BACKING A WARRANT OF DISTRESS.

Province of Canada, }
 (*County or United Counties,* }
or as the case may be) of }

Whereas proof upon oath hath this day been made before me, one of Her Majesty's Justices of the Peace in and for the

said (*County or United Counties, or as the case may be,*) that the name of J. S. to the within Warrant subscribed, is of the hand-writing of the Justice of the Peace within mentioned, I do therefore authorize U. T. who bringeth me this Warrant, and all other persons to whom this Warrant was originally directed, or by whom the same may be lawfully executed, and also all Constables and other Peace Officers in the said (*County or United Counties, or as the case may be,*) of to execute the same within the said (*County or United Counties, or as the case may be*) and of

Given under my Hand, this day of , one thousand eight hundred and

O. K.

(N 4.)

CONSTABLE'S RETURN TO A WARRANT OF DISTRESS.

I, W. T., Constable of , in the (*County or United Counties, or as the case may be*) of , hereby certify to J. S., Esquire, one of Her Majesty's Justices of the Peace for the (*County or United Counties, or as the case may be*) 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 one thousand eight hundred and

W. T.

(N 5.)

WARRANT OF COMMITMENT FOR WANT OF DISTRESS.

To all or any of the Constables and other Peace Officers, in the (*County or United Counties, or as the case may be,*) of , and to the Keeper of the Common Gaol of the said (*County or United Counties, or as the case may be,*) of at , in the said County of :

Whereas (&c., *as in either of the foregoing Distress Warrants N 1. 2. to the asterisk *, and then thus*): And whereas afterwards, on the day of , in the year aforesaid, I, the said Justice issued a Warrant to all or any of the Constables or other Peace Officers of the (*County or United Counties, or as the case may be*) of commanding them, or any of them, to levy the said sums of and by distress and sale of the goods and chattels of the said A. B. ; And whereas it appears to me, as well by the return to the said Warrant of Distress, by the Constable who had the execution of the same, as otherwise, that the said Constable hath made diligent search for the goods and chattels of the said A. B., but

that no sufficient distress whereon to levy the sums above mentioned could be found ; These are therefore to command you, the said Constables or Peace Officers, or any one of you, to take the said A. B., and him safely to convey to the Common Gaol at _____ aforesaid, and there deliver him to the said Keeper, together with this Precept ; and I do hereby command you, the said Keeper of the said Common Gaol to receive the said A. B. into your custody, in the said Common Gaol, there to imprison him (*and keep him at hard labor*) for the space of _____, unless the said several sums, and all the costs and charges of the said distress, (*and of the commitment and conveying of the said A. B. to the said Common Gaol*) amounting to the further sum of _____ shall be sooner paid unto you the said Keeper ; and for so doing, this shall be your sufficient Warrant.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the (County, or as the case may be) aforesaid.

J. S. [L. s.]

(O 1.)

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

Province of Canada, }
(County or United Counties, }
or as the case may be,) of }

To all or any of the Constables or other Peace Officers in the said (County or United Counties, or as the case may be,) of _____, and to the Keeper of the Common Gaol of the said (County or United Counties, or as the case may be) of _____ at _____ in the said County of _____ :

Whereas A. B., late of _____ (laborer,) was on this day convicted before the undersigned, (one) of Her Majesty's Justices of the Peace, in and for the said (County or United Counties, or as the case may be) for that (*stating the offence as in the conviction,*) and it was thereby adjudged that the said A. B., for his offence should forfeit and pay the sum of _____ (&c., as in the conviction), and should pay to the said C. D. the sum of _____ for his costs in that behalf ; and it was thereby further adjudged that if the said several sums should not be paid (*forthwith*) the said A. B. should be imprisoned in the Common Gaol of the said (County or United Counties, or as the case may be) at _____ in the said County of _____ (*and there kept at hard labor*) for the space of _____, unless the said several sums (*and the costs and charges of conveying the said A. B. to the said Common Gaol*) should be sooner paid ; And whereas the time in

and by the said conviction appointed for the payment of the said several sums hath elapsed, but the said A. B. hath not paid the same or any part thereof, but therein hath made default ; These are therefore to command you, the said Constables or Peace Officers, or any one of you, to take the said A. B., and him safely to convey to the Common Gaol at _____ aforesaid, and there to deliver him to the Keeper thereof, together with this Precept ; and I do hereby command you the said Keeper of the said Common Gaol to receive the said A. B. into your custody in the said Common Gaol, there to imprison him (*and keep him at hard labor*) for the space of _____, unless the said several sums (*and costs and charges of carrying him to the said Common Gaol, amounting to the further sum of _____*), shall be sooner paid ; and for your so doing, this shall be your sufficient Warrant.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the (*County, or as the case may be*) aforesaid.

J. S. [L. s.]

(O 2.)

WARRANT OF COMMITMENT ON AN ORDER IN THE FIRST INSTANCE.

Province of Canada, }
 (County or United Counties, }
 or as the case may be) of }

To all or any of the Constables and other Peace Officers in the said (*County or United Counties, or as the case may be*) of _____, and to the Keeper of the Common Gaol of the (*County or United Counties, or as the case may be*) of _____ at _____ in the said County of _____ :

Whereas on _____ last past, complaint was made before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said (*County or United Counties, as the case may be*) of _____ for that (*&c., as in the order*) and afterwards, to wit, on the _____ day of _____, at _____, the parties appeared before me the said Justice (*or as it may be in the order*) and thereupon having considered the matter of the said complaint, I adjudged the said A. B. to pay to the said C. D. the sum of _____, on or before the _____ day of _____ then next, and also to pay to the said C. D. the sum of _____ for his costs in that behalf ; and I also thereby adjudged that if the said several sums should not be paid on or before the _____ day of _____ then next, the said A. B. should be imprisoned in the Common Gaol of the (*County or United Counties, or as the case may be*) of _____ at _____ in the said County of _____ (*and there be kept at hard labor*) for the space of _____, unless the said several sums (*and the costs and charges of conveying the said A. B. to the said Common Gaol, as the case may be*) should be sooner paid ; And

whereas the time in and by the said order appointed for the payment of the said several sums of money hath elapsed, but the said A. B. hath not paid the same or any part thereof, but therein hath made default; These are therefore to command you the said Constables and Peace Officers, or any of you, to take the said A. B. and him safely to convey to the said Common Gaol, at _____ aforesaid, and there to deliver him to the Keeper thereof, together with this Precept; and I do hereby command you the said Keeper of the said Common Gaol, to receive the said A. B. into your custody in the said Common Gaol, there to imprison him (*and keep him at hard labor*) for the space of _____, unless the said several sums (*and the costs and charges of conveying him to the said Common Gaol, amounting to the further sum of _____*), shall be sooner paid unto you the said Keeper; and for your so doing, this shall be your sufficient Warrant.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____ at _____, in the (*County, or as the case may be*) aforesaid.

J. S. [L. S.]

(Q 1.)

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

Province of Canada, }
 (*County or United Counties,* }
or as the case may be) of }

To all or any of the Constables, or other Peace Officers in the said (*County or United Counties, or as the case may be*) of _____ :

Whereas on _____ last past, information was laid (*or complaint was made*) before _____ (*one*) of Her Majesty's Justices of the Peace in and for the said (*County or United Counties, or as the case may be*) of _____ for that (*&c., as in the order of dismissal,*) and afterwards, to wit, on _____ at _____, both parties appearing before _____ in order that (*I*) should hear and determine the same, and the several proofs adduced to (*me*) in that behalf being by (*me*) duly heard and considered, and it manifestly appearing to (*me*) that the said information (*or complaint*) was not proved, (*I*) therefore dismissed the same, and adjudged that the said C. D. should pay to the said A. B. the sum of _____ for his costs incurred by him in his defence in that behalf; and (*I*) ordered that if the said sum for costs should not be paid (*forthwith*) the same should be levied on the goods and chattels of the said C. D., and (*I*) adjudged that in default of sufficient distress in that behalf the said C. D. should be imprisoned in the Common Gaol of the said

(*County or United Counties, or as the case may be*) of
 at _____ in the said County of _____
 (*and there kept at hard labor*) for the space of _____,
 unless the said sum for costs, and all costs and charges of the
 said distress, and of the commitment and conveying of the said
 A. B. to the said Common Gaol should be sooner paid ; *
 And whereas the said C. D. being now required to pay to
 the said A. B. the said sum for costs, hath not paid the same,
 or any part thereof, but therein hath made default ; These are
 therefore to command you, in Her Majesty's name, forthwith to
 make distress of the goods and chattels of the said C. D., and if
 within the space of _____ days next after the making of such
 distress, the said last mentioned sum, together with the reason-
 able charges of taking and keeping the said distress, shall not be
 paid, then that you do sell the said goods and chattels so by you
 distrained, and do pay the money arising from such sale to me
 (*the Justice who made such order or dismissal, as the case may
 be*) that (I) may pay and apply the same as by law directed, and
 may render the overplus (if any,) on demand to the said C.
 D., and if no such distress can be found, then that you certify
 the same unto me, (*or to any other Justice of the Peace for the
 same (County or United Counties, or as the case may be,)*) to the
 end that such proceedings may be had therein as to law doth
 appertain.

Given under my Hand and Seal, this _____ day of _____,
 in the year of our Lord _____, at _____, in the
 (*County, or as the case may be*) aforesaid.

J. S. [L. s.]

(Q 2.)

WARRANT OF COMMITMENT FOR WANT OF DISTRESS IN THE
 LAST CASE.

Province of Canada, }
 (*County or United Counties,* }
or as the case may be) of _____

To all or any of the Constables, or Peace Officers, in the said
 * (*County or United Counties, or as the case may be*) of _____, and
 to the Keeper of the Common Gaol of the said (*County or
 United Counties, or as the case may be*) of _____ at
 in the said County of _____ :

Whereas (&c., *as in the last form, to the asterisk, * and then
 thus* : And whereas afterwards, on the _____ day of _____,
 in the year aforesaid, I, the said Justice,
 issued a Warrant to all or any of the Constables or other
 Peace Officers of the said (*County or United Counties, or
 as the case may be*) commanding them, or any one of them
 to levy the said sum of _____ for costs, by distress
 and sale of the goods and chattels of the said C. D. ; And

whereas it appears to me, as well by the return to the said Warrant of Distress of the Constable (*or Peace Officer*) charged with the execution of the same, as otherwise, that the said Constable hath made diligent search for the goods and chattels of the said C. D., but that no sufficient distress whereon to levy the sum above mentioned could be found ; These are therefore to command you, the said Constables and Peace Officers, or any one of you, to take the said C. D. and him safely convey to the Common Gaol of the said (*County or United Counties, as the case may be,*) at aforesaid, and there deliver him to the Keeper thereof, together with this Precept ; and I hereby command you, the said Keeper of the said Common Gaol to receive the said C. D. into your custody in the said Common Gaol, there to imprison him (*and keep him at hard labor*) for the space of unless the said sum, and all the costs and charges of the said distress (*and of the commitment and conveying of the said C. D. to the said Common Gaol, amounting to the further sum of*), shall be sooner paid up unto you the said Keeper ; and for your so doing, this shall be your sufficient Warrant.

Given under my Hand and Seal, this day of
in the year of our Lord , at , in the (*County,*
or as the case may be) aforesaid.

J. S. [L. s.]

(R)

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

Office of the Clerk of the Peace for the (*County or United
Counties, or as the case may be*) of

TITLE OF THE APPEAL.

I hereby certify, that at a Court of General Quarter Sessions of the Peace, holden at , in and for the said (*County or United Counties, or as the case may be*) on last past, an appeal by A. B. against a conviction (*or order*) of J. S. Esquire, one of Her Majesty's Justices of the Peace in and for the said (*County or United Counties, or as the case may be*) came on to be tried, and was there heard and determined, and the said Court of General Quarter Sessions thereupon ordered that the said conviction (*or order*) should be confirmed (*or quashed,*) and that the said (*Appellant*) should pay to the said (*Respondent*) the sum of for his costs incurred by him in the said appeal, and which sum was thereby ordered to be paid to the Clerk of the Peace of the said (*County or United Counties, or as the case may be*) on or before the day of instant, to be by him handed over to the said (*Respondent,*) and I further certify that the said sum for costs

has not, nor has any part thereof, been paid in obedience to the said order.

Dated the _____ day of _____, one thousand eight hundred and _____

G. H.
Clerk of the Peace.

(S 1.)

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

Province of Canada, }
(County or United Counties, }
or as the case may be) of }

To all or any of the Constables, or other Peace Officers, in the said (County or United Counties, or as the case may be) of _____ :

Whereas (&c., as in the Warrants of Distress, N 1, 2. ante, and to the end of the Statement of the Conviction or Order, and then thus) : And whereas the said A. B. appealed to the Court of General Quarter Sessions of the Peace for the said (County or United Counties, or 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. (or J. S., Esquire, the Justice of the Peace who made the said Conviction or Order) was the Respondent, and which said appeal came on to be tried and was heard and determined at the last General Quarter Sessions of the Peace for the said (County or United Counties, or as the case may be) holden at _____, on _____, and the said Court of General Quarter Sessions thereupon ordered that the said Conviction (or Order) should be confirmed (or quashed,) and that the said (Appellant) should pay to the said (Respondent) the sum of _____ for his costs incurred by him in the said appeal, which said sum was to be paid to the Clerk of the Peace of the said (County or United Counties, or as the case may be) on or before the _____ day of _____ one thousand eight hundred _____, to be by him handed over to the said C. D. ; And whereas the Clerk of the Peace of the said (County or United Counties, or as the case may be) hath on the _____ day of _____ instant, duly certified that the said sum for costs had not been paid ; * These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said A. B. and if within the space of _____ days next after the making of such distress, the said last mentioned sum, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising

from such sale to the Clerk of the Peace for the said (*County or United Counties, or as the case may be*) of _____, that he may pay and apply the same as by law directed; and if no such distress can be found, then that you certify the same unto me or any other Justice of the Peace for the same (*County or United Counties, or as the case may be*) to the end that such proceedings may be had therein as to law doth appertain.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the (*County, or as the case may be*) aforesaid.

O. K. [L. s.]

(S 2.)

WARRANT OF COMMITMENT FOR WANT OF DISTRESS IN THE
LAST CASE.

Province of Canada, }
(*County or United Counties,* }
or as the case may be) of }

To all or any of the Constables, or other Peace Officers, in the said (*County or United Counties, or as the case may be*) of _____ and to the Keeper of the (Common Gaol of the said (*County or United Counties, or as the case may be*) of _____ at _____ in the said County of _____

Whereas (&c., as in the last form, to the asterisk *, and then thus): And whereas, afterwards, on the _____ day of _____, in the year aforesaid, I, the undersigned, issued a Warrant to all or any of the Constables and other Peace Officers in the said (*County or United Counties, or as the case may be*) of _____, commanding them, or any of them, to levy the said sum of _____, for costs, by distress and sale of the goods and chattels of the said A. B.; And whereas it appears to me, as well by the return to the said Warrant of Distress of the Constable (*or* Peace Officer), who was charged with the execution of the same, as otherwise, that the said Constable hath made diligent search for the goods and chattels of the said A. B., but that no sufficient distress whereon to levy the said sum above mentioned could be found; These are therefore to command you, the said Constables or Peace Officers, or any one of you, to take the said A. B., and him safely to convey to the Common Gaol of the said (*County or United Counties,*) of _____ (*as the case may be,*) at _____ aforesaid, and there deliver him to the said Keeper thereof, together with this Precept; And I do hereby command you, the said Keeper of the said Common Gaol to receive the said A. B. into your custody in the said Common Gaol, there to imprison him (*and keep him at hard labor*) for the space of _____ unless the said sum and all costs and charges of the said Distress (*and of the commitment and conveying of the*

Majesty's Justices of the Peace in and for the said (*County, or United Counties, or as the case may be*) of _____, for that _____ (*&c., as in the Summons to the Defendant,*) and now at this day, to wit, on _____, at _____, * both the said parties appear before me in order that I should hear and determine the said information (*or complaint, (or the said A. B. appeareth before me, but the said C. D., although duly called, doth not appear)*; whereupon the matter of the said information (*or complaint*) being by me duly considered, (it manifestly appears to me that the said information (*or complaint*) is not proved, and (†) I do therefore dismiss the same, (and do adjudge that the said C. D. do pay to the said A. B. the sum of _____ for his costs incurred by him in his defence in this behalf; and if the said sum for costs be not paid forthwith, (*or on or before* _____), I order that the same be levied by distress and sale of the goods and chattels of the said C. D. and in default of sufficient distress in that behalf, I adjudge the said C. D. to be imprisoned in the Common Gaol of the said (*County or United Counties, or as the case may be*) of _____ at _____ in the said County of _____ (*and there kept at hard labor*) for the space of _____, unless the said sum for costs, and all costs and charges of the said distress (*and of the commitment and conveying of the said C. D. to the said Common Gaol*) shall be sooner paid.

Given under my Hand and Seal, this _____ day of _____ in the year of our Lord _____, at _____ in the (*County, or as the case may be*) aforesaid.

J. S. [L. s.]

* *If at an adjournment, insert here: "To which day the hearing of this case hath been duly adjourned, of which the said C. D. had due notice."*

† *If the Informant or Complainant do not appear, these words may be omitted.*

FORM OF CERTIFICATE OF DISMISSAL.

I hereby certify, that an information (*or complaint*) preferred by C. D. against A. B. for that (*&c., as in the Summons*) was this day considered by me, one of Her Majesty's Justices of the Peace in and for the (*County, or United Counties, or as the case may be*) of _____, and was by me dismissed (with costs).

Dated this _____ day of _____, one thousand eight hundred and _____

J. S.

GENERAL FORM OF NOTICE OF APPEAL AGAINST A CONVICTION.

To C. D. of &c., and _____ (*the names and additions of the parties to whom the notice of appeal is required to be given*)

Take notice, that I, the undersigned A. B., of &c., do

intend to enter and prosecute an appeal at the next General Quarter Sessions of the Peace, to be holden at _____, in and for the (*County or United Counties, or as the case may be,*) of _____, against a certain conviction (*or order*) bearing date on or about the _____ day of _____ instant, and made by (*you*) C. D., Esquire, (*one*) of Her Majesty's Justices of the Peace for the said (*County, or United Counties, or as the case may be,*) of _____, whereby I, the said A. B., was convicted of having *or* was ordered to pay (*here state the offence as in the conviction, information or Summons, or the amount adjudged to be paid, as in the order, as correctly as possible*): And further, take notice that the grounds of my appeal are, first, that I am not guilty of the said offence; secondly, that the formal conviction drawn up and returned to the Sessions is not in law sufficient to support the said conviction of me the said A. B., (*together with any other grounds, care being taken that all are stated, as the Appellant will be precluded from going into any other than those stated.*)

Dated this _____ day of _____, one thousand eight hundred and _____

A. B.

MEM.—*If this notice be given by several Defendants, or by an Attorney, it can easily be adapted.*

FORM OF RECOGNIZANCE TO TRY THE APPEAL, &c.

Be it remembered, that on _____, A. B., of _____ (*laborer,*) and L. M. of _____ (*grocer,*) and N. O. of _____ (*yeoman,*) personally came before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said (*County or United Counties, or as the case may be,*) of _____, and severally acknowledged themselves to owe to our Sovereign Lady the Queen, the several sums following, that is to say, the said A. B. the sum of _____, and the said L. M. and N. O. the sum of _____, each, of good and lawful money of Canada, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, Her Heirs and Successors, if he the said A. B. shall fail in the condition indorsed.

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

J. S.

The condition of the within written Recognizance is such, that if the said A. B. shall, at the (*next*) General Quarter Sessions of the Peace, to be holden at _____, on the _____ day of _____ next, in and for the said (*County or United Counties, or as the case may be,*) of _____, enter and prosecute

an appeal against a certain conviction bearing date the day of _____ instant, and made by me the said Justice, whereby he the said A. B. was convicted, for that he the said A. B. did on the _____ day of _____, at the township of _____, in the said (*County or United Counties, or as the case may be,*) of _____, (*here set out the offence as stated in the conviction ;*) And further, that if the said A. B. shall abide by and duly perform the order of the Court to be made upon the trial of such appeal, then the said Recognizance to be void, or else to remain in full force and virtue.

FORM OF NOTICE OF SUCH RECOGNIZANCE TO BE GIVEN TO THE DEFENDANT (APPELLANT) AND HIS SURETY.

Take notice, that you, A. B., are bound in the sum of _____ pounds, and you, L. M. and N. O. in the sum of _____ each, that you the said A. B. at the next General or Quarter Sessions of the Peace to be holden at _____, in and for the said (*County or United Counties, or as the case may be*) of _____, enter and prosecute an Appeal against a conviction dated the _____ day of _____ (*instant,*) whereby you, A. B. were convicted of (*stating offence shortly*), and abide by and perform the Order of the Court to be made upon the trial of such Appeal ; and unless you prosecute such Appeal accordingly, the Recognizance entered into by you will forthwith be levied on you.

Dated this _____ day of _____ one thousand eight hundred and _____

SURETIES.

COMPLAINT BY THE PARTY THREATENED FOR SURETIES FOR THE PEACE.

Proceed as in the Form (T.) to the asterisk *, then :—
did, on the _____ day of _____
(*instant or last past, as the case may be*), threaten the said C. D. in the words or to the effect following, that is to say, (*set them out, with the circumstances under which they were used*) : and that from the above and other threats used by the said A. B. towards the said C. D., he the said C. D. is afraid that the said A. B. will do him some bodily injury, and therefore prays that the said A. B. may be required to find sufficient Sureties to keep the peace and be of good behaviour towards him the said C. D. ; and the said C. D. also saith that he doth not make this complaint against nor require such Sureties from the said A. B. from any malice or ill-will, but merely for the preservation of his person from injury.

FORM OF RECOGNIZANCE FOR THE SESSIONS.

Be it remembered, that on the _____ day of _____, in the year of our Lord _____, A. B. of _____ (*laborer,*) L. M. of _____ (*grocer,*) and N. O. of _____,

(*butcher*), personally came before (*us*) the undersigned, (*two*) of Her Majesty's Justices of the Peace for the said (*County or United Counties, or as the case may be*), of _____ and severally acknowledged themselves to owe to our Lady the Queen the several sums following, that is to say : the said A. B. the sum of _____, and the said L. M. and N. O. the sum of _____ each, of good and lawful money of Canada, to be made and levied of their goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, Her Heirs and Successors, if he the said A. B. fail in the condition indorsed.

Taken and acknowledged the day and year first above mentioned, at _____, before us.

J. S.
J. T.

The condition of the within written Recognizance is such, that if the within bounden A. B. (of, &c.) shall appear at the next Court of General or Quarter Sessions of the Peace to be holden in and for the said (*County or United Counties, or as the case may be*) of _____, to do and receive what shall be then and there enjoined him by the Court, and in the mean time shall keep the peace and be of good behaviour towards Her Majesty and all Her liege people, and especially towards C. D. (of, &c.) for the term of _____ now next ensuing, then the said Recognizance to be void, or else to stand in full force and virtue.

FORM OF COMMITMENT IN DEFAULT OF SURETIES.

Province of Canada, }
(*County or United Counties,* }
or as the case may be) of }

To the Constable of the _____ in the County of _____ (*one of the United Counties of _____, or as the case may be*) and to the Keeper of the Common Gaol of the said County (*or United Counties, as the case may be*) at _____, in the said County (*or in the County of _____*) :

Whereas, on the _____ day of _____ instant, complaint on oath was made before the undersigned (*or J. L. Esquire,*) (*one*) of Her Majesty's Justices of the Peace in and for the said (*County or United Counties, or as the case may be*) of _____, by C. D. of the township of _____ in the said (*County, or as the case may be*) (laborer,) that A. B. of, &c., on the day of _____, at the township of _____ aforesaid, did threaten (*&c., follow to end of complaint, as in form above, in the past tense, then*) : And whereas the said A. B. was this day brought and appeared before the said Justice (*or J. S. Esquire, one of Her Majesty's Justices of the Peace in and for*

the said (*County or United Counties, or as the case may be*) of _____, to answer unto the said complaint: And * having been required by me to enter into his own Recognizance in the sum of _____ with two sufficient Sureties in the sum of _____ each, as well for his appearance at the next General Quarter Sessions of the Peace, to be held in and for the said (*County or United Counties, or as the case may be*) of _____, to do what shall be then and there enjoined him by the Court, as also in the mean time to keep the Peace and be of good behaviour towards Her Majesty and all Her liege people, and especially towards the said C. D. hath refused and neglected, and still refuses and neglects to find such Sureties). These are therefore to command you the said Constable of the township of _____ to take the said A. B., and him safely to convey to the (*Common Gaol*) at _____ aforesaid, and there to deliver him to the Keeper thereof, together with this Precept: And I do hereby command you the said Keeper of the said (*Common Gaol*), there to imprison him * until the said next General Quarter Sessions of the Peace, unless he in the mean time find sufficient Sureties as well for his appearance at the said Sessions, as in the mean time to keep the peace as aforesaid.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the (*County, or as the case may be*) aforesaid.

J. S. [L. s.]

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## C A P. C L X X I X .

An Act to facilitate the performance of the duties of Justices of the Peace, out of Sessions, in Upper Canada, with respect to persons charged with Indictable Offences.

[Assented to 14th June, 1853.]

**W**HEREAS it would conduce much to the improvement of the administration of Criminal Justice in Upper Canada, if the several Statutes and parts of Statutes relating to the duties of Her Majesty's Justices of the Peace therein, with respect to persons charged with indictable offences, were consolidated, with such additions and alterations as may be deemed necessary, and that such duties should be clearly defined by positive enactment: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That in all cases where a charge or complaint (A) is made before any one or more of Her Majesty's Justices of the Peace for any Territorial Division in Upper Canada, that any person has committed, or is suspected to have committed, any treason, felony or other indictable misdemeanor or offence within the limits of the jurisdiction of such Justice or Justices of the Peace, or that any person guilty or suspected to be guilty of having committed any such crime or offence elsewhere out of the jurisdiction of such Justice or Justices, is residing or being, or is suspected to reside or be within the limits of the jurisdiction of such Justice or Justices, then, and in every such case, if the person so charged or complained against shall not then be in custody, it shall be lawful for such Justice or Justices of the Peace to issue his or their Warrant (B) to apprehend such person, and to cause him to be brought before such Justice or Justices, or any other Justice or Justices for the same Territorial Division, to answer such charge or complaint and to be further dealt with according to law; Provided always, that in all cases it shall be lawful for such Justice or Justices to whom such charge or complaint shall be preferred, if he or they shall so think fit, instead of issuing in the first instance his or their Warrant to apprehend the person so charged or complained against, to issue his or their Summons (C) directed to such person, requiring him to appear before the said Justice or Justices, at the

Preamble.

For what offence a Justice of the Peace may grant a Warrant to cause the party charged therewith to be brought before him.

In what cases the party charged may be summoned, instead of issuing a Warrant in the first instance.

If the Summons be not obeyed, a Warrant may then be issued.

time and place to be therein mentioned, or before such other Justice or Justices of the same Territorial Division as may then be there, and if, after being served with such Summons in manner hereinafter mentioned, he shall fail to appear at such time and place, in obedience to such Summons, then, and in every such case, the said Justice or Justices, or any other Justice or Justices of the Peace for the same Territorial Division, may issue his or their Warrant (D) to apprehend such person so charged or complained against, and cause such person to be brought before him or them, or before some other Justice or Justices of the Peace for the same Territorial Division, to answer to the said charge or complaint, and to be further dealt with according to law: Provided nevertheless, that nothing herein contained shall prevent any Justice or Justices of the Peace from issuing the Warrant hereinbefore first mentioned, at any time before or after the time mentioned in such Summons for the appearance of the said accused party.

Proviso: as to time when such Warrant may be issued

Warrants to apprehend parties against whom indictments may be found, to be granted upon certificate of the Marshal, &c. of the Court in which such indictment is found.

II. And be it enacted, That when any indictment shall be found by the Grand Jury in any Court of Oyer and Terminer or General Gaol Delivery, or in any Court of General or Quarter Sessions of the Peace, against any person who shall then be at large, and whether such person shall be bound by any Recognizance to appear to answer to any such charge or not, the person who shall act as Marshal at such Court of Oyer and Terminer or Gaol Delivery, or as Clerk of the Peace at such Sessions at which the said indictment shall be found, shall, at any time afterwards after the end of the Sessions of Oyer and Terminer or Gaol Delivery, or Sessions of the Peace, at which such indictment shall have been found, upon application of the Prosecutor, or of any person on his behalf, and on payment of a fee of One Shilling, if such person shall not have already appeared and pleaded to such indictment, grant unto such Prosecutor or person a Certificate (F) of such indictment having been found; and upon production of such Certificate to any Justice or Justices of the Peace for the County or United Counties in which the offence shall in such indictment be alleged to have been committed, or in which the person indicted in and by such indictment shall reside or be, or be supposed or suspected to reside or be, it shall be lawful for such Justice or Justices, and he or they are hereby required to issue his or their Warrant (G) to apprehend such person so indicted, and to cause him to be brought before such Justice or Justices or any other Justice or Justices for the same District, to be dealt with according to law: and afterwards if such person be thereupon apprehended and brought before any such Justice or Justices, such Justice or Justices, upon its being proved upon oath or affirmation before him or them, that the person so apprehended is the same person who is charged and named in such indictment, shall, without further inquiry or examination, commit (H) him for



trial or admit him to bail in manner hereinafter mentioned ; or if such person so indicted shall be confined in any gaol or prison for any other offence than that charged in the said indictment at the time of such application and production of such Certificate to such Justice or Justices as aforesaid, it shall be lawful for such Justice or Justices, and he or they are hereby required, upon its being proved before him or them, upon oath or affirmation, that the person so indicted and the person so confined in prison are one and the same person, to issue his or their Warrant (I), directed to the Gaoler or Keeper of the gaol or prison in which the person so indicted shall then be confined as aforesaid, commanding him to detain such person in his custody, until, by Her Majesty's Writ of *Habeas Corpus*, he shall be removed therefrom for the purpose of being tried upon the said indictment, or until he shall be otherwise removed or discharged out of his custody by due course of law : Provided always, that nothing herein contained shall prevent or be construed to prevent the issuing or execution of Bench Warrants, whenever any Court of competent jurisdiction may think proper to order the issuing of any such Warrant.

If the party indicted be already in Gaol for some other offence, the Justice may order him to be detained until removed by Writ of *Habeas Corpus*, or otherwise discharged.

Proviso.

III. And be it enacted, That it shall be lawful for any Justice or Justices of the Peace to grant or issue any Warrant as aforesaid, or any Search Warrant, on a Sunday as well as on any other day.

Search Warrants and others may be issued on Sunday.

IV. And be it enacted, That in all cases when a charge or complaint for any indictable offence shall be made before such Justice or Justices aforesaid, if it be intended to issue a Warrant in the first instance against such party or parties so charged, an information and complaint thereof (A) in writing, on the oath or affirmation of the informant, or of some witness or witnesses in that behalf, shall be laid before such Justice or Justices : Provided always, that in those cases only when it is intended to issue a Summons instead of a Warrant in the first instance, and where it is so specially provided in some Act of Parliament, it shall not be necessary that such information and complaint shall be in writing, or be sworn to or affirmed in manner aforesaid ; but in every such case so provided for in some Act of Parliament as aforesaid, such information and complaint may be by parol merely, and without any oath or affirmation whatsoever to support or substantiate the same : Provided also, that no objection shall be taken or allowed to any such information or complaint for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the prosecution, before the Justice or Justices who shall take the examination of the witnesses on that behalf as hereinafter mentioned ; and if any credible Witness shall prove upon oath (E 1.) before a Justice of the Peace, that there is reasonable cause to suspect that any pro-

Information on oath required when a Warrant issue in the first instance.

What information required in cases where a summons only issues, and certain others.

Proviso: No objection allowed for defect of form or substance in information.

Search Warrant may be granted in certain cases.

perty whatsoever, on or with respect to which any larceny or felony shall have been committed, is in any dwelling house, out-house, garden, yard, croft or other place or places, the Justice may grant a Warrant (E 2.) to search such dwelling house, garden, yard, croft or other place or places, for such property.

Upon receiving the information the Justice may issue a Summons or Warrant, as the case may require ;

To whom directed, and contents.

How any such Summons shall be served.

If the party summoned do not attend, a Warrant may issue against him.

Proviso: No objection to be allowed for alleged defect in form or substance of Warrant or Summons: What may be done in case of variance, &c.

V. And be it enacted, That upon such Information and complaint being so laid as aforesaid, the Justice or Justices receiving the same may, if he or they shall think fit, issue his or their Summons or Warrant respectively as hereinbefore directed, to cause the person charged as aforesaid to be and appear before him or them, or any other Justice or Justices of the Peace for the same Territorial Division, to be dealt with according to law: and every Summons (C) shall be directed to the party so charged in and by such information, and shall state shortly the matter of such information, and shall require the party to whom it is directed to be and appear at a certain time and place therein mentioned, before the Justice who shall issue such Summons, or before such other Justice or Justices of the Peace for the same Territorial Division as may then be there, to answer to the said charge, and to be further dealt with according to law; and every such Summons shall be served by a Constable or other Peace Officer upon the person to whom it is so directed, by delivering the same to the party personally, or, if he cannot conveniently be met with, then by leaving the same for him with some person at his last or most usual place of abode; and the Constable or other Peace Officer who shall have served the same in manner aforesaid, shall attend at the time and place, and before the Justice or Justices in the said Summons mentioned, to depose, if necessary, to the service of such Summons; and if the person so served shall not be and appear before such Justice or Justices, at the time and place mentioned in such Summons, in obedience to the same, then it shall be lawful for such Justice or Justices, to issue his or their Warrant (D) for apprehending the party so summoned, and bringing him before such Justice or Justices, or before some other Justice or Justices for the same Territorial Division, to answer the charge in the said information and complaint mentioned, and to be further dealt with according to law: Provided always, that no objection shall be taken or allowed to any such Summons or Warrant for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the Prosecutor before the Justice or Justices who shall take the examination of the Witnesses in that behalf as hereinafter mentioned; but if any such variance shall appear to such Justice or Justices to be such that the party charged has been thereby deceived or misled, it shall be lawful for such Justice or Justices, at the request of the party so charged, to adjourn the hearing of the case to some future day, and, in the

mean time, to remand the party so charged, or admit him to bail in manner hereinafter mentioned.

VI. And be it enacted, That every Warrant (B) hereafter to be issued by any Justice or Justices of the Peace to apprehend any person charged with any indictable offence, shall be under the Hand and Seal, or Hands and Seals, of the Justice or Justices issuing the same, and may be directed to all or any of the Constables or other Peace Officers of the District within which the same is to be executed, or to such Constable and all other Constables or Peace Officers in the Territorial Division within which the Justice or Justices issuing the same has or have jurisdiction, or generally to all the Constables or Peace Officers within such last mentioned Territorial Division; and it shall state shortly the offence on which it is founded, and shall name or otherwise describe the offender; and it shall order the person or persons to whom it is directed to apprehend the offender, and bring him before the Justice or Justices issuing such Warrant, or before some other Justice or Justices of the Peace for the same Territorial Division, to answer to the charge contained in the said information, and to be further dealt with according to law; and it shall not be necessary to make such Warrant returnable at any particular time, but the same may remain in force until it shall be executed; and such Warrant may be executed by apprehending the offender at any place within the Territorial Division within which the Justice or Justices issuing the same shall have jurisdiction, or, in case of fresh pursuit, at any place in the next adjoining Territorial Division, and within seven miles of the border of such first mentioned Territorial Division, without having such Warrant backed, as hereinafter mentioned; and in all cases where such Warrant shall be directed to all Constables or other Peace Officers within the Territorial Division within which such Justice or Justices shall have jurisdiction, it shall be lawful for any Constable or other Peace Officer for any place within such Territorial Division to execute the said Warrant at any place within the jurisdiction for which the said Justice or Justices shall have acted when he or they granted such Warrant, in like manner as if such Warrant were directed specially to such Constable by name, and notwithstanding the place within which such Warrant shall be executed shall not be within the place for which he shall be Constable or Peace Officer; Provided always, that no objection shall be taken or allowed to any such Warrant for any defect therein, in substance or in form, or for any variance between it and the evidence adduced on the part of the prosecution, before the Justice or Justices who shall take the examination of the witnesses in that behalf as hereinafter mentioned; but if any such variance shall appear to any such Justice or Justices to be such that the party charged has been thereby deceived or misled, it shall be lawful for such Justice

Warrant to apprehend any party to be under hand and seal of the Justice.

To whom the Warrant shall be directed, and what particulars it must contain, &c.

How and where the Warrant may be executed.

Proviso: No objection to be allowed for alleged defect in form or substance; What may be done in case of variance, &c.

or Justices, at the request of the party so charged, to adjourn the hearing of the case to some future day, and in the mean time to remand the party so charged, or to admit him to bail in manner hereinafter mentioned.

Provisions relative to the backing or endorsement of Warrants, in other territorial divisions than that in which they were respectively issued, and effect of such endorsement.

VII. And be it enacted, That if the person against whom any such Warrant shall be issued, as aforesaid, shall not be found within the jurisdiction of the Justice or Justices by whom the same shall be issued, or if he shall escape, go into, reside or be, or be supposed or suspected to be in any place within this Province, whether in Upper or in Lower Canada out of the jurisdiction of the Justice or Justices issuing such Warrant, it shall and may be lawful for any Justice of the Peace within the jurisdiction of whom such person shall so escape or go, or in which he shall reside or be, or be supposed or suspected to be, upon proof alone being made on oath of the hand-writing of the Justice issuing the same, and without any security being given, to make an endorsement (K) on such Warrant, signed with his name, authorizing the execution of such Warrant within the jurisdiction of the Justice making such endorsement, and which endorsement shall be sufficient authority to the person bringing such Warrant, and to all other persons to whom the same was originally directed, and also to all Constables and other Peace Officers of the Territorial Division where such Warrant shall be so endorsed, to execute the same in such other Territorial Division, and to carry the person against whom such Warrant shall have issued, when apprehended, before the Justice or Justices of the Peace who first issued the said Warrant, or before some other Justice or Justices of the Peace for the same Territorial Division, or before some Justice or Justices of the Territorial Division where the offence in the said Warrant mentioned appears therein to have been committed: Provided always, that if the Prosecutor or any of the Witnesses upon the part of the prosecution shall then be in the Territorial Division where such person shall have been so apprehended, the Constable, or other person or persons who shall have so apprehended such person, may, if so directed by the Justice backing such Warrant, take and convey him before the Justice who shall have so backed the said Warrant, or before some other Justice or Justices for the same Territorial Division; and the said Justice or Justices may thereupon take the examination of such Prosecutor or Witnesses, and proceed in every respect in manner hereinafter directed with respect to persons charged before a Justice or Justices of the Peace, with an offence alleged to have been committed in another Territorial Division than that in which such persons have been apprehended.

Proviso: Proceedings when the party is apprehended in such other territorial division.

Justices may summon wit-

VIII. And be it enacted, That if it shall be made to appear to any Justice of the Peace, by the oath or affirmation of any

credible person, that any person within the jurisdiction of such Justice is likely to give material evidence for the prosecution, and will not voluntarily appear for the purpose of being examined as a witness at the time and place appointed for the examination of the witnesses against the accused, such Justice may and is hereby required to issue his Summons (L 1.) to such person under his Hand and Seal, requiring him to be and appear at a time and place mentioned in such Summons, before the said Justice, or before such other Justice or Justices of the Peace for the same Territorial Division as shall then be there, to testify what he shall know concerning the charge made against such accused party; and if any person so summoned shall neglect or refuse to appear at the time and place appointed by the said Summons, and no just excuse shall be offered for such neglect or refusal, then (after proof upon oath or affirmation of such Summons having been served upon such person, either personally or with some person for him at his last or most usual place of abode,) it shall be lawful for such Justice or Justices before whom such person should have appeared, to issue a Warrant (L 2.) under his or their Hands and Seals, to bring and have such person, at a time and place to be therein mentioned, before the Justice who issued the said Summons, or before such other Justice or Justices of the Peace for the same Territorial Division as shall then be there, to testify as aforesaid, and which said Warrant may, if necessary, be backed as hereinbefore is mentioned, in order to its being executed out of the jurisdiction of the Justice who shall have issued the same; or if such Justice shall be satisfied by evidence upon oath or affirmation that it is probable that such person will not attend to give evidence unless compelled so to do, then, instead of issuing such Summons, it shall be lawful for him to issue his Warrant (L 3.) in the first instance, and which, if necessary, may be backed as aforesaid, and if on the appearance of such person so summoned before the said last mentioned Justice or Justices, either in obedience to the said Summons or upon being brought before him or them by virtue of the said Warrant, such person shall refuse to be examined upon oath or affirmation concerning the premises, or shall refuse to take such oath or affirmation, or having taken such oath or affirmation shall refuse to answer such questions concerning the premises as shall then be put to him, without giving any just excuse for such refusal, any Justice of the Peace then present and having there jurisdiction, may, by Warrant (L 4.) under his Hand and Seal, commit the person so refusing to the Common Gaol of the County where such person so refusing shall then be, there to remain and be imprisoned for any time not exceeding ten days, unless he shall in the mean time consent to be examined and to answer concerning the premises.

nesses to attend and give evidence.

If such Summons be not obeyed, a Warrant may be issued to compel attendance.

In certain cases and upon proper evidence on oath, the Warrant may issue in the first instance.

Persons appearing and refusing to be examined may be committed.

Examination and deposition of witness in presence of the party accused.

IX. And be it enacted, That in all cases where any person shall appear or be brought before any Justice or Justices of the Peace charged with any indictable offence, whether committed in this Province or upon the high seas, or on land beyond the sea, or whether such person appear voluntarily upon Summons or have been apprehended, with or without Warrant, or be in custody for the same or any other offence, such Justice or Justices before he or they shall commit such accused person to prison for trial, or before he or they shall admit him to bail, shall in the presence of such accused person, who shall be at liberty to put questions to any witness produced against him, take the statement (M) on oath or affirmation of those who shall know the facts and circumstances of the case, and shall put the same in writing, and such depositions shall be read over to and signed respectively by the witnesses who shall have been so examined, and shall be signed also by the Justice or Justices taking the same; and the Justice or Justices before whom any such witness shall appear to be examined as aforesaid, shall, before such witness is examined, administer to such witness the usual oath or affirmation, which such Justice or Justices shall have full power and authority to do; and if upon the trial of the person so accused as first aforesaid, it shall be proved upon the oath or affirmation of any credible witness, that any person whose deposition shall have been taken as aforesaid is dead, or is so ill as not to be able to travel, and if also it be proved that such deposition was taken in presence of the person so accused, and that he or his Counsel or Attorney, had a full opportunity of cross-examining the witness, then if such deposition purports to be signed by the Justice by or before whom the same purports to have been taken, it shall be lawful to read such deposition as evidence in such prosecution without further proof thereof, unless it shall be proved that such deposition was not in fact signed by the Justice purporting to sign the same.

Justice to administer the usual oath or affirmation.

Deposition of persons who may have died or who shall be unable to attend may in certain cases be read at the trial.

When the examination of the witnesses is completed, their deposition to be read to the party accused, and any statement he may then wish to make to be taken down, he being first cautioned, &c.

X. And be it enacted, That after the examinations of all the witnesses on the part of the prosecution as aforesaid shall have been completed, the Justice of the Peace, or one of the Justices by or before whom such examination shall have been so completed as aforesaid, shall, without requiring the attendance of the witnesses, read or cause to be read to the accused the depositions taken against him, and shall say to him these words, or words to the like effect: "Having heard the evidence, do you wish to say any thing in answer to the charge? "You are not obliged to say any thing 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 prisoner shall then say in answer thereto shall be taken down in writing (N) and read over to him, and shall be signed by the said Justice or Justices, and kept with the depositions of the witnesses, and shall be transmitted with

them as hereinafter mentioned ; and afterwards, upon the trial of the said accused person, the same may, if necessary, be given in evidence against him without further proof thereof, unless it shall be proved that the Justice or Justices purporting to sign the same did not in fact sign the same: Provided always, that the said Justice or Justices, before such accused person shall make any statement, shall state to him and give him clearly to understand that he has nothing to hope from any promise of favor, and nothing to fear from any threat which may have been holden out to him to induce him to make any admission or confession of his guilt, but that whatever he shall then say may be given in evidence against him upon his trial, notwithstanding such promise or threat: Provided nevertheless, that nothing herein contained or enacted shall prevent the prosecutor in any case from giving in evidence any admission or confession or other statement of the person accused or charged, made at any time which by law would be admissible as evidence against such person.

Legal effect of his answers.

Proviso : he is to be cautioned on certain points.

Proviso . Certain statements made by the accused may be used against him.

XI. And be it declared and enacted, That the room or building in which such Justice or Justices shall take such examination and statement as aforesaid, shall not be deemed an open Court for that purpose ; and it shall be lawful for such Justice or Justices, in his or their discretion, to order that no person shall have access to or be or remain in such room or building without the consent or permission of such Justice or Justices, if it appear to him or them that the ends of Justice will be best answered by so doing.

Place where the examination is taken not to be deemed an open Court.

XII. And be it enacted, That it shall be lawful for any such Justice or Justices before whom any such witness shall be examined as aforesaid, to bind by Recognizance (O 1.) the Prosecutor, and every such witness, to appear at the next Court of competent Criminal Jurisdiction at which the accused is to be tried, then and there to prosecute or prosecute and give evidence, or to give evidence, as the case may be, against the party accused, which said Recognizance shall particularly specify the profession, art, mystery or trade of every such person entering into or acknowledging the same, together with his Christian and surname, and the Township or place of his residence, or if his residence be in a City, Town or Borough, the Recognizance shall also particularly specify the name of the said City, Town or Borough, and when convenient so to do, of the street and the number (if any) of the house in which he resides, and whether he is owner or tenant thereof, or lodger therein ; and the said Recognizance, being duly acknowledged by the person so entering into the same, shall be subscribed by the Justice or Justices before whom the same shall be acknowledged, and a notice (O 2.) thereof, signed by the said Justice or Justices, shall at the same time be given to

Justices may bind over the prosecutor and witnesses to prosecute and give evidence.

Recognizance, depositions, &c., to be transmitted to the proper officer of the Court in which the trial is to be had.

Witnesses refusing to enter into recognizance may be committed.

Proviso: witnesses committed may be discharged if prisoner be not committed or held to bail.

Justice may remand the accused from time to time, for not exceeding eight days, by Warrant, or for not more than three days by verbal order.

the person bound thereby; and the several Recognizances so taken, together with the written information (if any), the depositions, the statement of the accused, and the Recognizance of Bail (if any) in every such case shall be delivered by the said Justice or Justices, or he or they shall cause the same to be delivered to the proper Officer of the Court in which the trial is to be had, before or at the opening of the said Court on the first day of the sitting thereof, or at such other time as the Judge, Justice or person who is to preside at such Court at the said trial shall order and appoint; Provided always, that if any such witness shall refuse to enter into or acknowledge such Recognizance as aforesaid, it shall be lawful for the Justice or Justices of the Peace by his or their Warrant (P 1.) to commit him to the Common Gaol for the County in which the accused party is to be tried, there to be imprisoned and safely kept until after the trial of such accused party, unless in the mean time such witness shall duly enter into such Recognizance as aforesaid before some one Justice of the Peace for the Territorial Division in which such Gaol shall be situate: Provided nevertheless, that if afterwards, for want of sufficient evidence in that behalf, or other cause, the Justice or Justices before whom such accused party shall have been brought shall not commit him or hold him to bail for the offence with which he is charged, it shall be lawful for such Justice or Justices, or for any other Justice or Justices for the same Territorial Division, by his or their Order (P 2.) in that behalf, to order and direct the Keeper of such Common Gaol where such witness shall be so in custody, to discharge him from the same, and such Keeper shall thereupon forthwith discharge him accordingly.

XIII. And be it enacted, That if from the absence of witnesses, or from any other reasonable cause, it shall become necessary or advisable to defer the examination or further examination of the witnesses for any time, it shall be lawful to and for the Justice or Justices before whom the accused shall appear or be brought, by his or their Warrant (Q 1.) from time to time to remand the party accused for such time as by such Justice or Justices in their discretion shall be deemed reasonable, not exceeding eight clear days at any one time, to the Common Gaol or House of Correction or other Prison, Lock-up House, or place of security in the Territorial Division for which such Justice or Justices shall then be acting; or if the remand be for a time not exceeding three clear days, it shall be lawful for such Justice or Justices verbally to order the Constable, or other person in whose custody such party accused may then be, or any other Constable or person to be named by the said Justice or Justices in that behalf, to continue or keep such party accused in his custody, and to bring him before the same or such other Justice or Justices as shall be there acting at the



time appointed for continuing such examination : Provided always, that any such Justice or Justices may order such accused party to be brought before him or them, or before any other Justice or Justices of the Peace for the same Territorial Division, at any time before the expiration of the time for which such party shall be remanded, and the Gaoler or Officer in whose custody he shall then be shall duly obey such order : Provided also, that instead of detaining the said accused party in custody during the period for which such accused party shall be so remanded, any one Justice of the Peace before whom such party shall so appear or be brought as aforesaid, may discharge him, upon his entering into a Recognizance (Q 2, 3.) with or without a Surety or Sureties, at the discretion of such Justice, conditioned for his appearance at the time and place appointed for the continuance of such examination ; and if such accused party shall not afterwards appear at the time and place mentioned in such Recognizance, then the said Justice, or any other Justice of the Peace who may then and there be present, upon certifying (Q 4.) upon the back of the Recognizance the non-appearance of such accused party, may transmit such Recognizance to the Clerk of the Peace for the Territorial Division within which such Recognizance shall have been taken, to be proceeded upon in like manner as other Recognizances, and such Certificate shall be deemed sufficient *prima facie* evidence of such non-appearance of the said accused party.

Proviso :  
Party remanded may be brought before Justice at any time.

Proviso :  
Party accused may, on the examination being adjourned, be admitted to bail to appear on the continuance thereof.

If the party does not so appear, recognizance to be transmitted to Clerk of the Peace.

XIV. And whereas it often happens that a person is charged before a Justice of the Peace with an offence alleged to have been committed in another Territorial Division than that in which such person has been apprehended, or in which such Justice has jurisdiction, and it is necessary to make provision as to the manner of taking the examination of the witnesses, and of committing the party accused or admitting him to bail in such a case : Be it therefore enacted, That whenever a person shall appear or be brought before a Justice or Justices of the Peace in the Territorial Division wherein such Justice or Justices shall have jurisdiction, charged with an offence alleged to have been committed by him within any Territorial Division wherein such Justice or Justices shall not have jurisdiction, it shall be lawful for such Justice or Justices, and he or they are hereby required to examine such witnesses, and receive such evidence in proof of the said charge as shall be produced before him or them within his or their jurisdiction ; and if in his or their opinion such testimony and evidence shall be sufficient proof of the charge made against such accused party, such Justice or Justices shall thereupon commit him to the Common Gaol for the County where the offence is alleged to have been committed, or shall admit him to bail as hereinafter mentioned, and shall bind over the prosecutors

Recital.

If a party be apprehended in one Territorial Division on a charge of an offence committed in another, he may be examined in the former ;

And upon sufficient evidence may be committed to the Gaol of the Territorial Division where the offence was committed.

Proceedings in  
the evidence  
appear in-  
sufficient.

(if he have appeared before him or them) and the witnesses, by Recognizance accordingly as hereinbefore mentioned; but if such testimony and evidence shall not, in the opinion of such Justice or Justices be sufficient to put the accused party upon his trial for the offence with which he is so charged, then such Justice or Justices shall bind over such witness or witnesses as he shall have examined by Recognizance to give evidence as hereinbefore is mentioned; and such Justice or Justices shall, by Warrant (R 1.) under his or their Hand and Seal, or Hands and Seals, order the said accused party to be taken before some Justice or Justices of the Peace in and for the Territorial Division where the offence is alleged to have been committed, and shall at the same time deliver up the Information and Complaint, and also the Depositions and Recognizances so taken by him or them to the Constable who shall have the execution of such last mentioned Warrant, to be by him delivered to the Justice or Justices before whom he shall take the accused, in obedience to the said Warrant, and which said Depositions and Recognizances shall be deemed to be taken in the case, and shall be treated to all intents and purposes as if they had been taken by or before the said last mentioned Justice or Justices, and shall, together with such Depositions and Recognizances as such last mentioned Justice or Justices shall take in the matter of such charge against the said accused party, be transmitted to the Clerk of the Court or other proper Officer where the said accused party is to be tried, in the manner and at the time hereinbefore mentioned, if such accused party shall be committed for trial upon the said charge, or shall be admitted to bail; and in case such accused party shall be taken before the Justice or Justices last aforesaid, by virtue of the said last mentioned Warrant, the Constable, or other person or persons to whom the said Warrant shall have been directed, and who shall have conveyed such accused party before such last mentioned Justice or Justices, shall be entitled to be paid his costs and expenses of conveying the said accused party before the said Justice or Justices; and upon the said Constable or other person producing the said accused party before such Justice or Justices, and delivering him into the custody of such person as the said Justice or Justices shall direct or name in that behalf, and upon the said Constable delivering to the said Justice or Justices the Warrant, Information (if any) Depositions and Recognizances aforesaid, and proving by oath the hand-writing of the Justice or Justices who shall have subscribed the same, such Justice or Justices before whom the said accused party is produced shall thereupon furnish such Constable with a Receipt or Certificate (R 2.) of his or their having received from him the body of the said accused party, together with the said Warrant, Information (if any), Depositions and Recognizances, and of his having proved to him or them, upon oath, the hand-writing of the Jus-

Provision as  
to payment of  
expenses of  
conveying the  
party accused  
to the proper  
Territorial  
Division.

tice who shall have issued the said Warrant ; and the said Constable, on producing such Receipt or Certificate to the Sheriff or High Bailiff, if he shall have been employed by such Officer, and if not, then to the Treasurer of the County in which such accused party was apprehended, will be entitled to be paid all his reasonable charges, costs and expenses of conveying such accused party into such other County or Territorial Division, and returning from the same.

XV. And be it enacted, That when any person shall appear before any Justice of the Peace charged with a felony or suspicion of felony, and the evidence adduced shall in the opinion of such Justice be sufficient to put such accused party on his trial as hereinafer mentioned, but shall not furnish such a strong presumption of guilt as to warrant his committal for trial, it shall and may be lawful for such Justice jointly with some other Justice of the Peace to admit such person to bail upon his procuring and producing such surety or sureties as in the opinion of such two Justices will be sufficient to ensure the appearance of such person so charged, at the time and place when and where he is to be tried for such offence ; and thereupon such two Justices shall take the Recognizance (S 1, 2.) of the said accused person and his surety or sureties, conditioned for the appearance of such accused person at the time and place of trial, and that he will then surrender and take his trial and not depart the Court without leave ; Provided firstly, that when the offence committed or suspected to have been committed is a misdemeanor, any one Justice may admit to bail in manner aforesaid ; and such Justice or Justices may at their discretion require that such bail should justify upon oath as to their sufficiency, which oath the said Justice or Justices is and are hereby authorized to administer, and in default of such person procuring sufficient bail, then such Justice or Justices may commit him to prison, there to be kept until delivered according to law ; Provided secondly, and it is hereby declared and enacted, that in all cases of felony, where the party accused shall be finally committed as hereinafer provided, it shall be lawful for any County Judge who may be also a Justice of the Peace for the County within the limits of which such accused party is confined, in his discretion on application made to him for that purpose, to order such accused party or person to be admitted to bail on entering into recognizance with sufficient sureties for such an amount before two Justices of the Peace as the said Judge shall direct, and thereupon such Justices shall issue a warrant of deliverance (S 3.) as hereinafer provided, and shall attach thereto the order of the Judge directing the admitting of such party to bail ; Provided lastly, that no Justice or Justices of the Peace, or County Judge shall admit any person to bail accused of treason or murder, nor shall any such person be admitted to bail, except by order of Her Majesty's Court of Queen's Bench

Proceedings where a party shall be charged with felony or suspicion of felony, and the evidence appears sufficient to put him on his trial but not to warrant his committal for trial.

Proviso : one Justice may bail if the offence be a misdemeanor only.

Proviso : County Judge in his discretion may order a party committed for trial to be admitted to bail.

Proviso : for certain offences, bail shall not be taken except by order of one

of the Judges  
of Q. B. or  
C. P.

or of Common Pleas, or one of the Judges thereof in vacation, and nothing herein contained, shall prevent such last mentioned Judges admitting any person accused of misdemeanor or felony to bail when they may think it right so to do.

Justice bail-  
ing after com-  
mitment, to  
issue a War-  
rant of Deli-  
verance.

XVI. And be it enacted, That in all cases where a Justice or Justices of the Peace shall admit to bail any person who shall then be in any prison charged with the offence for which he shall be so admitted to bail, such Justice or Justices shall send to or cause to be lodged with the Keeper of such Prison, a Warrant of Deliverance (S 3.) under his or their Hand and Seal or Hands and Seals, requiring the said Keeper to discharge the person so admitted to bail if he be detained for no other offence, and upon such Warrant of Deliverance being delivered to or lodged with such Keeper, he shall forthwith obey the same.

If the evi-  
dence be  
deemed in-  
sufficient, ac-  
cused to be  
discharged :  
but if sufficient,  
he shall be  
committed for  
trial, or ad-  
mitted to bail,  
as the case  
may require.

XVII. And be it enacted, That when all the evidence offered upon the part of the prosecution against the accused party shall have been heard, if the Justice or Justices of the Peace then present shall be of opinion that it is not sufficient to put such accused party upon his trial for any indictable offence, such Justice or Justices shall forthwith order such accused party, if in custody, to be discharged as to the Information then under inquiry, but if in the opinion of such Justice or Justices such evidence is sufficient to put the accused party upon his trial for an indictable offence, although it may not raise such a strong presumption of guilt as would induce such Justice or Justices to commit the accused for trial without bail, or if the offence with which the party is accused be a misdemeanor, then such Justices shall admit the party to bail as hereinbefore provided, but if the offence be a felony, and the evidence given be such as to raise a strong presumption of guilt, then such Justice or Justices shall by his or their warrant (T 1.) commit him to the Common Gaol for the Territorial Division to which he may now by Law be committed, or in the case of an indictable offence committed on the High Seas or on land beyond the Sea, to the Common Gaol of the Territorial Division within which such Justice or Justices shall have jurisdiction, to be there safely kept until he shall thence be delivered by due course of Law.

Provisions  
touching the  
conveyance of  
prisoners to  
Gaol.

XVIII. And be it enacted, That the Constable or any of the Constables, or other persons to whom any Warrant of Commitment shall be directed, authorized by this or any other Act, shall convey such accused person therein named or described to the Gaol or other Prison mentioned in such Warrant, and there deliver him, together with such Warrant, to the Gaoler, Keeper or Governor of such Gaol or Prison, who shall thereupon give such Constable or other person so delivering such prisoner into his custody a Receipt (T 2.) for such prisoner, setting forth the state and condition in which such prisoner

was when he was delivered into the custody of such Gaoler, Keeper or Governor.

XIX. And be it enacted, That at any time after all the examinations aforesaid shall have been completed, and before the first day of the Sessions, or other first sitting of the Court at which any person so committed to prison or admitted to bail as aforesaid is to be tried, such person may require and shall be entitled to have, from the Officer or person having the custody of the same, copies of the depositions on which he shall have been committed or bailed, on payment of a reasonable sum for the same, not exceeding the rate of Three Pence for each folio of one hundred words.

After the examination is completed Defendant to be entitled to a copy of depositions on paying for such copy.

XX. And be it enacted, That the several forms in the Schedule to this Act contained, or forms to the like effect, shall be good, valid and sufficient in law.

Forms in Schedule to be valid.

XXI. And be it enacted, That any Inspector and Superintendent of Police, Police Magistrate or Stipendiary Magistrate, appointed or to be appointed for any Territorial Division, shall have full power to do alone whatever is authorized by this Act to be done by any two or more Justices of the Peace, and that the several forms in the Schedule to this Act annexed, may be varied so far as it may be necessary to render them applicable to such Inspector and Superintendent of Police, Police Magistrate or Stipendiary Magistrate aforesaid.

Inspectors of Police, &c., may do alone whatever may be done by two or more Justices of the Peace under this Act.

XXII. And be it enacted, That from and after the day on which this Act shall commence to take effect, all other Act or Acts or parts of Acts which are contrary to or inconsistent with the provisions of this Act, shall be and the same are hereby repealed.

Inconsistent enactments repealed.

XXIII. And be it enacted, That this Act shall apply only to Upper Canada, except in so far as any provision thereof is expressly extended to Lower Canada, or to any act to be done there.

Act to apply to Upper Canada only.

XXIV. And be it enacted, That this Act shall commence and have force and effect upon, from and after the first day of July, one thousand eight hundred and fifty-three, and not before.

Commencement of Act.

## SCHEDULES.

(A)

## INFORMATION AND COMPLAINT FOR AN INDICTABLE OFFENCE.

Province of Canada, }  
 (County or United }  
 Counties, or as the }  
 case may be,) of }

The information and complaint of C. D. of  
 (yeoman), taken this                    day of                    , in the year  
 of our Lord                    before the undersigned, (one) of Her  
 Majesty's Justices of the Peace in and for the said (County, or  
 as the case may be) of                    , who saith that (&c., stating  
 the offence).

Sworn before (me), the day and year first above mentioned,  
 at

J. S.

(B)

WARRANT TO APPREHEND A PERSON CHARGED WITH AN  
INDICTABLE OFFENCE.

Province of Canada, }  
 (County or United }  
 Counties, or as the }  
 case may be,) of }

To all or any of the Constables or other Peace Officers in the  
 (County or United Counties, or as the case may be,) of                    :

Whereas A. B., of                    , (laborer), hath this day  
 been charged upon oath before the undersigned, (one) of Her  
 Majesty's Justices of the Peace in and for the said (County or  
 United Counties, or as the case may be,) of                     
                   , for that he, on                    , at                    , did  
 (&c. stating shortly the offence); These are therefore to command  
 you, in Her Majesty's name, forthwith to apprehend the said  
 A. B., and to bring him before (me) or some other of Her  
 Majesty's Justices of the Peace in and for the said (County or  
 United Counties, or as the case may be,) of                    to  
 answer unto the said charge, and to be further dealt with ac-  
 cording to law.

Given under (my) Hand and Seal, this                    day  
 of                    at                    , in the (County, &c.) afore-  
 said.

J. S. [L. s.]

(C.)

## SUMMONS TO A PERSON CHARGED WITH AN INDICTABLE OFFENCE.

Province of Canada, }  
 (County or United }  
 Counties, or as the }  
 case may be,) of }

To A. B. of \_\_\_\_\_, (laborer) :

Whereas you have this day been charged before the under-  
 signed (one) of Her Majesty's Justices of the Peace in and for  
 the said (County or United Counties, or as the case may be,) of  
 \_\_\_\_\_, for that you on \_\_\_\_\_, at \_\_\_\_\_,  
 (&c., stating shortly the offence); These are therefore to com-  
 mand you, in Her Majesty's name, to be and appear before (me)  
 on \_\_\_\_\_, at \_\_\_\_\_ o'clock in the (fore) noon,  
 at \_\_\_\_\_, or before such other Justice or Justices of the  
 Peace for the same (County or United Counties, or as the case  
 may be,) of \_\_\_\_\_ as may then be there, to answer to  
 the said charge, and to be further dealt with according to law.  
 Herein fail not.

Given under (my) Hand and Seal, this \_\_\_\_\_ day of  
 \_\_\_\_\_ in the year of our Lord \_\_\_\_\_, at \_\_\_\_\_, in  
 the (County, &c.) aforesaid.

J. S. [L. s.]

(D 1.)

## WARRANT WHEN THE SUMMONS IS DISOBEYED.

Province of Canada, }  
 (County or United }  
 Counties, or as the }  
 case may be,) of }

To all or any of the Constables, or other Peace Officers, in the  
 said (County or United Counties, or as the case may be) of \_\_\_\_\_ :

Whereas on the \_\_\_\_\_ day of \_\_\_\_\_ (instant, or last  
 past) A. B. of the \_\_\_\_\_, was charged before me or us, the  
 undersigned, (or name the Magistrate or Magistrates, or as the  
 case may be) (one) of Her Majesty's Justices of the Peace, in and  
 for the said (County or United Counties, as the case may be,) of  
 \_\_\_\_\_, for that (&c. as in the Summons); And  
 whereas (I, he, the said Justice of the Peace, we, or they, the  
 said Justices of the Peace) then issued (my, our, his or their)  
 Summons to the said A. B. commanding him, in Her Majesty's

name, to be and appear before (*me*) on \_\_\_\_\_, at  
 o'clock in the (*fore*) noon, at \_\_\_\_\_, or before such other  
 Justice or Justices of the Peace as should then be there, to  
 answer to the said charge, and to be further dealt with ac-  
 cording to law ; And whereas the said A. B. hath neglected  
 to be or appear at the time and place appointed in and by the  
 said Summons although it hath now been proved to (*me*) upon  
 oath that the said Summons was duly served upon the said  
 A. B ; These are therefore to command you, in Her Majesty's  
 name, forthwith to apprehend the said A. B. and to bring him  
 before (*me*) or some other of Her Majesty's Justices of the Peace  
 in and for the said (*County* or *United Counties*, or *as the case may*  
*be*) of \_\_\_\_\_, to answer the said charge, and to  
 be further dealt with according to law.

Given under (*my*) Hand and Seal, this \_\_\_\_\_ day of \_\_\_\_\_,  
 in the year of our Lord \_\_\_\_\_, at \_\_\_\_\_ in the  
 (*County*) of \_\_\_\_\_ aforesaid.

J. S. [L. s.]

(E 1.)

INFORMATION TO OBTAIN A SEARCH WARRANT.

Province of Canada, }  
 (*County* or *United* }  
*Counties*, or *as the* }  
*case may be*) of }

The information of A. B. of the \_\_\_\_\_, of \_\_\_\_\_, in  
 the said (*County, &c.*) (*yeoman*), taken this \_\_\_\_\_ day of \_\_\_\_\_,  
 in the year of our Lord \_\_\_\_\_, before me, W. S., Esquire,  
 one of Her Majesty's Justices of the Peace, in and for the  
 (*County* or *United Counties*, or *as the case may be*) of \_\_\_\_\_  
 \_\_\_\_\_, who saith that on the \_\_\_\_\_ day  
 of \_\_\_\_\_, (*insert description of articles stolen*), of the  
 goods and chattels of Deponent, were feloniously stolen, taken  
 and carried away, from and out of the (*Dwelling House &c.*) of  
 this Deponent, at the *Township, &c.*) aforesaid, by (some person  
 or persons unknown, or *name the person*), and that he hath just  
 and reasonable cause to suspect, and doth suspect that the said  
 goods and chattels, or some part of them, are concealed in the  
 (*Dwelling House, &c.*, of *C. D.*) of \_\_\_\_\_, in the said  
 (*County*) (*here add the causes of suspicion, whatever they may be*):  
 Wherefore, (*he*) prays that a Search Warrant may be granted to  
 him to search (*the Dwelling House, &c.*) of the said *C. D.* as  
 aforesaid, for the said goods and chattels so feloniously stolen,  
 taken and carried away as aforesaid.

Sworn before me the day and year first above mentioned,  
 at \_\_\_\_\_ in the said (*County*) of \_\_\_\_\_

W. S.  
 J. P.



(E 2.)

## SEARCH WARRANT.

Province of Canada, }  
 (County or United }  
 Counties, or as the }  
 case may be) of }

To all or any of the Constables, or other Peace Officers, in the  
 (County or United Counties, or as the case may be) of :

Whereas A. B. of the , of , in the  
 said (County &c.) hath this day made oath before me the under-  
 signed, one of Her Majesty's Justices of the Peace, in and for  
 the said (County or United Counties, or as the case may be,)  
 of , that on the day  
 of (copy information as far as place of supposed con-  
 cealment) ; These are therefore in the name of our Sovereign  
 Lady the Queen, to authorize and require you, and each and  
 every of you, with necessary and proper assistance, to enter in  
 the day time into the said (Dwelling House, &c., of the said,  
 &c.) and there diligently search for the said goods and chattels,  
 and if the same or any part thereof shall be found upon such  
 search, that you bring the goods so found, and also the body of  
 the said C. D. before me, or some other Justice of the Peace,  
 in and for the said (County or United Counties, or as the case  
 may be) of to be disposed of and dealt with  
 according to law.

Given under my Hand and Seal, at , in the said  
 (County, &c.) this day of , in the year of our  
 Lord, one thousand eight hundred and

W. S. J. P. (Seal.)

(F)

## CERTIFICATE OF INDICTMENT BEING FOUND.

I hereby certify that at a Court of (Oyer and Terminer, or  
 General Gaol Delivery, or General Sessions of the Peace)  
 holden in and for the (County or United Counties, or as the case  
 may be,) of , at , in the said (County,  
 &c.) on , a Bill of Indictment was found by  
 the Grand Jury against A. B., therein described as A. B.  
 late of , (laborer,) for that he (&c., stating shortly the  
 offence,) and that the said A. B. hath not appeared or pleaded  
 to the said indictment.

Dated this , day of one thousand eight  
 hundred and

Z. X.

Clerk of the Crown or Deputy Clerk of the Crown for  
 the (County or United Counties, as the case may be),  
 or

Clerk of the Peace of and for the said (County or  
 United Counties, as the case may be.)

(G)

## WARRANT TO APPREHEND A PERSON INDICTED.

Province of Canada, }  
 (County or United }  
 Counties, or as the }  
 case may be,) of }

To all or any of the Constables, or other Peace Officers, in the said (County or United Counties, or as the case may be) of :

Whereas it hath been duly certified by J. D., Clerk of the Crown of (name the Court) (or E. G. Deputy Clerk of the Crown, (or Clerk of the Peace, as the case may be) in and for the (County or United Counties, or as the case may be) of that (&c., stating the certificate) ; These are therefore to command you, in Her 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 in and for the said (County or United Counties, or as the case may be,) to be dealt with according to law.

Given under my Hand and Seal, this                    day of                    ,  
 in the year of our Lord                    , at                    , in the (County,  
 &c.) aforesaid.

J. S. [L. s.]

(H)

## WARRANT OF COMMITMENT OF A PERSON INDICTED.

Province of Canada, }  
 (County or United }  
 Counties, or as the }  
 case may be,) of }

To all or any of the Constables, or other Peace Officers in the said (County, &c.) of                    and to the Keeper of the Common Gaol, at                    , in the said (County or United Counties, or as the case may be) of :

Whereas by a Warrant under the Hand and Seal of                    , (one) of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be,) of                    under Hand and Seal                    , dated                    the day of                    , after reciting that it had been certified by J. D. (&c. as in the certificate,) (                    ) the said Justice of the Peace commanded all or any of the Constables, in Her Majesty's name, forthwith to apprehend the said A. B. and to bring him before (him) the said Justice of the Peace in and for the said (County or United Counties, or as the case may be) of                    or before some

other Justice or Justices in and for the said (*County or United Counties, or as the case may be,*) to be dealt with according to law; And whereas the said A. B. hath been apprehended under and by virtue of the said Warrant, and being now brought before (*me*) it is hereupon duly proved to (*me*) upon oath that the said A. B. is the same person who is named and charged by \_\_\_\_\_, in the said indictment; These are therefore to command you the said Constables and Peace Officers, or any of you, in Her Majesty's name, forthwith to take and convey the said A. B. to the said Common Gaol at \_\_\_\_\_, in the said (*County or United Counties, or as the case may be*) of \_\_\_\_\_, and there to deliver him to the Keeper thereof, together with this Precept; and (I) hereby command you the said Keeper to receive the said A. B. into your custody in the said Gaol, and him there safely to keep until he shall thence be delivered by due course of law.

Given under (*my*) Hand and Seal, this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord \_\_\_\_\_, at \_\_\_\_\_, in the (*County, &c.*) aforesaid.

J. S. [L. s.]

(I)

**WARRANT TO DETAIN A PERSON INDICTED, WHO IS ALREADY IN CUSTODY FOR ANOTHER OFFENCE.**

Province of Canada, }  
 (*County or United*  
*Counties, or as the*  
*case may be*) of }

To the Keeper of the Common Gaol at \_\_\_\_\_ in the said (*County or United Counties, or as the case may be*) of \_\_\_\_\_ :

Whereas it hath been duly certified by J. D., Clerk of the Crown of (*name the Court*) or Deputy Clerk of the Crown, or Clerk of the Peace of and for the (*County or United Counties, or as the case may be*) of \_\_\_\_\_ that (*&c. stating the Certificate*); And whereas (*I am*) informed that the said A. B. is in your custody in the said Common Gaol at \_\_\_\_\_ aforesaid, charged with some offence, or other matter; and it being now duly 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 Her Majesty's name, to detain the said A. B. in your custody in the Common Gaol aforesaid, until by Her Majesty's Writ of *Habeas Corpus* he shall be removed therefrom for the

purpose of being tried upon the said indictment, or until he shall otherwise be removed or discharged out of your custody by due course of law.

Given under (*my*) Hand and Seal, this  
 day of \_\_\_\_\_, in the year of our Lord \_\_\_\_\_,  
 at \_\_\_\_\_, in the (*County, &c.*) aforesaid.  
 J. S. [L. s.]

(K)

## ENDORSEMENT IN BACKING A WARRANT.

Province of Canada, }  
 (*County or United* }  
*Counties, or as the* }  
*case may be*) of }

Whereas proof upon oath hath this day been made before me, one of Her Majesty's Justices of the Peace in and for the said (*County or United Counties, or as the case may be*) of \_\_\_\_\_, that the name of J. S., to the within Warrant subscribed, is of the hand-writing of the Justice of the Peace within mentioned; I do therefore hereby authorize W. T. who bringeth to me this Warrant, and all other persons to whom this Warrant was originally directed, or by whom it may be lawfully executed, and also all Constables and other Peace Officers of the said (*County or United Counties, or as the case may be*) of \_\_\_\_\_, to execute the same within the said last mentioned (*County or United Counties, or as the case may be.*)

Given under my Hand, this \_\_\_\_\_ day of \_\_\_\_\_, in the  
 year of our Lord \_\_\_\_\_, at \_\_\_\_\_, in the  
 (*County, &c.*) aforesaid.

J. L.

(L 1.)

## SUMMONS TO A WITNESS.

Province of Canada, }  
 (*County or United* }  
*Counties, or as the* }  
*case may be*) of }

To E. F. of \_\_\_\_\_, (*laborer*):

Whereas information hath been laid before the undersigned, one of Her Majesty's Justices of the Peace in and for the said (*County or United Counties, or as the case may be*) of \_\_\_\_\_, that A. B. (*&c., as in the Summons or Warrant against the accused.*) and it hath been made to appear to me upon (*oath*), that you are likely to give material evidence

for (*prosecution*) ; These are therefore to require you to be and to appear before me on                    next, at                    o'clock in the (*fore*) noon, at                    , or before such other Justice or Justices of the Peace for the same (*County or United Counties, or as the case may be*) of                    , as may then be there, to testify what you shall know concerning the said charge so made against the said A. B. as aforesaid. Herein fail not.

Given under my Hand and Seal, this                    day of                    , in the year of our Lord                    , at                    , in the (*County, &c.*) aforesaid.

J. S. [L. s.]

(L 2.)

WARRANT WHEN A WITNESS HAS NOT OBEYED A SUMMONS.

Province of Canada, }  
 (*County or United* }  
*Counties, or as the* }  
*case may be*) of }

To all or any of the Constables, or other Peace Officers, in the said (*County or United Counties, or as the case may be*) of                    :

Whereas information having been laid before                    , (*one*) of Her Majesty's Justices of the Peace in and for the said (*County, &c.*) of                    , that A. B., (*&c., as in the Summons*) ; And it having been made to appear to (*me*) upon oath that E. F. of                    , (*laborer*), was likely to give material evidence for the prosecution, (*I*) did duly issue (*my*) Summons to the said E. F., requiring him to be and appear before (*me*) on                    , at                    , or before such other Justice or Justices of the Peace for the same (*County or United Counties, or as the case may be*) as might then be there, to testify what he should know respecting the said charge so made against the said A. B. as aforesaid ; And whereas proof hath this day been made upon oath before (*me*) of such Summons having been duly served upon the said E. F. ; And whereas the said E. F. hath neglected to appear at the time and place appointed by the said Summons, and no just excuse has been offered for such neglect ; These are therefore to command you to bring and have the said F. E. before (*me*) on                    at                    o'clock in the (*fore*) noon, at                    , or before such other Justice or Justices of the Peace for the same (*County or United Counties, or as the case may be*) as may then be there, to testify what he shall know concerning the said charge so made against the said A. B. as aforesaid.

Given under (*my*) Hand and Seal, this                    day of                    , in the year of our Lord                    , at                    in the (*County, &c.*) aforesaid.

J. S. [L. s.]

(L 3.)

## WARRANT FOR A WITNESS IN THE FIRST INSTANCE.

Province of Canada, }  
 (County or United }  
 Counties, or as the }  
 case may be) of }

To all or any of the Constables or Peace Officers in the said  
 (County or United Counties, or as the case may be) of :

Whereas information has been laid before the undersigned,  
 (one) of Her Majesty's Justices of the Peace, in and for  
 the said (County or United Counties, or as the case may be)  
 of , that (&c., as in the Summons); and it  
 having been made to appear to (me) upon oath, that E. F.  
 of , (laborer), is likely to give material evidence for  
 the prosecution, and that it is probable that the said E. F. will  
 not attend to give evidence unless compelled to do so; These  
 are therefore to command you to bring and have the said E. F.  
 before (me) on , at o'clock in the (fore) noon,  
 at , or before such other Justice or Justices of the  
 Peace for the same (County or United Counties, or as the case  
 may be) as may then be there, to testify what he shall know  
 concerning the said charge so made against the said A. B. as  
 aforesaid.

Given under my Hand and Seal, this            day of            ,  
 in the year of our Lord            , at            in the  
 (County, &c.,) aforesaid.

J. S. [L. s.]

(L 4.)

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

Province of Canada, }  
 (County or United }  
 Counties, or as the }  
 case may be) of }

To all or any of the Constables or other Peace Officers in the  
 (County or United Counties, or as the case may be) of ,  
 and to the Keeper of the Common Gaol at            , in the said  
 (County or United Counties, or as the case may be) of :

Whereas A. B. was lately charged before            ,  
 (one) of Her Majesty's Justices of the Peace in and for  
 the said (County or United Counties, or as the case may be)  
 of            , for that (&c. as in the Summons); And  
 it having been made to appear to (me) upon oath that E. F.

of \_\_\_\_\_, was likely to give material evidence for the prosecution, (I) duly issued (my) Summons to the said E. F. requiring him to be and appear before me on \_\_\_\_\_, at \_\_\_\_\_, or before such other Justice or Justices of the Peace for the same (County or United Counties, or as the case may be) as should then be there, to testify what he should know concerning the said charge so made against the said A. B. as aforesaid; And the said E. F. now appearing before (me) (or being brought before (me) by virtue of a Warrant in that behalf, to testify as aforesaid, and being required to make oath or affirmation as a witness in that behalf, hath now refused so to do, (or being duly sworn as a witness doth now refuse to answer certain questions concerning the premises which are now here put to him, and more particularly the following) \_\_\_\_\_ without offering any just excuse for such refusal; These are therefore to command you, the said Constables, Peace Officers, or any one of you, to take the said E. F. and him safely convey to the Common Gaol at \_\_\_\_\_, in the (County, &c.) aforesaid, and there to deliver him to the Keeper thereof, together with this Precept; And (I) do hereby command you, the said Keeper of the said Common Gaol to receive the said E. F. into your custody in the said Common Gaol, and him there safely keep for the space of \_\_\_\_\_ days, for his said contempt, unless he shall in the mean time consent to be examined, and to answer concerning the premises; and for your so doing, this shall be your sufficient Warrant.

Given under (my) Hand and Seal, this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord \_\_\_\_\_, at \_\_\_\_\_, in the (County, &c.) aforesaid.

J. S. [L. s.]

(M)

DEPOSITIONS OF WITNESSES.

Province of Canada, }  
 (County or United }  
 Counties, or as the }  
 case may be) of }

The examination of C. W. of \_\_\_\_\_, (farmer,) and E. F. of \_\_\_\_\_ (laborer), taken on (oath) this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord \_\_\_\_\_, at \_\_\_\_\_, in the (County, or as the case may be) aforesaid, before the undersigned, (one) of Her Majesty's Justices of the Peace for the said (County or United Counties, or as the case may be), in the presence and hearing of A. B. who is charged this day before (me) for that he, the said A. B. \_\_\_\_\_ at \_\_\_\_\_, (&c. describing the offence as in a Warrant of Commitment.)

This Deponent, C. D. upon his (*oath*) saith as follows : (*&c. stating the depositions of the witness as nearly as possible in the words he uses. When his deposition is completed, let him sign it.*)

And this Deponent, E. F. upon his (*oath*) saith as follows : (*&c.*)

The above depositions of C. D. and E. F. were taken and (*sworn*) before me, at \_\_\_\_\_ on the day and year first above mentioned.

J. S.

(N)

## STATEMENT OF THE ACCUSED.

Province of Canada, }  
 (County or United }  
 Counties, or as the }  
 case may be) of }

A. B. stands charged before the undersigned, (*one*) of Her Majesty's Justices of the Peace, in and for the (*County or United Counties, or as the case may be*) aforesaid, this day of \_\_\_\_\_ in the year of our Lord \_\_\_\_\_, for that the said A. B., on \_\_\_\_\_, at \_\_\_\_\_, (*&c. as in the caption of the depositions ;*) And the said charge being read to the said A. B., and the witnesses for the prosecution C. D. and E. F. being severally examined in his presence, the said A. B. is now addressed by me as follows : "Having heard the evidence, do you wish to say any thing in answer to the charge ? You are not obliged to say any thing, unless you desire to do so ; but whatever you say will be taken down in writing, and may be given in evidence against you at your trial." Whereupon the said A. B. saith as follows : (*Here state whatever the prisoner may say, and in his very words, as nearly as possible. Get him to sign it if he will.*)

A. B.:

Taken before me, at \_\_\_\_\_, the day and year first above mentioned.

J. S.

(O 1.)

## RECOGNIZANCE TO PROSECUTE OR GIVE EVIDENCE.

Province of Canada, }  
 (County or United }  
 Counties, or as the }  
 case may be) of }

Be it remembered, That on the \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord \_\_\_\_\_, C. D. of \_\_\_\_\_, in \_\_\_\_\_,



the \_\_\_\_\_ of \_\_\_\_\_, in the (Township) of \_\_\_\_\_, in the said (County) of \_\_\_\_\_, (farmer,) (or C. D. of No. 2, \_\_\_\_\_ Street, \_\_\_\_\_ in the Town or City of \_\_\_\_\_, Surgeon, of which said house he is tenant,) personally came before me, one of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be) of \_\_\_\_\_, and acknowledged himself to owe to our Sovereign Lady the Queen the sum of \_\_\_\_\_, of good and lawful current money of this Province, to be made and levied of his goods and chattels, lands and tenements, to the use of our said Lady the Queen, Her Heirs and Successors, if he the said C. D. shall fail in the condition endorsed.

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

J. S.

CONDITION TO PROSECUTE.

The condition of the within (or above) written Recognizance is such, that whereas one A. B. was this day charged before me J. S. Justice of the Peace within mentioned, for that (&c., as in the caption of the depositions;) if, therefore, he, the said C. D. shall appear at the next Court of Oyer and Terminer or General Gaol Delivery, (or at the next Court of General or Quarter Sessions of the Peace,) to be holden in and for the (County or United Counties, or as the case may be) of \_\_\_\_\_, and there prefer or cause to be preferred a Bill of Indictment for the offence aforesaid, against the said A. B. and there also duly prosecute such indictment, then the said Recognizance to be void, or else to stand in full force and virtue.

CONDITION TO PROSECUTE AND GIVE EVIDENCE.

(Same as the last form, to the asterisk,\* and then thus :—“ And there prefer or cause to be preferred a Bill of Indictment against the said A. B. for the offence aforesaid, and duly prosecute such indictment, and give evidence thereon, as well to the Jurors who shall then enquire into the said offence, as also to them who shall pass upon the trial of the said A. B., then the said Recognizance to be void, or else to stand in full force and virtue.”

CONDITION TO GIVE EVIDENCE.

(Same as the last form but one, to the asterisk,\* and then thus : )  
 “ And there give such evidence as he knoweth upon a Bill of Indictment to be then and there preferred against the said A. B. for the offence aforesaid, as well to the Jurors who shall there enquire of the said offence, as also to the Jurors who shall pass upon the trial of the said A. B. if the said Bill

“ shall be found a True Bill, then the said Recognizance to be void, otherwise to remain in full force and virtue.”

(O 2.)

NOTICE OF THE SAID RECOGNIZANCE TO BE GIVEN TO THE PROSECUTOR AND HIS WITNESS.

Province of Canada, }  
 (County or United }  
 Counties, or as the }  
 case may be) of }

Take notice that you C. D. of \_\_\_\_\_, are bound in the sum of \_\_\_\_\_ to appear at the next Court of Oyer and Terminer and General Gaol Delivery, (or at the next Court of General Quarter Sessions of the Peace, in and for the (County or United Counties, or as the case may be) of \_\_\_\_\_, to be holden at \_\_\_\_\_ in the said (County, &c.) and then and there (prosecute and) give evidence against A. B., and unless you then appear there, (prosecute) and give evidence accordingly, the Recognizance entered into by you will be forthwith levied on you.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and \_\_\_\_\_

J. S.

(P 1.)

COMMITMENT OF A WITNESS FOR REFUSING TO ENTER INTO THE RECOGNIZANCE.

Province of Canada, }  
 (County or United }  
 Counties, or as the }  
 case may be) of }

To all or any of the Constables or other Peace Officers in the said (County, or &c.) of \_\_\_\_\_, and to the Keeper of the Common Gaol of the said (County or United Counties, or as the case may be) at \_\_\_\_\_, in the said (County, or as the case may be) of \_\_\_\_\_:

Whereas A. B. was lately charged before the undersigned, (or name of Justice of the Peace, (one) of Her Majesty's Justices of the Peace in and for the said (County, or &c.) of \_\_\_\_\_, for that (&c. as in the Summons to the Witness), and it having been made to appear to (me) upon oath that E. F., of \_\_\_\_\_, was likely to give material evidence for the prosecution, (I) duly issued (my) Summons to the said E. F., requiring him to be and appear before (me) on \_\_\_\_\_, at \_\_\_\_\_ or before such other Justice or Justices of the Peace as should then be there, to testify what he should know concerning the said

charge so made against the said A. B. as aforesaid ; and the said E. F. now appearing before (*me*) (or being brought before (*me*) by virtue of a Warrant in that behalf to testify as aforesaid), hath been now examined before (*me*) touching the premises, but being by (*me*) required to enter into a Recognizance conditioned to give evidence against the said A. B., hath now refused so to do ; These are therefore to command you the said Constables or Peace Officers, or any one of you, to take the said E. F. and him safely to convey to the Common Gaol at in the (*County, &c.*) aforesaid, and there deliver him to the said Keeper thereof, together with this Precept ; and I do hereby command you, the said Keeper of the said Common Gaol to receive the said E. F. into your custody in the said Common Gaol, there to imprison and safely keep him until after the trial of the said A. B. for the offence aforesaid, unless in the mean time the said E. F. shall duly enter into such Recognizance as aforesaid, in the sum of , before some one Justice of the Peace for the said (*County or United Counties, or as the case may be,*) conditioned in the usual form to appear at the next Court of (Oyer and Terminer, or General Gaol Delivery, or General Quarter Sessions of the Peace), to be holden in and for the said (*County or United Counties, or as the case may be*) of and there to give evidence before the Grand Jury upon any Bill of Indictment which may then and there be 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, if a True Bill should be found against him for the same.

Given under my Hand and Seal, this            day of            ,  
in the year of our Lord            , at            in the  
(*County, &c.*), of            aforesaid.

J. S. [L. s.]

(P 2.)

SUBSEQUENT ORDER TO DISCHARGE THE WITNESS.

Province of Canada, }  
(*County or United* }  
*Counties, or as the* }  
*case may be*) of }

To the Keeper of the Common Gaol, at            , in the  
(*County*) of            aforesaid :

Whereas by (*my*) order dated the            day of  
(*instant*), reciting that A. B. was lately before then charged  
before (*me*) for a certain offence therein mentioned, and that  
E. F. having appeared before (*me*), and being examined as a  
witness for the prosecution in that behalf, refused to enter into a

Recognizance to give evidence against the said A. B., and I therefore thereby committed the said E. F. to your custody, and required you safely to keep him until after the trial of the said A. B. for the offence aforesaid, unless in the meantime he should enter into such Recognizance as aforesaid; And whereas for want of sufficient evidence against the said A. B., the said A. B. has not been committed or holden to bail for the said offence, but on the contrary thereof has been since discharged, and it is therefore not necessary that the said E. F. should be detained longer in your custody; These are therefore to order and direct you the said Keeper to discharge the said E. F. out of your custody, as to the said commitment, and suffer him to go at large.

Given under my Hand and Seal, this                    day of                    ,  
in the year of Our Lord                    , at                    , in the  
(County, &c.) of                    aforesaid.

J. S. [L. s.]

(Q 1.)

WARRANT REMANDING A PRISONER.

Province of Canada, }  
(County or United }  
Counties, or as the }  
case may be) of }

To all or any of the Constables or other Peace Officers in the said (County or United Counties, or as the case may be) of                    , and to the Keeper of the Common Gaol or Lock-up House) at                    , in the said (County, &c.,) of                    :

Whereas A. B. was this day charged before the undersigned (one) of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be) of                    , for that (&c., 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 Constables or Peace Officers, or any one of you, in Her Majesty's name, forthwith to convey the said A. B. to the (Common Gaol or Lock-up House) at                    , in the said (County, &c.), and there to deliver him to the Keeper thereof, together with this Precept; and I hereby command you the said Keeper to receive the said A. B. into your custody in the said (Common Gaol or Lock-up House,) and there safely keep him until the                    day of (instant), when I hereby command you to have him at                    , at                    o'clock in the (fore) noon of the same day before (me) or before some other Justice or Justices of the Peace for the said (County or United Counties, or as the case may be) as

may then be there, to answer further to the said charge, and to be further dealt with according to law, unless you shall be otherwise ordered in the mean time.

Given under my Hand and Seal, this                    day of                    ,  
in the year of our Lord,                    , at                    , in the (County,  
&c.) of                    aforesaid.

J. S. [L. s.]

(Q 2.)

RECOGNIZANCE OF BAIL INSTEAD OF REMAND, ON AN  
ADJOURNMENT OF EXAMINATION.

Province of Canada, }  
(County or United }  
Counties, or as the }  
case may be) of }

Be it remembered, That on the                    day of                    ,  
in the year of our Lord                    , A. B. of                    , (laborer),  
L. M. of                    , (grocer), and N. O. of                    , (butcher),  
personally came before me, (one) of Her Majesty's Justices of  
the Peace for the said (County or United Counties, or as  
the case may be), and severally acknowledged themselves  
to owe to our Lady the Queen the several sums following,  
that is to say : the said A. B. the sum of                    ,  
and the said L. M. and N. O. the sum of                    , each, of  
good and lawful current money of this Province, to be  
made and levied of their several goods and chattels, lands and  
tenements respectively, to the use of our said Lady the Queen,  
Her Heirs and Successors if he the said A. B. fail in the con-  
dition endorsed.

Taken and acknowledged the day and year first above men-  
tioned, at                    before me.

J. S.

CONDITION.

The condition of the within written Recognizance is such,  
that whereas the within bounden A. B. was this day (or, on  
*last past*) charged before me for that (&c. as in the  
*Warrant*): And whereas the examination of the Witnesses for  
the prosecution in this behalf is adjourned until the  
day of                    (*instant*); If therefore the said A. B. shall ap-  
pear before me on the said                    day of                    (*instant*),  
at                    o'clock in the forenoon, or before such other Justice  
or Justices of the Peace for the said (County or United Counties)

of *as the case may be*) as may then be there, to answer (*further*) to the said charge, and to be further dealt with according to law, then the said Recognizance to be void, or else to stand in full force and virtue.

## (Q 3.)

NOTICE OF RECOGNIZANCE TO BE GIVEN TO THE ACCUSED  
AND HIS SURETIES.

Province of Canada, }  
(County or United }  
Counties, or as the }  
case may be) of }

Take notice that you A. B. of \_\_\_\_\_, are bound in the sum of \_\_\_\_\_ and your Sureties L. M. and N. O. in the sum of \_\_\_\_\_, each, that you A. B. appear before me J. S., one of Her Majesty's Justices of the Peace for the (*County or United Counties, or as the case may be*) of \_\_\_\_\_, on \_\_\_\_\_, the day of \_\_\_\_\_ (*instant,*) at \_\_\_\_\_ o'clock in the (*fore*) noon, at \_\_\_\_\_, or before such other Justice or Justices of the same (*County or United Counties*) or *as the case may be*) as may be then there, to answer (*further*) to the charge made against you by C. D., and to be further dealt with according to law; and unless you A. B. personally appear accordingly, the Recognizances entered into by yourself and Sureties will be forthwith levied on you and them.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, one thousand eight hundred and \_\_\_\_\_

J. S.

## (Q 4.)

CERTIFICATE OF NON-APPEARANCE TO BE ENDORSED ON THE  
RECOGNIZANCE.

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

J. S.

## (R 1.)

WARRANT TO CONVEY THE ACCUSED BEFORE A JUSTICE OF THE  
COUNTY IN WHICH THE OFFENCE WAS COMMITTED.

Province of Canada, }  
(County or United }  
Counties, or as the }  
case may be) of }

To all or any of the Constables, or other Peace Officers, in the said (*County or United Counties, or as the case may be*) of \_\_\_\_\_: Whereas A. B. of \_\_\_\_\_ (*laborer*), hath this day been charged before the undersigned (*one*) of Her Majesty's Justices

of the Peace in and for the (*County or United Counties, or as the case may be*) of \_\_\_\_\_, for that (&c. as in the *Warrant to apprehend*); And whereas (*I*) have taken the deposition of C. D. a witness examined by (*me*) in this behalf, but inasmuch as (*I*) am informed that the principal witnesses to prove the said offence against the said A. B. reside in the (*County or United Counties, or as the case may be*) of \_\_\_\_\_ where the said offence is alleged to have been committed; These are therefore to command you, in Her Majesty's name, forthwith to take and convey the said A. B. to the said (*County or United Counties, or as the case may be*) of \_\_\_\_\_ and there carry him before some Justice or Justices of the Peace in and for that (*County or United Counties, or as the case may be,*) and near unto the (*Township of* \_\_\_\_\_) where the offence is alleged to have been committed, to answer further to the said charge before him or them, and to be further dealt with according to law; and (*I*) hereby further command you to deliver to the said Justice or Justices the information in this behalf, and also the said deposition of C. D. now given into your possession for that purpose, together with this Precept.

Given under my Hand and Seal, this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord \_\_\_\_\_ at \_\_\_\_\_, in the (*County, &c.,*) of \_\_\_\_\_ aforesaid.

J. S. [L. s.]

(R 2.)

RECEIPT TO BE GIVEN TO THE CONSTABLE BY THE JUSTICE FOR THE COUNTY IN WHICH THE OFFENCE WAS COMMITTED.

Province of Canada, }  
 (*County or United* }  
*Counties, or as the* }  
*case may be*) of }

I, J. P. one of Her Majesty's Justices of the Peace, in and for the (*County, &c.*) of \_\_\_\_\_, hereby certify that W. T., Constable, or Peace Officer, of the (*County or United Counties, or as the case may be*) of \_\_\_\_\_, has on this \_\_\_\_\_ day of \_\_\_\_\_, one thousand eight hundred and \_\_\_\_\_, by virtue of and in obedience to a Warrant of J. S. Esquire, one of Her Majesty's Justices of the Peace in and for the (*County or United Counties, or as the case may be*) of \_\_\_\_\_ produced before me, one A. B. charged before the said J. S. with having (&c. *stating shortly the offence,*) and delivered him into the custody of \_\_\_\_\_ by my direction, to answer to the said charge, and further to be





such Indictment as may be found against him by the Grand Jury, for and in respect to the charge aforesaid, and take his trial upon the same, and not depart the said Court without leave, then the said Recognizance to be void, or else to stand in full force and virtue.

(S 2.)

NOTICE OF THE SAID RECOGNIZANCE TO BE GIVEN TO THE  
ACCUSED AND HIS BAIL.

Take notice that you A. B., of \_\_\_\_\_, are bound in the sum of \_\_\_\_\_, and your Sureties (*L. M. and N. O.*) in the sum of \_\_\_\_\_, each, that you A. B. appear (&c. *as in the condition of the Recognizance,*) and not depart the said Court without leave; and unless you, the said A. B., personally appear and plead, and take your trial accordingly, the Recognizance entered into by you and your Sureties shall be forthwith levied on you and them.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, one thousand eight hundred and \_\_\_\_\_

J. S.

(S 3.)

WARRANT OF DELIVERANCE ON BAIL BEING GIVEN FOR A  
PRISONER ALREADY COMMITTED.

Province of Canada, }  
(County or United }  
Counties, or as the }  
case may be) of }

To the Keeper of the Common Gaol of the (*County or United Counties, or as the case may be*) at \_\_\_\_\_ in the said (*County or United Counties, or as the case may be*) of \_\_\_\_\_ :

Whereas A. B., late of \_\_\_\_\_, (*laborer*), hath before (*us,*) (*two*) of Her Majesty's Justices of the Peace in and for the said (*County or United Counties, or as the case may be*) of \_\_\_\_\_, entered into his own Recognizance, and found sufficient sureties for his appearance at the next Court of Oyer and Terminer or General Gaol Delivery (*or Court of General Quarter Sessions of the Peace*) to be holden in and for the (*County or United Counties, or as the case may be*) of \_\_\_\_\_, to answer our Sovereign Lady the Queen, for that (&c. *as in the Commitment*), for which he was taken and committed to your said Common Gaol; These are therefore to command you, in Her said Majesty's name, that if the said A. B. do remain in your

custody in the said Common Gaol for the said cause, and for no other, you shall forthwith suffer him to go at large.

Given under our Hands and Seals, this                    day of                    ,  
in the year of our Lord                    , at                    , in the  
(*County, &c.*) of                    , aforesaid.

J. S. [L. s.]  
J. N. [L. s.]

(T 1.)

WARRANT OF COMMITMENT.

Province of Canada, }  
(*County or United* }  
*Counties, or as the* }  
*case may be*) of }

To all or any of the Constables, or other Peace Officers, in the (*County or United Counties, or as the case may be*) of                    , and to the Keeper of the Common Gaol of the (*County or United Counties, or as the case may be*) at                    , in the said (*County, &c.*) of                    :

Whereas A. B. was this day charged before (*me*) J. S. (*one*) of Her Majesty's Justices of the Peace in and for the said (*County or United Counties, or as the case may be*) of                    , on the oath of C. D., of                    (*farmer*), and others, for that, (*&c. stating shortly the offence*); These are therefore to command you the said Constables or Peace Officers, or any of you, to take the said A. B., and him safely convey to the Common Gaol at                    aforesaid, and there deliver him to the Keeper thereof, together with this Precept; And I do hereby command you the said Keeper of the said Common Gaol to receive the said A. B. into your custody in the said Common Gaol, and there safely to keep him until he shall be thence delivered by due course of law.

Given under my Hand and Seal, this                    day of                    , in  
the year of our Lord                    , at                    , in the  
(*County, &c.*) of                    aforesaid.

J. S. [L. s.]

(T 2.)

GAOLER'S RECEIPT TO THE CONSTABLE FOR THE PRISONER, AND  
JUSTICE'S ORDER THEREON FOR THE PAYMENT OF THE CON-  
STABLE'S EXPENCES IN EXECUTING THE COMMITMENT.

I hereby certify that I have received from W. T., Constable, of the (*County, &c.*) of                    , the body of A. B., together with

a Warrant under the Hand and Seal of J. S., Esquire, one of Her Majesty's Justices of the Peace for the said (*County or United Counties, or as the case may be*) of , and that the said A. B., was (sober, *or as the case may be*) at the time he was delivered into my custody.

P. K.

Keeper of the Common Gaol of the said (*County, &c.*)  
at

To R. W. Esquire, Treasurer of the (*County or United Counties, or as the case may be*) of :

Whereas W. T., Constable, of the (*County or United Counties or as the case may be*) of , hath produced unto me, J. P., one of Her Majesty's Justices of the Peace in and for the said (*County or United Counties, or as the case may be*) of , the above receipt of P. K., Keeper of the Common Gaol at ; And whereas, in pursuance of the Statute in such case made and provided, I have ascertained that the sum which ought to be paid to the said W. T. for arresting and conveying the said A. B. from , in the (*County of* ) to the said Common Gaol is , and that the reasonable expences of the said W. T. in returning will amount to the further sum of , making together the sum of ; These are therefore to order you, as such Treasurer for the said (*County or United Counties, or as the case may be*) of , to pay unto the said W. T. the said sum of , according to the form of the Statute in such case made and provided, for which payment this Order shall be your sufficient voucher and authority.

Given under my Hand, this                      day of                      one  
thousand eight hundred and

J. P.

Received the                      day of                      , one thousand eight  
hundred and                      , of the Treasurer of the (*County or United  
Counties, or as the case may be*) of                      , the sum of                      , being  
the amount of the above Order.

£                      s.                      d.

W. T.

## C A P. C L X X X .

## An Act to protect Justices of the Peace in Upper Canada from vexatious Actions.

[Assented to 14th June, 1853.]

Preamble.

**W**HEREAS it is expedient to protect Justices of the Peace in Upper Canada in the execution of their duty : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That every Action hereafter to be brought against any Justice of the Peace in Upper Canada for any act done by him in the execution of his duty as such Justice, with respect to any matter within his jurisdiction as such Justice, shall be an action on the case as for a tort ; and in the declaration it shall be expressly alleged that such act was done maliciously and without reasonable and probable cause ; and if at the trial of any such Action, upon the general issue being pleaded, the Plaintiff shall fail to prove such allegation, he shall be non-suit or a verdict shall be given for the Defendant.

Actions for things done within jurisdiction of the Justice to be on the case as for a tort. Malice and want of probable cause must be alleged and proved.

Actions when the Justice shall have exceeded his jurisdiction may lie without such allegation.

But not for an act done under a Conviction or Order until the same be quashed ; Nor for an act done under a Warrant to compel appearance, if a Summons were previously served and not obeyed.

II. And be it enacted, That for any act done by a Justice of the Peace in a matter of which by law he has no jurisdiction, or in which he shall have exceeded his jurisdiction, any person injured thereby, or by any act done under any Conviction or Order made or Warrant issued by such Justice in any such matter, may maintain an action against such Justice in the same form and in the same case as he might have done before the passing of this Act, without making any allegation in his declaration that the act complained of was done maliciously and without reasonable and probable cause : Provided nevertheless, that no such Action shall be brought for any thing done under such Conviction or Order until after such Conviction or Order shall have been quashed, either upon appeal or upon application to one of the Superior Courts of Common Law for Upper Canada ; nor shall any such Action be brought for any thing done under any such Warrant which shall have been issued by such Justice to procure the appearance of such party, and which shall have been followed by a Conviction or Order in the same matter, until after such Conviction or Order shall have been so quashed as aforesaid ; or if such last mentioned Warrant shall not have been followed by any such Conviction

or Order, or if it be a Warrant upon an information for an alleged indictable offence, nevertheless if a Summons were issued previously to such Warrant, and such Summons were served upon such person, either personally or by leaving the same for him with some person at his last or most usual place of abode, and he did not appear according to the exigency of such Summons, in such case no such Action shall be maintained against such Justice for any thing done under such Warrant.

III. And be it enacted, That where a Conviction or Order shall be made by one or more Justice or Justices of the Peace, and a Warrant of distress or of commitment shall be granted thereon by some other Justice of the Peace *bond fide* and without collusion, no Action shall be brought against the Justice who so granted such Warrant by reason of any defect in such 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 such Conviction or Order.

If one Justice make a conviction, &c. and another grant a Warrant, action must be against the former.

IV. And whereas it would conduce to the advancement of justice, and render more effective and certain the performance of the duties of Justices, and give them protection in the performance of the same, if some simple means, not attended with much expense, were devised by which the legality of any act to be done by such Justice might be considered and adjudged by a Court of competent jurisdiction, and such Justice enabled and directed to perform it without risk of any Action or other proceeding being brought or had against him : Be it therefore enacted, That in all cases where a Justice or Justices of the Peace shall refuse to do any act relating to the duties of his or their Office as such Justice or Justices, it shall be lawful for the party requiring such act to be done to apply to either of the Superior Courts of Common Law in Upper Canada, or to the Judge of the County Court of the County or United Counties in which such Justice or Justices may reside, upon an affidavit of the facts, for a rule calling upon such Justice or Justices, 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 rule good cause shall not be shown against it, the said Court may make the same absolute, with or without or upon payment of costs, as to them shall seem meet ; and the said Justice or Justices upon being served with such rule absolute shall obey the same, and shall do the act required ; and no action or proceeding whatsoever shall be commenced or prosecuted against such Justice or Justices, for having obeyed such rule and done such act so thereby required as aforesaid.

If a Justice refuse to do any act, either of the Superior Courts of Common Law or a County, Judge may order him to do it. and no action shall then lie against him for doing it.

After Conviction, &c., confirmed on appeal, no Action to lie for an act done under a Warrant upon it.

V. And be it enacted, That in all cases where a Warrant of Distress or Warrant of Commitment shall be granted by a Justice of the Peace upon any Conviction or Order which, either before or after the granting of such Warrant, shall have been or shall be confirmed upon appeal, no Action shall be brought against such Justice who so granted such Warrant, for any thing which may have been done under the same, by reason of any defect in such Conviction or Order.

If an Action be brought contrary to this Act, Judge may set aside the proceedings.

VI. And be it enacted, That in all cases where by this Act it is enacted that no action shall be brought under particular circumstances, if any such Action shall be brought, it shall be lawful for a Judge of the Court in which the same shall be brought, upon application of the Defendant, and upon an affidavit of facts, to set aside the proceedings in such Action, with or without costs, as to him shall seem meet.

Limitation of Action.

VII. And be it enacted, That no Action shall be brought against any Justice of the Peace for any thing done by him in the execution of his Office, unless the same be commenced within Six Calendar Months next after the act complained of shall have been committed.

Notice of Action to be given, and how.

VIII. And be it enacted, That no such Action shall be commenced against any such Justice of the Peace until one Calendar Month at least after a Notice in Writing of such intended Action shall have been delivered to him, or left for him at his usual place of abode, by the party intending to commence such Action, or by his Attorney or Agent, in which said notice the cause of Action, and the Court in which the same is intended to be brought, shall be clearly and explicitly stated; and upon the back thereof shall be endorsed the name and place of abode of the party so intending to sue, and also the name and place of abode or of business of the said Attorney or Agent, if such notice have been served by such Attorney or Agent.

Venue how to be laid.

IX. And be it enacted, That in every such Action the venue shall be laid in the County where the act complained of was committed, or in Actions in County or Division Courts the Action must be brought in the County or Division within which the act complained of was committed or the Defendant resides, and the Defendant shall be allowed to plead the General Issue therein, and to give any special matter of defence, excuse or justification in evidence under such plea, at the trial of such Action: Provided always, that no Action shall be brought in any such County or Division Court against a Justice of the Peace for any thing done by him in the execution of his office if such Justice shall object thereto; and if within Six Days after being served with a notice of any such Action, such Justice or his Attorney or Agent, shall give a written notice to

Defendant may plead the General Issue and give the special matter, &c. in evidence.

Proviso: Action not to be brought in County or Division.

the Plaintiff in such Action that he objects to being sued in such County or Division Court for such cause of Action, no proceedings afterwards shall be had in such County or Division Court in any such Action, but it shall not be necessary to give another notice of Action in order to sue such Justice in any other Court ; Provided secondly, and it is hereby declared and enacted, that the several County Courts in Upper Canada shall have Jurisdiction and shall hold plea in all Suits or Actions to be brought against Justices of the Peace for any thing done or pretended to be done by them in the execution of their office, when the damages claimed shall not exceed the sum of thirty pounds.

Court if the Justice object.

Proviso :  
County Courts to hold plea of actions against J. P. up to £30.

X. And be it enacted, That in every such case after notice of Action shall be so given as aforesaid, and before such Action shall be commenced, such Justice to whom such notice shall be given may tender to the party complaining, or to his Attorney or Agent, such sum of money as he may think fit as amends for the injury complained of in such notice ; and after such Action shall have been commenced, and at any time before issue joined therein, such Defendant, if he have 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, and which said tender and payment of money into Court, or either of them, may afterwards be given in evidence by the Defendant at the trial under the General Issue aforesaid ; and if the jury at the trial shall be of opinion that the Plaintiff is not entitled to damages beyond the sum so tendered or paid into Court, then they shall give a verdict for the Defendant, and the Plaintiff shall not be at liberty to elect to be nonsuit, and the sum of money, if any, so paid into Court, or so much thereof as shall be 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 ; or if, where money is so paid into Court in any such Action, the Plaintiff shall elect to accept the same in satisfaction of his damages in the said Action, he may obtain from any Judge of the Court in which such Action shall be brought, an order that such money shall be paid out of Court to him and that the Defendant shall pay him his costs to be taxed, and thereupon the said Action shall be determined, and such order shall be a bar to any other Action for the same cause.

Tender and payment of money into Court, by Justice.

If the Jury think the Plaintiff entitled to no greater damages, they shall give a verdict for the Defendant.

If the Plaintiff accepts the money.

XI. And be it enacted, That if at the trial of any such Action the Plaintiff shall not prove that such Action was brought within the time hereinbefore limited in that behalf, or that such notice as aforesaid was given one Calendar Month before such Action was commenced, or if he shall not prove the cause of Action stated in such notice, or if he shall not prove that such cause of Action arose in the County or place laid as venue

If Plaintiff fail to prove certain things he shall be nonsuited, or verdict given for the Defendant.

in the margin of the declaration, or (when such Plaintiff shall sue in the County or Division Court) within the County or United Counties for which such Court is holden, then and in every such case such Plaintiff shall be nonsuit, or the Jury shall give a verdict for the Defendant.

Damages limited in certain cases.

XII. And be it enacted, That in all cases where the Plaintiff in any such Action shall be entitled to recover, and he shall prove the levying or payment of any penalty or sum of money under any Conviction or Order as parcel of the damages he seeks to recover, or if he prove that he was imprisoned under such Conviction or Order, and shall seek to recover damages for any such imprisonment, he shall not be entitled to recover the amount of such penalty or sum so levied or paid, or any sum beyond the sum of two pence as damages for such imprisonment, or any costs of suit whatsoever, if it shall be 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 he was so ordered to pay, and (with respect to such imprisonment) that he had 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 he was so ordered to pay.

What costs shall be allowed to either party.

XIII. And be it enacted, That if the Plaintiff in any such Action shall recover a verdict, or the Defendant shall allow judgment to pass against him by default, such Plaintiff shall be entitled to costs in such manner as if this Act had not been passed ; or if in such case it be stated in the declaration, or in the Summons and particulars in the Division Court if he sue in that Court, that the act complained of was done maliciously and without reasonable and probable cause, the Plaintiff, if he recover a verdict for any damages, or if the Defendant allow judgment to pass against him by default, shall be entitled to his full costs of suit, to be taxed as between Attorney and Client ; and in every action against a Justice of the Peace for any thing done by him in the execution of his Office, the Defendant, if he obtain judgment upon verdict or otherwise, shall in all cases be entitled to his full costs in that behalf, to be taxed as between Attorney and Client.

Commencement of this Act.

XIV. And be it enacted, That this Act shall commence and take effect on the first day of July, in the year of our Lord one thousand eight hundred and fifty-three.

Inconsistent enactments repealed.

XV. And be it enacted, That from and after the time this Act shall so commence and take effect as aforesaid, the following Statutes so far as relates to Actions against Justices of the Peace shall be and shall be deemed and taken to be repealed in so far as regards Upper Canada, that is to say : so much of



an Act of the Parliament of this Province made and passed in the session thereof held in the fourteenth and fifteenth years of Her Majesty's Reign, intituled, *An Act to amend and consolidate the Laws affording protection to Magistrates and others in the performance of public duties*, and all other Act or Acts or parts of Acts which are inconsistent with the provisions of this Act; save and except so much of the said Acts as repeal any other Acts or parts of Acts, and also except as to proceedings then pending, to which the same or any of them may be applicable.

14 & 15 V. c.  
54, as far as  
regards U. C.

XVI. And be it enacted, That this Act shall apply for the protection of all persons for any thing done in the execution of their Office, in all cases in which, by the provisions of any Act or Acts of Parliament, the several Statutes or parts of Statutes by this Act repealed would have been applicable if this Act had not been passed.

Act to apply  
to persons pro-  
tected by re-  
pealed Acts,  
&c.

XVII. And be it enacted, That this Act shall apply to Upper Canada only; and that the word "County" in this Act shall include Unions of Counties for judicial purposes.

Extent of Act.  
Interpretation.

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