

JUSTICES ORDINANCE, 1912-1940. ⁽¹⁾

An Ordinance to consolidate and amend the Laws relating to Justices of the Peace and their powers and duties; and other matters in connection therewith.

BE it enacted by the Lieutenant-Governor of the Territory of Papua with the advice and consent of the Legislative Council thereof as follows:—

PART I.—PRELIMINARY.

1. This Ordinance may be cited as the *Justices Ordinance, 1912-1940.*⁽¹⁾ It is divided into Parts as follows:—

- Part I.—Preliminary.
- Part II.—Justices.
- Part III.—Courts of Petty Sessions and Jurisdiction.
- Part IV.—General Procedure.
- Part V.—Proceedings in Case of Indictable Offences.

Short title and Division.
Section 1 amended by No. 3 of 1914, s. 3 and Second Schedule, and by No. 2 of 1930, s. 2.

(1) The *Justices Ordinance, 1912-1940*, comprises the *Justices Ordinance, 1912*, as amended by the other Ordinances referred to in the following Table:—

ORDINANCES OF THE LEGISLATIVE COUNCIL FOR THE TERRITORY OF PAPUA.

Short title, number and year.	Date of assent by Lieut.-Gov. or Administrator.	Date of reservation by Lieut.-Gov.	Date on which assent of Gov.-Gen. in Council notified in Papua Govt. Gaz.	Date on which came into operation.
<i>Justices Ordinance, 1912</i> (No. 28 of 1912)	16.7.1912 ^(a)	—	—	7.5.1913 (Papua Govt. Gaz. of 7.5.1913)
<i>Ordinances Revision Ordinance, 1913</i> (No. 3 of 1914)	—	14.8.1913	4.2.1914	4.2.1914 (Papua Govt. Gaz. of 4.2.1914)
<i>Justices Ordinance, 1920</i> (No. 10 of 1920)	11.11.1920 ^(b)	—	—	11.11.1920 (<i>Ordinances etc. of Papua, 1920, p. 29</i>)
<i>Justices Ordinance, 1940</i> (No. 13 of 1940)	2.10.1940 ^(c)	—	—	2.10.1940 (<i>Ordinances etc. of Papua, 1940, p. 37</i>)

(a) No notice of non-disallowance by the Gov.-Gen. in Council has been published in Papua Govt. Gaz.

(b) Notice of non-disallowance by Gov.-Gen. in Council was published in Papua Govt. Gaz. of 6.7.1921.

(c) Notice of non-disallowance by Gov.-Gen. in Council was published in Papua Govt. Gaz. of 4.12.1940.

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- Part VI.—Proceedings in Case of Simple Offences and Breaches of Duty.
- Part VII.—Record of Summary Punishment or Dismissal of certain Indictable Offences.
- Part VIII.—Surety of the Peace and for Good Behaviour.
- Part IX.—Appeals from the Decision of Justices.
- Part X.—Protection of Justices in the Execution of their Office.

Repeal.
First Schedule.

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

Commencement.

3. This Ordinance shall come into operation on a day to be fixed by the Lieutenant-Governor by proclamation published in the *Gazette*.⁽¹⁾

Interpretation.

Interpretation.

4. In the interpretation of this Ordinance unless the context otherwise requires—

Justices.

“Justices” means justices of the peace having jurisdiction where the act in question is or is to be performed and includes one justice where one justice has jurisdiction to do the act in question.

Clerk of petty sessions.

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

Indictable offence.
Amended by No. 13 of 1940, s. 3 and Schedule.

“Indictable offence” means an offence which may be prosecuted before the Supreme Court by charge or indictment.

(1) See footnote (1) printed on p. 885.

Justices Ordinance, 1912-1940.

- “Indictment” means an information for an indictable offence presented to a court having jurisdiction to try the accused person by some authorized officer. Indictment.
- “Simple offence” means any offence (indictable or not) punishable on summary conviction before justices by fine imprisonment or otherwise. Simple offence.
- “Breach of duty” means any act or omission (not being a simple offence or a non-payment of a mere debt) upon complaint whereof justices may make an order on any person for the payment of money or for doing or refraining from doing any other act. Breach of duty.
- “Defendant” means a person complained against before justices for an indictable offence simple offence or breach of duty. Defendant.
- The term “complaint” includes the terms “information and complaint” and “charge” when used in any Ordinance and unless the contrary appears means an information and complaint before justices. Complaint.
- “Hearing” includes the examination of a person charged with an indictable offence. Hearing.
- “Summary conviction” or “conviction” means a conviction by justices for a simple offence. Summary conviction.
- “Order” means an order made upon a complaint of a breach of duty. Order.
- “Decision” includes a committal for trial and an admission to bail as well as a conviction order order of dismissal or other determination. Decision.
- “Charge of an indictable offence” means charge of an indictable offence as such and in order to a committal for trial therefor. Charge of indictable offence.
- “Police officer” means any European constable or member of the police force. Police officer.
- “Resident Magistrate” includes an assistant resident magistrate. Resident Magistrate.
- When one word or phrase includes another the derivatives of the one include those of the other. Derivatives.

5. Nothing in this Ordinance shall be construed to diminish or take away from any power or authority conferred on justices of the peace by any other Ordinance except so far as the provisions of this Ordinance are inconsistent with the existence or exercise of such power or authority. General saving of powers of justices. Q. 50 Vic. No. 17, s. 5.

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PART II.—JUSTICES.⁽²⁾

Appointment of justices.

Q. 50/Vic. No. 17, s. 6 altered.

Amended by No. 13 of 1940, s. 3 and Schedule.

Removal from office.

Q. *Ib.* s. 7.

Amended by No. 13 of 1940, s. 3 and Schedule.

Resignation.

Amended by No. 13 of 1940, s. 3 and Schedule.

6. The Administrator may by an appointment notified in the *Gazette* appoint such and so many justices as may from time to time be deemed necessary to keep the peace in the Territory.

7. A justice may be removed or discharged from his office by an order of the Administrator notified in the *Gazette* without any writ of supersedeas or other formal writ.

A justice may at any time resign his office by writing addressed to the Government Secretary and upon such resignation being accepted by the Administrator and such acceptance being notified in the *Gazette* his office shall be vacated.

Persons to be justices.

Q. *Ib.* s. 10 altered.

Amended by No. 13 of 1940, s. 3 and Schedule.

Magistrates.

Q. *Ib.* s. 11.

Amended by No. 13 of 1940, s. 3 and Schedule.

Justices beyond the Territory.

Q. *Ib.* s. 12.

8. Every member of the Executive Council and every judge of the Supreme Court shall by virtue of his office and without any further commission or authority than this Ordinance be a justice of the peace for the Territory.

9. The Administrator may appoint any person to be a resident magistrate or assistant resident magistrate.

10. Any person may be appointed to be a justice of the peace for the Territory although he is not resident in the Territory.

Jurisdiction of justices.

Q. *Ib.* s. 13.

11. Justices of the peace shall have and may exercise within and for their jurisdiction the several powers and authorities conferred upon them by this or any other Ordinance.

Acts done beyond the Territory.

Q. *Ib.* s. 14.

12. Any act done by a justice by virtue of his office out of the Territory for the purpose of the authentication of the signature of any person to any instrument intended to take effect within the Territory and any oath administered by any such justice by virtue of his office out of the Territory in any case in which an oath may be administered by a justice of the peace for the Territory shall unless such act or oath is required by law to be done or administered within the Territory be valid and effectual therein.

Oath of office.

Q. *Ib.* s. 15.

Amended by No. 13 of 1940, s. 3 and Schedule.

13. A justice other than a judge of the Supreme Court shall not exercise any of the functions of his office until he has taken or made an oath or affirmation of allegiance and the oath or affirma-

(2) Regulation 24C of the *National Security (External Territories) Regulations* of the Commonwealth provides that any reference in any law of the Territory of Papua to a Justice of the Peace shall be read as including a reference to a Justice of the Peace of any State or Territory of the Commonwealth.

tion of office prescribed by "The Oaths Act of 1867"⁽³⁾ (Queensland adopted) or any other Ordinance in force for the time being amending or in substitution for that Act. Notwithstanding anything in that Act contained a justice may make an affirmation of allegiance instead of taking the oath of allegiance as therein provided.

Such oaths or affirmations may be taken or made before and may be administered or received by a judge of the Supreme Court or a resident magistrate or any person authorized in that behalf by writ of *dedimus potestatem*.

14. When a person has once taken or made such oaths or affirmations on his appointment to the office of justice of the peace and afterwards ceases or has ceased to hold such office it shall not be necessary for him to again take such oaths or affirmations on his again becoming a justice of the peace for the Territory.

Need not be taken second time.

Q. 50 Vic. No. 17, s. 16.

Descriptions.

15. When a justice is described as a justice of the peace for the Territory such description shall unless there is something to denote a different meaning be taken to mean that he is a justice of the peace for the Territory generally.

Justices how described.

Q. *Ib.* s. 17.

16. The words "resident magistrate" or the letters "R.M." after the signature of any magisterial act shall be *primâ facie* evidence that the person whose signature it purports to be is a justice of the peace and a resident magistrate and the words "assistant resident magistrate" or the letters "A.R.M." after the signature to any magisterial act shall be *primâ facie* evidence that the person whose signature it purports to be is a justice of the peace and an assistant resident magistrate and the words "justice of the peace" or the letters "J.P." after the signature to any magisterial act shall be *primâ facie* evidence that the person whose signature it purports to be is a justice of the peace having jurisdiction in the matter.

Letters R.M. A.R.M. and J.P. Q. *Ib.* s. 18.

PART III.—COURTS OF PETTY SESSIONS AND JURISDICTION.

General Provisions.

17. Whenever by any law for the time being in force in the Territory any person is liable to be prosecuted summarily or is made liable to a penalty or punishment or to pay a sum of money for any offence act or omission and such offence act or omission is not by any such law declared to be treason crime or misdemeanour and no other provision is made for the trial of such person the

General provision. Q. *Ib.* s. 19.

Amended by No. 13 of 1940, s. 2.

(3) Repealed and replaced in the Territory of Papua by the *Oaths Ordinance*, 1912-1927.

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

Authentication of acts of justices.
Q. 50 Vic. No. 17, s. 20.

18. All summonses warrants convictions and orders (not being by law authorized to be made by word of mouth only) shall be under the hands of the justices issuing or making the same.

Presumption.
Q. 1b. s. 21.

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

Courts of petty sessions.
Pap. No. 4 of 1888.

20.—(1.) Every court of petty sessions now existing⁽⁴⁾ established under any enactment hereby repealed shall be deemed to have been established under this Ordinance.

Sub-section (2) amended by No. 13 of 1940, s. 3 and Schedule.

(2.) The Administrator in Council may by proclamation⁽⁴⁾—
(i) Establish additional courts of petty sessions;
(ii) Abolish any such court whether now existing or hereafter established.

Petty sessions districts.
Q. 1b. s. 22.
Q. 11 Vic. No. 41, s. 1.
Sub-section (3) amended by No. 13 of 1940, s. 3 and Schedule.

(3.) The Administrator in Council may by proclamation⁽⁴⁾ appoint districts for the purposes of courts of petty sessions and may appoint places for holding courts of petty sessions within such districts respectively and may in like manner cancel such appointments respectively.

Existing police districts to continue under this Ordinance until altered.
Q. 50 Vic. No. 17, s. 23.

(4.) If necessary more places than one may be appointed within the same district or the appointment may be general and not limited to any particular place or places within the district.

21. Until districts are appointed for the purposes of this Ordinance the districts heretofore appointed⁽⁴⁾ to be courts of petty sessions districts shall be deemed to be districts for the purposes of courts of petty sessions and the places heretofore appointed for holding courts of petty sessions which are within such districts respectively shall be deemed to have been appointed under this Ordinance to be places for holding courts of petty sessions within such districts respectively.

Clerks of Petty Sessions.

Clerks of petty sessions.
Q. 36 Vic. No. 2, s. 1.
Amended by No. 13 of 1940, s. 3 and Schedule.

22. The Administrator may appoint any person to be a clerk of petty sessions at one or more places who may discharge the duties of his office at every place for which he is so appointed.

(4) A Table containing particulars of proclamations establishing or abolishing Courts of Petty Sessions (including notices and proclamations made prior to the *Justices Ordinance, 1912*, and continued in force by the present Section 20(1)) is printed on p. 957. The Table also contains particulars of proclamations appointing districts for the purposes of courts of petty sessions and appointing places for holding courts of petty sessions within districts (including notices and proclamations continued in force under the present Section 21). The proclamations are printed immediately after the Table.

Powers of One Justice.

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

Acts by one justice.
Q. 50 Vic. No. 17, s. 24.

24. After a case has been heard and determined one justice may issue any warrant of execution or commitment thereon and the justice who so acts need not be the justice or one of the justices by whom the case was heard and determined.

After decision one justice may issue warrant of execution or commitment.
Q. *Ib.* s. 25.

25. After an appeal against a conviction or order has been decided against the appellant any justice may issue a warrant of execution or commitment for execution of the same as if no appeal had been brought.

Warrants of execution after appeal.
Q. *Ib.* s. 26.

Hearing and Quorum.

26. Every complaint shall be heard and determined by one justice or two or more justices as is directed by the Ordinance relating to the matter and if there is no such direction then it may be heard and determined by one justice.

Hearing of complaints.
Q. *Ib.* s. 27.

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

Majority to decide.
Q. *Ib.* s. 28.

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

28. Where a complaint must be heard and determined or a conviction or order must be made by two or more justices the justices making the decision must be present and act together during the whole of the hearing and determination.

When two justices required must be present throughout the case.
Q. *Ib.* s. 29.

29. Every resident magistrate shall in the absence of other justices have power to do alone at any time and place appointed for holding courts of petty sessions whatever might be done by two or more justices sitting in petty sessions and shall have power to do alone any act which by any law is or shall be directed to be done by more than one justice.

Special powers given to magistrates who may in all cases act alone in the absence of other justices.
Q. *Ib.* s. 30.

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Duties of clerks of petty sessions to be discharged by magistrate.
Q. 50 Vic. No. 17, s. 31.

30. In any place appointed for holding courts of petty sessions in which a clerk of petty sessions is not appointed or from which the clerk of petty sessions is absent the resident magistrate acting in such place may discharge the duties of clerk of petty sessions and all acts done by such resident magistrate in pursuance hereof shall be as valid as if done by such clerk and all notices required to be given to such clerk and all other matters and things required to be done with or in reference to such clerk may be given to or done with or in reference to such resident magistrate and shall have the like force and effect.

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

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

Duty of Police Officers.

Duty of police officers.
Q. Ib. s. 34.

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

Duty of police officers on apprehension.
Q. Ib. s. 35.

32. Any such police officer or any other persons⁽⁵⁾ who apprehends a person offending against law and whom he lawfully may and ought to apprehend by virtue of his office or otherwise may lawfully take and convey the person so apprehended to and before any justice.

Death &c. of Justice.

Summons or warrant not avoided by death of justice &c.
Q. Ib. s. 37.

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

Order in Lieu of Mandamus.

Order in lieu of mandamus.
Q. Ib. s. 38.
Amended by No. 13 of 1940, s. 3 and Schedule.

34. When a justice refuses to do any act relating to the duties of his office as such justice the party requiring such act to be done may apply to the Supreme Court or a judge thereof upon affidavit of the facts for an order calling upon such justice and also the party to be affected by such act to show cause why such act should not be done and if after due service of such order good cause is not shown against it the court or judge may make the same absolute with or without or upon payment of costs.

(5) The word "persons" appeared in the original Ordinance. *Semble*, "person" was intended.

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

Order for Delivery of Property Stolen &c.

35. When property charged to have been stolen or fraudulently obtained is in the custody of a police officer by virtue of a search warrant or otherwise in the course of the prosecution of any person for an indictable offence in regard to the obtaining of such property and the prosecution has terminated whether by the conviction or discharge of the defendant or otherwise or the defendant cannot be found any justice may make an order for the delivery of the property to the person who appears to be the rightful owner thereof. But no such order shall be a bar to the right of any person to recover the property by action from the person to whom it is delivered by virtue of the order. Provided that the action shall be brought within six months next after the order is made.

Sub-heading inserted by No. 3 of 1914, s. 3 and Second Schedule.

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

Q. 50 Vic. No. 17, s. 39.

Interruption of Proceedings.

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

Penalty for insulting or interrupting justices.

Q. *Ib.* s. 40.

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

PART IV.—GENERAL PROCEDURE.

Complaints.

37. Proceedings before justices shall be commenced by a complaint which may be made or laid by the complainant in person or by his counsel or solicitor or other person authorized in that behalf.

Complaint by whom laid.

Q. *Ib.* s. 42.

38. Every complaint shall be for one matter only and not for two or more matters.

Only one matter of complaint.

Q. *Ib.* s. 43.

Provided that—

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

(2) in other cases if the matters of complaint are substantially of the same act or omission on the part of the defendant—

such matters may be joined in the same complaint.

Description of persons and property.

Q. 50 Vic. No. 17, s. 46.

What is sufficient description of offence.

Q. *Ib.* s. 47.

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

40. The description of any offence in the words of the Ordinance order by-law regulation or other instrument creating the offence or in similar words shall be sufficient in law.

Variance and Amendment.

No objection for defect or variance.

Cf. N.S.W. 27 of 1902, s. 65.

Cf. Q. 50 Vic. No. 17, s. 48.

Section 41 substituted by No. 3 of 1914, s. 3 and Second Schedule.

41.—(1.) No objection shall be taken or allowed to any complaint summons or warrant in respect of—

(a) any alleged defect therein in substance or in form; or

(b) any variance between any complaint summons or warrant and the evidence adduced in support of the complaint at the hearing.

(2.) No variance between any complaint and the evidence adduced in support thereof at the hearing in respect of the time or place at which the offence or act is alleged to have been committed shall be deemed to be material if it is proved that the complaint was in fact laid between the time limited by law in that behalf or that the offence or act was committed in the Territory as the case may be.

Amendment.

Q. *Ib.* s. 49.

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

Minute of amendment.

Q. *Ib.* s. 50.

43. Every order for the amendment of a variance shall be entered on the proceedings of the justices and a minute thereof if required shall be given to the party against whom it was made.

Complaints How Made.

Complaint on oath where warrant issued.

Q. *Ib.* s. 51.

44.—(1.) When it is intended to issue a warrant in the first instance against the party charged the complaint must be in writing and on oath which oath may be made either by the complainant or some other person.

(2.) When it is intended to issue a summons instead of a warrant in the first instance the complaint need not be in writing or on oath but may be verbal merely and without oath whether any previous Ordinance under which the complaint is laid requires it to be in writing or not.

Where summons to be issued.

Limitation.

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

Limitation of proceedings.
Q. 50 Vic.
No. 17, s. 52.

Summons.

46. When a complaint is made before a justice that any person is guilty of or is suspected of having committed any indictable offence simple offence or breach of duty then such justice may issue his summons.

When justice may issue summons.
Q. *Ib.* s. 53.
Amended by No. 3 of 1914, s. 3 and Second Schedule.

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

Summons to state matter of the complaint.
Q. *Ib.* s. 54.

48. Nothing herein contained shall oblige any justice to issue a summons in any case where the application for an order of justices is by law to be made *ex parte*.

Ex parte proceedings.
Q. *Ib.* s. 55.
Amended by No. 13 of 1940, s. 3 and Schedule.

Service Endorsements and Proof of Service.

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

Service.
Q. *Ib.* s. 56.

The person who serves a summons must within three days after service endorse on the summons the day and place of the service thereof and his signature and must unless the summons has been served on the defendant personally attend before the justices at the time and place mentioned in the summons to depose if necessary to the service thereof.

Endorsement of service to be made.

If the summons has been served on the defendant personally the person by whom it was served may attend before any justice and depose in writing on oath to the service thereof. Such deposition shall be endorsed on the summons and on production to the justices before whom the complaint is heard shall be sufficient proof of the service of the summons on the defendant.

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Warrants in the First Instance.

Warrant and summons in what cases issued.

Q. 50 Vic. No. 17, s. 57.

Paragraph (1) amended by No. 3 of 1914, s. 3 and Second Schedule.

Offences committed on the high seas or abroad.

50. When complaint is made before a justice—

- (1) that a person is suspected of having committed an indictable offence; or
- (2) that a person charged with having committed an indictable offence on the high seas or in any creek harbour haven or other place in which the Admiralty of England have or claim to have jurisdiction or on land outside the Territory of which offence cognizance may be taken by the courts of the Territory is suspected of being within such limits the justice may issue his warrant to apprehend such person and to cause him to be brought before justices to answer the complaint and to be further dealt with according to law.

Proviso.

Q. *Ib.* s. 58.

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

Proviso as to issuing warrants.

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

Warrant in the first instance.

Q. *Ib.* s. 59.

Amended by No. 3 of 1914, s. 3 and Second Schedule.

52. When complaint is made before a justice of a simple offence the justice may upon oath being made before him substantiating the matter of the complaint to his satisfaction instead of issuing a summons issue in the first instance his warrant to apprehend the defendant and to cause him to be brought before justices to answer the complaint and to be further dealt with according to law.

Direction of Warrants.

Direction of warrant.

Q. *Ib.* s. 60.

53. A warrant to apprehend a defendant that he may answer a complaint may be directed either to any police officer or officers by name or generally to all police officers within the Territory without naming them or to both.

Any police officer may execute warrant.

Q. *Ib.* s. 61.

54. When a warrant is directed to all police officers any police officer may execute the warrant as if it was directed specially to him by name.

Form of Warrant.

What warrants shall order.

Q. *Ib.* s. 62.

55. A warrant shall state shortly the offence or matter of the complaint on which it is founded and shall name or otherwise

describe the person against whom it is issued and it shall order the police officers to whom it is directed to apprehend the defendant and to bring him before justices to answer the complaint and to be further dealt with according to law.

56. A warrant need not be returnable at any particular time but may remain in force until executed and may be executed by apprehending the defendant at any place within the Territory.

Warrant to be in force till executed.
Q. 50 Vic. No. 17, s. 63.

Sunday Warrants.

57. A justice may grant or issue a warrant upon a complaint of an indictable offence or a search warrant on a Sunday as on any other day.

Sunday warrants.
Q. *Ib.* s. 65.

Arrest without Warrant.

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

Bail of persons arrested without a warrant.
Q. *Ib.* s. 69.

Publicity.

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

Open court.
Q. *Ib.* s. 70.

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

But such power shall not be exercised for the purpose of excluding the counsel or solicitor for the defendant.

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

Exclusion of strangers.
Q. *Ib.* s. 71.

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Counsel and Solicitor.

Counsel or
solicitor.
Q. 50 Vic.
No. 17, s. 72.

61. Every complainant shall be at liberty to conduct his case and to have the witnesses examined and cross-examined by his counsel or solicitor; and subject to the provisions of the last preceding section every defendant shall be admitted to make his full answer and defence to the charge and to have the witnesses examined and cross-examined by his counsel or solicitor.

Evidence.

Evidence how
taken.
Q. *Ib.* s. 73.

62. Every witness shall be examined upon oath or in such other manner as is prescribed or allowed by the Ordinances in force for the time being relating to giving evidence in courts of justice.

Prosecutor's and
complainant's
witnesses.
Q. *Ib.* s. 74.

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

Defendant and
wife or husband
when competent.
Q. *Ib.* s. 75.

64. Upon any complaint of a simple offence or breach of duty the defendant and the wife or husband of the defendant shall be competent witnesses on his or her behalf.

Proof of
negative, etc.
Cf. N.S.W. 27
of 1902, s. 72.
Cf. Q. *Ib.* s. 76.

65. If the complaint negatives any exemption exception proviso or condition in the Act or Ordinance order by-law regulation or other instrument upon which it is framed it shall not be necessary for the complainant to prove such negative but the defendant may prove the affirmative in his defence if he wishes to take advantage thereof.

Substituted by
No. 3 of 1914,
s. 3 and Second
Schedule.

Averment that
a person is a
native to be
proof.

Inserted by
No. 3 of 1914,
s. 3 and Second
Schedule.

65A. The averment in any complaint in relation to any offence under any Ordinance or Regulation that any person named or specified in such complaint is a native shall be sufficient proof that such person is a native within the meaning of such Ordinance or Regulation until the contrary is shown.

Mode of taking
evidence.
Q. *Ib.* s. 77.

66. The depositions of the witnesses shall be reduced to writing and shall be read over to and signed respectively by the witnesses and shall be signed also by the justices.

Witnesses in General.

Power of justice
to summon
witnesses to
attend and give
evidence.
Q. *Ib.* s. 78.

67. If it is made to appear to a justice that any person within his jurisdiction is likely to give material evidence and will not voluntarily appear for the purpose of being examined as a witness at the hearing of any complaint such justice shall issue his summons to such person requiring him to be and appear at a time and place

mentioned in the summons before such justices as shall then be there to testify what he knows concerning the matter of the complaint.

A summons to a witness must be served and a memorandum of service must be endorsed thereon and proof of service may be given in the same manner and within the same time as hereinbefore prescribed in the case of a summons to a defendant.

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

After summons
warrant.
Q. 50 Vic. No.
17, s. 79.

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

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

69. If the justice is satisfied by evidence upon oath that it is probable that a person whose evidence is desired will not attend to give evidence without being compelled to do so then instead of issuing a summons he may issue a warrant in the first instance.

Warrant in the
first instance.
Q. *Ib.* s. 81.

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

Witness not
answering.
Q. *Ib.* s. 82.

71. When justices have authority to summon any person as a witness they shall have the like authority to require and compel him to bring and produce for the purposes of evidence all documents

Production of
documents
before justices.
Q. *Ib.* s. 83.

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and writings in his possession or power and to proceed against him in case of neglect or refusal so to do in the same manner as in case of neglect or refusal to attend or refusal to be examined :

Proviso amended by No. 13 of 1940, s. 3 and Schedule.

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

Remand and Adjournment.

Remand of defendant.

Q. 50 Vic. No. 17, s. 84.

Amended by No. 13 of 1940, s. 3 and Schedule.

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

Verbal remand.

Q. *Ib.* s. 85.

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

Bringing up during remand.

Q. *Ib.* s. 86.

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

Bail of defendant during examination.

Q. *Ib.* s. 87.

75. Instead of detaining the defendant in custody during the period for which he is remanded any one justice before whom he appears or is brought may subject to the provisions hereinafter contained order his discharge upon recognizance.

Adjournment of the hearing.

Q. *Ib.* s. 88.

76. In any case of a charge of a simple offence or breach of duty the justices present or if only one justice is present such one justice may adjourn the hearing to a certain time and place to be then appointed and stated in the presence and hearing of the party or parties or their respective counsel solicitors or agents then present and in the meantime they may suffer the defendant to go

at large or may commit him or may order his discharge upon his entering into a recognizance conditioned for his appearance at the time and place appointed for continuing the hearing.

Committal and Recognizance.

77. When justices commit a defendant by way of remand or upon adjournment or at any time before the decision they may commit to the gaol or lock-up or any other place of security in the place for which they are then acting or to such other safe custody as they think fit.

Place of committal or detention.
Q. 50 Vic. No. 17, s. 89.

78. When justices commit a witness or person sought to be made a witness and when they commit a defendant after the decision they must commit to a gaol or lock-up.

Place to which committal to be made.
Q. *Ib.* s. 90.

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

Witness may be discharged on recognizance.
Q. *Ib.* s. 91.

80. When justices are authorized to discharge a defendant witness or other person upon recognizance they may order his discharge upon his entering into a recognizance with or without a surety or sureties at their discretion conditioned for his appearance at the time and place to which the hearing is adjourned or which is named in the recognizance.

Recognizances.
Q. *Ib.* s. 92.

81. If a defendant witness or other person does not appear at the time and place mentioned in the recognizance then the justices who are there present may adjourn the hearing and may issue a warrant for his apprehension as hereinbefore provided.

Issue of warrant for non-appearance.
Q. *Ib.* s. 93.

Recognizances Generally.

82. When justices have fixed as regards any recognizance the amount in which the principal and sureties (if any) are to be bound the recognizance notwithstanding anything in this or any other Ordinance need not be entered into before the same justices but may be entered into by the parties before the same or any other justice or justices or before any clerk of petty sessions or before a police officer who is in charge of a police station or where any one of the parties is in gaol before the keeper of such gaol and thereupon all the consequences of law shall ensue and the provisions of this Ordinance with respect to recognizances taken before justices shall apply as if the recognizances had been entered into before such justices as heretofore by law required.

Recognizances taken out of court.
Q. *Ib.* s. 94.

83. When the conditions or any of them in any recognizance taken before justices exercising a summary jurisdiction are not complied with any justice may certify upon the back of the recog-

Forfeited recognizances how to be enforced.
Q. *Ib.* s. 95.

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nizance in what respect the conditions have not been observed and transmit the same to the proper officer to be proceeded upon in like manner as other recognizances and such certificate shall be deemed sufficient *primâ facie* evidence of the recognizance having been forfeited.

Arrest of principal by sureties.

Q. 50 Vic. No. 17, s. 96.

Amended by No. 13 of 1940, s. 3 and Schedule.

84. When a recognizance is conditioned for the appearance of a person on a certain day before justices or to take his trial before the Supreme Court if the sureties bound by such recognizance have reasonable grounds for suspecting that such person will not voluntarily surrender himself they may before the day so appointed apprehend their principal and bring him before justices or deliver him into the custody of the keeper of the gaol named in the warrant of committal as the case may be. And any police officer shall if required by such sureties assist them in such apprehension.

Execution of Warrants of Commitment.

Conveying prisoners to gaol.

Q. *Ib.* s. 97.

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

Forms.

Forms in Third Schedule. Adaptation of forms.

Q. *Ib.* s. 98.

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

PART V.—PROCEEDINGS IN CASE OF INDICTABLE OFFENCES.

Information Presented.

Certificate where information is presented.

Q. *Ib.* s. 99.

Amended by No. 13 of 1940, s. 3 and Schedule.

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

88. Upon production of such certificate to any justice such justice shall issue his warrant to apprehend such person and to cause him to be brought before justices to be dealt with according to law.

Warrant thereon.
Q. 50 Vic. No.
17, s. 100.
Amended by
No. 3 of 1914,
s. 3 and Second
Schedule.

89. If such person is thereupon apprehended and brought before justices they upon its being proved upon oath before them that the person so apprehended is the same person who is so informed against shall without further inquiry or examination commit him for trial or discharge him on recognizances.

Committal.
Q. *Ib.* s. 101.

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

Detainer of
prisoner in gaol.
Q. *Ib.* s. 102.

Warrant—Committal.

91. When a person charged with an indictable offence and against whom a summons has been issued does not appear before the justices at the time and place mentioned in the summons and it is made to appear to the justices by oath that the summons was duly served upon him a reasonable time before the time therein appointed for appearing to it then such justices upon oath being made before them substantiating the matter of the complaint to their satisfaction may issue their warrant to apprehend the defendant and to bring him before justices to answer the complaint and to be further dealt with according to law.

Disobedience
of summons.
Q. *Ib.* s. 103.

92. After the examination of all the witnesses on the part of the prosecution is completed the justice or one of the justices before whom the examination has been completed shall without requiring the attendance of the witnesses read or cause to be read to the defendant 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 anything in answer to the charge? You are not obliged to say anything unless you desire to do so; but whatever you say will be taken down in writing and may be given in evidence against you upon your trial. You are clearly to understand that you have nothing to hope from any promise or favour and nothing to fear from any threat which may have been held out to you to induce you to make any admission or confession of

Statement of
defendant.
Q. *Ib.* s. 104.

your guilt; but whatever you now say may be given in evidence against you upon your trial notwithstanding any such promise or threat.”

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

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

Statement may
be put in
evidence at trial.
Q. 50 Vic. No.
17, s. 105.

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

Saving.
Q. Ib. s. 106.

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

Discharge of
defendant.
Q. Ib. s. 197.

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

Committal of
defendant.
Q. Ib. s. 108.
Amended by
No. 13 of 1940,
s. 3 and
Schedule.

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

One justice.
Q. Ib. s. 109.

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

98. A justice or justices may make or join in making an order of committal or dismissal although he or they has not or have not been present during the whole time during which the examinations have been taken.

Justices need not be present during whole examination.
Q. 50 Vic. No. 17, s. 110.

99. When a person has been charged before justices with an indictable offence as such and has been committed for trial then if upon the subsequent trial of the person so charged it is proved that any person whose deposition has been taken in manner hereinbefore prescribed at the hearing of such charge before the justices is dead or so ill as not to be able to travel and if it is also proved that such deposition was taken in the presence of the defendant and that he or his counsel or solicitor 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 such deposition may be read as evidence on the trial without further proof thereof unless it is proved that it was not in fact signed by the justice by whom it purports to be signed.

Depositions of persons dead or absent.
Q. *Ib.* s. 111.

100. When a person is charged with an indictable offence as such the justices shall be bound to hear any evidence tendered on his behalf tending to show that the defendant is not guilty of the offence with which he is charged.

Evidence for defence.
Q. *Ib.* s. 112.

Defendant Admitting Guilt.

101. If the defendant on being asked as aforesaid whether he wishes to say anything in answer to the charge says that he is guilty of the charge the justice or one of the justices shall further say to him the words following or words to the like effect:—"Do you wish the witnesses again to appear to give evidence against you at the court to which you will be committed? If you do not you will now be committed for sentence instead of being committed for trial and you will not afterwards be able to deny your guilt."

If defendant admits guilt and does not wish witnesses to appear against him again he may be committed for sentence.
Q. *Ib.* s. 113.

And if the defendant then says that he does not wish the witnesses again to appear to give evidence against him his statement shall be taken down in writing and read to him and shall be signed by the justices and by the defendant if he so desires and shall be kept with the depositions of the witnesses and shall be transmitted with them to the proper officer as hereinafter provided.

In any such case the justices instead of committing the defendant for trial as hereinbefore provided shall order him to be committed for sentence before the Supreme Court and in the meantime shall by their warrant commit him to gaol to be there safely kept until the sittings of that court or until he is delivered by due course of law.

Amended by No. 13 of 1940, s. 3 and Schedule.

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Bail.

Bail in capital offences.

Q. 50 Vic. No. 17, s. 114.

Amended by No. 13 of 1940, s. 3 and Schedule.

102. No justices shall admit any person to bail for a capital offence nor shall any person charged with any such offence be admitted to bail except by order of the Supreme Court or a judge thereof.

Bailing persons charged with crimes and misdemeanours.

Q. *Ib.* s. 115.

103. When any person is charged before justices with any of the following offences—

- Crime other than a capital crime;
- Assault with intent to commit a crime;
- Attempt to commit a crime;
- Obtaining or attempting to obtain property by false pretences;
- Misdemeanour in receiving property stolen or obtained by false pretences;
- Perjury or subornation of perjury;
- Concealing the birth of a child by secret burying or otherwise;
- Wilful or indecent exposure of the person;
- Riot;
- Assault in pursuance of a conspiracy to raise wages;
- Assault upon a police officer in the execution of his duty or upon any person acting in his aid;
- Neglect or breach of duty as a police officer;

such justices may admit the person charged to bail upon his entering into a recognizance with such surety or sureties as in the opinion of the justices will be sufficient to ensure his appearance at the time and place when and where he is to be tried for the offence.

Bail after commitment for trial.

Q. *Ib.* s. 116.

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

Certificate.

Q. *Ib.* s. 117.

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

Duplicate certificate of consent to bail.

Q. *Ib.* s. 118.

106. If it is inconvenient for the surety or sureties to attend to join with the defendant in the recognizance of bail the committing justices may make a duplicate of such certificate and upon the

same being produced to any person authorized by this Ordinance in that behalf such last-mentioned person may thereupon take the recognizance of the surety or sureties in conformity with such certificate.

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

Procedure.
Q. 50 Vic. No.
17, s. 119.

108. When any person is charged before justices with any indictable offence other than those hereinbefore mentioned the justices if in their opinion the evidence is sufficient to put the defendant upon his trial shall instead of committing him to gaol for such offence admit him to bail with or without sureties in such reasonable sum as they think sufficient to ensure his appearance at the time and place where he is to be tried for the offence. But if he fails to give bail he shall be committed to gaol to take his trial for the offence.

Bail for persons
charged with
other
misdemeanours.
Q. Ib. s. 120.

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

Transmission of Recognizances of Bail.

109. When a defendant in custody is admitted to bail by a justice other than the committing justices the justice so admitting him to bail shall forthwith transmit the recognizance or recognizances of bail to the committing justices or one of them or to the clerk of petty sessions to be by them or him transmitted with the depositions to the proper officer.

Recognizances
how transmitted.
Q. Ib. s. 121.

Warrant of Deliverance.

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

Warrant of
deliverance.
Q. Ib. s. 122.

Witnesses Where Committed for Trial.

111. The justices before whom any witnesses are examined may bind every such witness by recognizance to appear at the court at which the defendant is to be tried then and there to give evidence against the defendant.

Recognizance of
witnesses &c.
Q. Ib. s. 123.

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The recognizance shall particularly specify the profession trade or calling of every person who enters into it together with his Christian name and surname and the place of his residence.

Signature of justices.
Q. 50 Vic. No. 17, s. 124.
Notice to witnesses.

112. Every such recognizance shall be duly acknowledged by every person who enters into it and shall be subscribed by the justices before whom it is acknowledged and a notice thereof signed by the justices shall at the same time be given to every person bound thereby.

Justices may commit refractory witness.
Q. *Ib.* s. 125.

113. If a witness refuses to enter into such recognizance the justices may by warrant commit him to gaol there to be safely kept until after the trial of the defendant unless in the meantime such witness duly enters into such recognizance before a justice.

Discharge of refractory witness.

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

Transmission of Depositions &c.

Transmission of depositions &c.
Compare Q. *Ib.* s. 132.
Amended by No. 13 of 1940, s. 3 and Schedule.

114. When a defendant is committed for trial or for sentence all informations depositions statements and recognizances shall be transmitted by the justices as soon as possible after the conclusion of the case before them to the Registrar of the Supreme Court.

Authority of judge.
Compare Q. *Ib.* s. 128.

115. The said Registrar shall after the opening of the court at the sittings or sessions at which the trial is to be had or the sentence passed have the said documents in court if and when the presiding judge so directs.

Remote Places.

Examination of defendants for offence committed at remote place.
Compare Q. *Ib.* s. 132.

116. When a person is charged before justices with an indictable offence alleged to have been committed in any place remote from them but within their jurisdiction they shall receive such evidence in proof of the charge as shall be produced before them and if in their opinion such evidence is sufficient proof of the charge the justices shall thereupon commit the defendant to gaol or shall admit him to bail as hereinbefore provided and shall bind over the witnesses by recognizance accordingly.

117. If in any such case as in the last preceding section mentioned the evidence is not in the opinion of the justices sufficient to put the defendant upon his trial for the offence with which he is charged then they may bind over such witnesses as they have examined by recognizance to give evidence and may by warrant order the defendant to be taken before some justices having jurisdiction in or near the place where the offence is alleged to have been committed or in any other place in the Territory where any of the witnesses to be examined are and shall at the same time deliver the complaint and also the depositions and recognizances so taken by them to the officer who has the execution of the last-mentioned warrant to be by him delivered to the justices before whom he shall take the defendant in obedience to such warrant.

Remand to another place.
Q. 50 Vic. No. 17, s. 133.

118. Such depositions and recognizances shall be deemed to be taken in the case and shall be treated as if they had been taken by or before the last-mentioned justices and shall together with such depositions and recognizances as such last-mentioned justices shall take in the matter of the charge against the defendant be transmitted to the Registrar of the Supreme Court in the manner and at the time hereinbefore mentioned if the defendant is committed for trial upon the charge or discharged upon recognizances.

Effect of depositions &c.
Q. *Ib.* s. 134.
Amended by No. 13 of 1940, s. 3 and Schedule.

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

Proviso.
Q. *Ib.* s. 135.

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

Defendant may have to pay costs.
Q. *Ib.* s. 137.

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

Venue.

121. Subject to the provisions of the next succeeding section complaints of simple offences or breaches of duty shall be heard and determined at a place appointed for holding courts of petty sessions within the district—

Where summary cases to be heard.
Substituted by No. 10 of 1920, s. 2.

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- (a) in which the offence or breach of duty was committed; or
- (b) in which the defendant usually resides; or
- (c) in which the defendant may be at the time the complaint is made.

Adjournment to different place.
Substituted by No. 10 of 1920, s. 2.

122. If at the hearing of the complaint at one of such places as aforesaid the defendant shall before any evidence is given in support of such complaint make it appear to the justices either by the admission of the complainant or by the oath of a credible witness that the hearing would more conveniently take place at another of such places aforesaid the justices may adjourn the matter to such other place and may commit the defendant in the meantime or discharge him upon recognizance conditioned for his appearance at the time and place to which the hearing is so adjourned. And the defendant and every witness summoned to give evidence shall be bound to attend at such time and place accordingly.

Complainant's Default.

Dismissal or adjournment in absence of complainant.
Q. 50 Vic. No. 17, s. 141.

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

Defendant's Default.

Ex parte hearing in absence of defendant.
Q. *Ib.* s. 142.

124. If at the time and place so appointed the defendant does not appear when called and proof is made to the justices upon oath or by deposition made in manner hereinbefore prescribed of due service of the summons upon the defendant a reasonable time before the time appointed for his appearance the justices may either—

- (1) proceed *ex parte* to hear and determine the case in the absence of the defendant; or
- (2) upon oath being made before them substantiate the matter of the complaint to their satisfaction issue their warrant to apprehend the defendant and to bring him before justices to answer the complaint and to be further dealt with according to law.

Disobedience of summons.

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

Or justices may adjourn the case.
Q. 50 Vic. No. 17, s. 143.

Hearing.

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

Both parties appearing.
Q. *Ib.* s. 144.

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

Proceedings at the hearing on defendant's confession.
Q. *Ib.* s. 145.

128. But if he does not admit the truth of the complaint then the justices shall proceed to hear the complainant and his witnesses and also the defendant and his witnesses and also such witnesses as the complainant may examine in reply if the defendant has given any evidence other than as to his general character; and the justice having heard what each party has to say and the evidence so adduced shall consider the whole matter and determine the same and shall convict or make an order upon the defendant or dismiss the complaint as justice may require.

Where defendant does not admit the case.
Q. *Ib.* s. 146.

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

Justices may proceed to hearing in absence of both or either of the parties.
Q. *Ib.* s. 147.

Practice.

130. The practice before justices upon the hearing of a complaint of a simple offence or breach of duty shall in respect of the examination and cross-examination of witnesses and the right of addressing the justices upon the case in reply or otherwise be in accordance as nearly as may be with the practice for the time being of the Supreme Court upon the trial of an issue of fact in an action of law.

Conduct of summary proceedings regulated.
Q. *Ib.* s. 148.
Amended by No. 13 of 1940, s. 3 and Schedule.

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Dismissal.

Dismissal of
complaint.
Q. 50 Vic.
No. 17, s. 149.

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

Minutes of Convictions and Orders.

Minute of
decision to be
made and
served on
defendant.
Q. *Ib.* s. 150.

132. When justices convict or make an order against a defendant a minute or memorandum of the conviction or order shall be made and signed by them and a copy thereof shall be served upon the defendant before any warrant of commitment or of execution is issued in pursuance of the conviction or order unless such warrant is issued immediately upon making the conviction or order.

Such minute shall not form any part of the warrant of commitment or of execution.

Convictions and Orders.

Formal
convictions and
orders.
Q. *Ib.* s. 151.

133. The conviction or order shall afterwards if required be drawn up by the justices in proper form and they shall cause the same to be lodged with the clerk of petty sessions to be by him filed among the records of the court.

Formal record
of conviction
not necessary
except for
special purposes.
Q. *Ib.* s. 152.
Amended by
No. 13 of 1940,
s. 3 and
Schedule.

134. Provided that it shall not be necessary for justices formally to draw up a conviction or order or any other record of a decision unless the same is demanded by a party to the proceedings for the purpose of an appeal against the decision or is required for the purpose of a return to a writ of *habeas corpus* or other writ from the Supreme Court.

No Certiorari.

No certiorari.
Q. *Ib.* s. 153.
Amended by
No. 13 of 1940,
s. 3 and
Schedule.

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

Copies of Depositions &c.

Copies of
proceedings in
summary cases.
Q. *Ib.* s. 154.
Amended by
No. 13 of 1940,
s. 3 and
Schedule.

136. When a conviction or order is made or a complaint is dismissed by justices all parties interested therein shall be entitled to demand and have copies of the complaint and depositions and of the conviction or order from the officer or person having the custody thereof on payment of a reasonable sum for the same at a rate to be prescribed⁽⁶⁾ by the Administrator in Council but not exceeding threepence for each folio of seventy-two words.

(6) No instrument prescribing such rate has been published in *Papua Govt. Gaz.* See, however, the *Justices (Fees) Ordinance, 1912.*

Imprisonment.

137. When the justices upon a conviction adjudge the defendant to be imprisoned with or without hard labour they shall issue their warrant of commitment accordingly.

Imprisonment in first instance.
Q. 50 Vic. No. 17, s. 155.

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

Imprisonment for a subsequent offence.
Q. *Ib.* s. 156.

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

Costs.

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

Costs on conviction or order.
Q. *Ib.* s. 157.

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

Costs on dismissal.
Q. *Ib.* s. 158.

141. The sum so allowed for costs shall in all cases be specified in the conviction or order or order of dismissal.

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

Q. *Ib.* s. 159.

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

Costs how recoverable.
Q. *Ib.* s. 160.

Execution.

143. When the decision adjudges the payment of a pecuniary penalty or compensation or sum of money or costs or when an order requires the payment of a sum of money or costs and by this

Warrant of execution. Compare Q. *Ib.* s. 161.
Q. 56 Vic. No. 23, s. 2.

Ordinance or the Ordinance authorizing the decision the amount of the penalty compensation or sum of money or costs is to be levied by distress and sale of the goods and chattels of the person liable to make such payment or by execution and also when the mode of raising or levying such penalty compensation sum of money or costs or of enforcing the payment of the same is not specified by any Ordinance then the same shall be recoverable by execution against the goods and chattels of the person liable to make such payment and a warrant of execution may be issued for the purpose of levying the same.

Discharge or
detainer of
defendant.

Compare Q. 50
Vic. No. 17, s.
162.

Q. 56 Vic.
No. 23, s. 3.

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

In default of
execution
defendant
committed.

Q. 50 Vic.
No. 17, s. 163.

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

When court
may order
imprisonment in
default.

Q. 9 Edw. VII.
No. 11, s. 3.

146. In all cases where the decision adjudges the payment of a pecuniary penalty or compensation or sum of money or costs or where an order requires the payment of a sum of money or costs and the same is in pursuance of this Ordinance recoverable by execution against the goods and chattels of the person liable to make such payment the adjudicating justices may as part of such decision or order further order that in default of sufficient distress to satisfy the sum adjudged to be paid and the costs and charges of execution the person liable to make such payment shall be imprisoned with or without hard labour for a period according to the scale hereinafter prescribed unless the sum adjudged to be paid and all costs and charges of the execution and also if the justices think fit so to order the costs and charges of taking and conveying the

said person to prison (the amount thereof being ascertained and stated in the said decision or order) are sooner paid.

147. When by a conviction or order any sum or costs is or are adjudged to be paid the justices may do all or any of the following things namely—

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

Payment by instalments of or security taken for payment of money.
Q. 50 Vic.
No. 17, s. 164.

When a sum or costs is or are directed to be paid by instalments and default is made in the payment of any one instalment the same proceedings may be taken as if the original conviction or order had adjudged the payment of all the instalments then remaining unpaid and default had been made therein.

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

148. When the Ordinance by virtue of which a conviction or order for a penalty or compensation or for the payment of a sum of money or costs is made makes no provision for such penalty or compensation or sum or costs being levied by distress or execution but directs that if the same is not paid forthwith or within a certain time therein mentioned or to be mentioned in the conviction or order the defendant or other the person liable shall be imprisoned with or without hard labour for a certain time unless such penalty compensation or sum or costs is or are sooner paid then such penalty compensation or sum or costs shall not be levied by execution but if the defendant or other the person liable does not pay the same forthwith or at the time and in the manner specified in the conviction or order for payment thereof the justices making the conviction or order or any other justice may order such defendant or person to be imprisoned with or without hard labour for a period according to the scale hereinafter prescribed unless the sum and

Commitment for non-payment of a penalty or a sum ordered to be paid.
Q. 17. s. 165.

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

Commitment in other cases.
Q. 50 Vic. No. 17, s. 166.

149. When an order is not for the payment of money but for the doing of some other act and directs that in case of the defendant's neglect or refusal to do such act he shall be imprisoned with or without hard labour then if the defendant neglects or refuses to do such act the justices making such order or some other justice may order the defendant to be imprisoned with or without hard labour as the case may be for such time as the justices making the order directed.

Power to postpone issue of warrant applied for.
Q. 9 Edw. VII. No. 11, s. 4.

150. Any justice or justices to whom application is made either to issue a warrant of execution for any sum adjudged to be paid by a decision or order or to issue a warrant of commitment for non-payment of any such sum or for default of sufficient distress to satisfy any such sum may if he or they deem it expedient so to do postpone the issue of such warrant until such time or on such conditions (if any) as to him or them may seem just.

Immediate Execution.

Commitment of defendant where execution would be ruinous.
Q. 50 Vic. No. 17, s. 167.

151. If it appears to the justices to whom application is made for a warrant of execution that the issuing thereof would be ruinous or injurious to the person against whom it is sought or his family or if it appears to such justices by the confession of the person against whom it is sought or otherwise that he has no goods or chattels whereon to levy the penalty or sum or costs then such justices instead of issuing a warrant of execution may order such person to be imprisoned with or without hard labour for a period according to the scale hereinafter prescribed unless the sum and costs (if any) or the costs adjudged to be paid and also if the justices think fit so to order the costs and charges of taking and conveying such person to gaol (the amount thereof being ascertained and stated in the warrant of commitment) are sooner paid.

Satisfaction of Execution by Payment.

Discharge of defendant.
Q. 17, s. 168.

152. When a person is imprisoned for non-payment of a penalty compensation or sum of money or costs he may pay to the keeper of the gaol in which he is imprisoned the sum in the warrant of commitment mentioned together with the amount of the costs charges and expenses (if any) therein also mentioned and the said keeper shall receive the same and shall thereupon discharge such person if he is in his custody for no other matter and shall forthwith pay the sum so received to the clerk of petty sessions.

Payment under Execution.

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

To whom
payments to be
made.
Q. 50 Vic.
No. 17, s. 169.

Mode of Execution.

154. With respect to warrants of execution issued by justices the following proviso shall have effect—

Procedure on
execution.
Q. *ib.* s. 172.

- (1) The warrant shall be executed by seizure and sale of the goods and chattels of the person against whom the warrant is issued and shall be executed by or under the direction of a police officer or by or under the direction of some other person in the Public Service to be named in the warrant.
- (2) Except so far as the person against whom the execution is issued otherwise consents in writing the goods and chattels seized shall be sold by public auction and five clear days at least shall intervene between the making of the levy and the sale of which due and public notice shall be given except in the case of perishable goods which may be sold at the expiration of twenty-four hours from seizure after such notice as is practicable but where written consent is so given the sale may be made in accordance with such consent.
- (3) Subject as aforesaid the goods and chattels seized shall be sold within the period fixed by the warrant and if no period is so fixed then within the period of fourteen days from the date of making the levy unless the sum for which the warrant was issued together with the charges of the execution are sooner paid.
- (4) Subject to any directions to the contrary given by the warrant of execution where household goods are seized the goods shall not except with the consent in writing of the person against whom the execution is issued be removed from the house until the day of sale but so much of the goods as is in the opinion of the person executing the warrant sufficient to satisfy the execution shall be impounded by affixing to the articles impounded a conspicuous mark and any person who removes any goods so marked or defaces or removes such mark shall be liable to a penalty not exceeding Five pounds.

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- (5) When a person charged with the execution of a warrant of execution wilfully retains from the produce of any goods sold to satisfy the execution or otherwise exacts any greater costs and charges than those to which he is for the time being entitled by law or makes any improper charge he shall be liable to a penalty not exceeding Twenty pounds; and the justices before whom he is convicted may order him to pay any sum so retained exacted or improperly charged to the person entitled thereto.
- (6) A written account of the costs and charges incurred in respect of the execution of any warrant of execution shall be sent by the police officer or other person charged with the execution of the warrant as soon as practicable to the clerk of petty sessions; and the person against whom the warrant was issued may at any time within one month after the levy inspect such account without fee or reward at any reasonable time and take a copy of such account.
- (7) The police officer or other person charged with the execution of a warrant of execution shall cause the goods and chattels seized under it to be sold and may deduct out of the amount realized by such sale all costs and charges actually incurred in effecting such sale and shall render to the owner the overplus (if any) after retaining the amount of the sum for which the warrant was issued and the proper costs and charges of the execution of the warrant.
- (8) When a person pays or tenders to the police officer or other person charged with the execution of a warrant of execution the sum mentioned in such warrant or produces the receipt for the same of the clerk of petty sessions and also pays the amount of the costs and charges of the execution up to the time of such payment or tender such officer or other person shall not execute the warrant.

Satisfaction of execution by payment.

Mitigation of punishment by justices.

Q. 50 Vic.
No. 17, s. 173.

Imprisonment.

155. Subject as in this Ordinance mentioned and notwithstanding any enactment to the contrary when justices have authority under this Ordinance or under any other Ordinance whether past or future to impose imprisonment with hard labour or to impose a fine for an offence punishable on summary conviction such justices may in the case of imprisonment impose the same without hard labour and may reduce the prescribed period thereof

or do either of such acts and in the case of a fine if it is imposed as in respect of a first offence may reduce the prescribed amount thereof.

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

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

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

Scale of imprisonment for non-payment of money.
Q. 50 Vic.
No. 17, s. 174.

Where the amount of the sum or sums of money adjudged to be paid (including costs as ascertained by the conviction or order or order of dismissal)—	The said period shall not exceed—
Is less than Ten shillings ..	Seven days.
Is not less than Ten shillings but less than One pound ..	Fourteen days.
Is not less than One pound but is less than Five pounds ..	Three months.
Is not less than Five pounds ..	Six months.

And such imprisonment shall be without hard labour except where hard labour is authorized by the Ordinance on which the conviction or order is founded in which case the imprisonment may

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if the justice of the case require it be with hard labour so that the term of hard labour awarded does not exceed the term authorized by that Ordinance.

Imprisonment for non-payment of costs.

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

Reduction of imprisonment on payment of portion of fine &c.

Q. 9 Edw. VII. No. 11, s. 5.

Provided further that—

- (a) Where on application to any justices or justice to issue a warrant of commitment for non-payment of a sum adjudged to be paid by a decision or order or for default of sufficient distress to satisfy any such sum and the costs and charges of execution it appears to the justices or justice to whom the application is made that either by payment of part of the said sum whether in the shape of instalments or otherwise or by the net proceeds of the distress the amount of the sum originally payable has been reduced then the term of imprisonment for which the person liable may be committed shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days for which he might have been committed if the sum originally payable had not been reduced as the sum so paid or realized bears to the sum originally payable;
- (b) Where a person is committed to prison for non-payment of a sum adjudged to be paid by a decision or order then on payment to the keeper of the prison under conditions prescribed by prison rules of any sum in part ratification of the sum adjudged to be paid and any of the costs and charges for which the prisoner is liable the term of imprisonment shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days for which the prisoner was committed as the sum so paid bears to the sum for which he was originally liable.

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

Clerk of petty sessions to pay over to Treasurer.

Q. 50 Vic. No. 17, s. 175.

157. All sums received by a clerk of petty sessions as the proceeds of a warrant of execution shall forthwith be paid by him to the person to whom the same respectively are to be paid according to the directions of the Ordinance under which the complaint was made and if the Ordinance contains no directions for the payment thereof to any person then the clerk of petty sessions shall pay the same to the Treasurer.

158. Every clerk of petty sessions and every keeper of a gaol shall keep a true and exact account of all moneys received by him under or by virtue of any conviction or order showing the persons from whom and the time when the sums were received and to whom and when the sums were paid in the form of the Third Schedule of this Ordinance or to the like effect and shall once in every month render a fair copy of every such account to the justices at the first court of petty sessions holden on or next after the first day of every month under a penalty of Forty shillings for every default.

Accounts to be kept in the form in Schedule 3.
Q. 50 Vic. No. 17, s. 176.

Remission.

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

Remission of penalty.
Q. *Ib.* s. 177.
Amended by No. 13 of 1940, s. 3 and Schedule.

160. The justices may adjudge that no part of a penalty or such part only of a penalty as they think fit shall be paid to an informer not being a party aggrieved unless by the Ordinance on which the conviction is founded it is expressly directed that a moiety or other fixed portion of the penalty shall be paid to the informer.

Power to withhold fines payable to informers.
Q. *Ib.* s. 178.

PART VII.—RECORD OF SUMMARY PUNISHMENT OR DISMISSAL OF CERTAIN INDICTABLE OFFENCES.

Record.

161. The justices before whom any person is convicted or dismissed in respect of any prosecution for an indictable offence which may be dealt with by justices in a summary manner shall forthwith thereafter transmit the conviction and recognizances or a copy of the certificate of dismissal (if any) as the case may be to the Registrar of the Supreme Court to be kept by him among the records of the court; and such justices shall also cause all such decisions to be registered in the petty sessions book.

Convictions &c. to be returned to the clerk of the peace.
Q. *Ib.* s. 197
Amended by No. 13 of 1940, s. 3 and Schedule.

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

162. When complaint in writing is made before a justice that any person has threatened to do to the complainant or to his wife or child or any person under his care or charge any bodily injury or to burn or injure his house or otherwise to commit a breach of the peace towards him or his wife or child or such other person as aforesaid or to procure others to commit such breach of the peace or do such injury or has used any language indicating an intention to commit such breach of the peace or to do such injury or procure

Complaint praying for surety of the peace.
Q. *Ib.* s. 198.

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it to be committed or done and that the complainant is in fear of the defendant and the complainant therefore prays that the defendant may be required to find sufficient sureties to keep the peace such proceedings may be had as are in this Part of this Ordinance mentioned.

Complaint
praying for
surety for good
behaviour.
Q. 50 Vic. No.
17, s. 199.

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

Evidence in
support.
Q. *Ib.* s. 200.

164. Upon the making of any such complaint as aforesaid the justice may receive corroborating affidavits of third persons in support of the matters stated in the complaint.

Warrant.
Q. *Ib.* s. 201.

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

Proceedings on
appearance of
defendant.
Q. *Ib.* s. 202.

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

Evidence.
Q. *Ib.* s. 203.

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

Case to be
dismissed or
surety of the
peace &c.
required.
Q. *Ib.* s. 204.

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

Notice of
recognizances.
Q. *Ib.* s. 205.

169. Notice of any such recognizances shall be given to the parties bound in the same manner as of other recognizances.

170. If the defendant is in gaol under commitment for want of sureties at the time he enters into the recognizance then the justice taking the same shall issue a warrant to the keeper of the gaol to discharge him.

Discharge.
Q. 50 Vic.
No. 17, s. 206.

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

Estreating
recognizance.
Q. *Ib.* s. 207.

172. Costs may be awarded upon proceedings under this Part of this Ordinance in the same manner and to the same extent and recoverable by the same process as upon a complaint of a simple offence.

Costs.
Q. *Ib.* s. 208.

PART IX.—APPEALS FROM THE DECISIONS OF JUSTICES.

Appeal to the Supreme Court.

Heading
amended by
No. 13 of 1940,
s. 3 and
Schedule.

173. If any person feels aggrieved by a conviction or order of justices he may apply to the Supreme Court or a judge thereof in chambers for an order calling on the justices and the prosecutor or other party interested in maintaining the conviction or order to show cause before the said court or a judge thereof why such conviction or order should not be quashed which order may be made returnable on any day.

Order to quash
conviction or
order.
Q. *Ib.* s. 209.
Amended by
No. 13 of 1940,
s. 3 and
Schedule.

174. If whether cause is then shown or not the court or a judge after inquiry into the matter and consideration of the evidence adduced before the justices thinks that the conviction or order cannot be supported the court may direct it to be quashed and may make such further order in the premises as is just and the circumstances require.

Direction
thereon.
Q. *Ib.* s. 210.

175. Application for any such order must be made within the times following that is to say—

Time for
application for
order.
Q. *Ib.* s. 211.

- (1) If the place of residence of the applicant is distant less than one hundred miles from Port Moresby within twenty days after the conviction or order is made;

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- (2) If his place of residence is distant one hundred miles and less than one hundred and fifty miles from Port Moresby within thirty days after the conviction or order is made;
- (3) If his place of residence is distant one hundred and fifty miles or upwards from Port Moresby within sixty days after the conviction or order is made.

Provided that such times may be altered and other times prescribed by a general rule of the Supreme Court⁽⁷⁾ and may be extended for such further time as the court or judge in any case shall allow.

Proviso amended by No. 13 of 1940, s. 3 and Schedule.

As to drawing up and transmitting convictions and orders.

Q. 50 Vic. No. 17, s. 212.

176. The time for applying for an order to show cause shall begin to run from the time when the decision is pronounced whether the conviction or order is formally drawn up or not. Provided that the court may postpone its decision until the conviction or order is so drawn up and transmitted in due form.

Proceedings in relation thereto. Q. 1b. s. 213.

177. No order to show cause shall be granted except on affidavit showing a *primâ facie* case of mistake or error on the part of the justices.

Amendment. Q. 1b. s. 214.

178. When the mistakes or errors appear to be amendable the court shall allow the conviction or order to be amended accordingly and after such amendment the conviction or order may be enforced and dealt with in all respects as if it had been so drawn up originally.

Party called upon may consent to order being made absolute.

Costs in such case.

Q. 1b. s. 215.

Amended by No. 13 of 1940, s. 3 and Schedule.

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

Costs generally. Q. 1b. s. 216.

180. Subject to the provisions of the last preceding section costs shall be in the discretion of the court or judge and shall be payable by and to whom and as and when the court or judge shall direct.

(7) No rule of the Supreme Court has been published in *Papua Govt. Gaz.*

Habeas Corpus and Certiorari.

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

Control of Supreme Court over summary convictions.
Q. 50 Vic. No. 17, s. 218.
Amended by No. 13 of 1940, s. 3 and Schedule.

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

Amendment.
Q. *Ib.* s. 219.

183. The like proceedings as in the last two preceding sections mentioned shall be had and the like amendments may and shall be allowed to be made in respect of every order brought before the court or a judge by writ of *certiorari* and after amendment in any such case the order may be enforced in the proper manner and shall in all respects and for all purposes be regarded and dealt with as if it had been drawn up originally as amended.

In cases of *certiorari*.
Q. *Ib.* s. 220.

184. The notice hereby prescribed may be given either before or after the issue of the writ of *habeas corpus* or *certiorari*. Provided that when at the time of applying for the writ—

Notice dispensed with.
Cf. Q. *Ib.* s. 221.

- (a) copies of the conviction or order and depositions are produced; or
- (b) in cases of committal for trial or for sentence all informations depositions and statements have been transmitted as hereinbefore provided to the Registrar of the Supreme Court;

Paragraph (b) amended by No. 13 of 1940, s. 3 and Schedule.

the court or judge may dispense with such notice.

Power to court or judge to admit to bail.
Q. 50 Vic. No. 17, s. 222.

185. When any person committed to gaol by virtue of a summary conviction or order is brought up by writ of *habeas corpus* and the court or judge postpones the final decision of the case such court or judge may discharge the person upon his recognizance with or without sureties for his appearance at such time and place and upon such conditions as the court or judge may appoint.

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

Amendment—Informalities.

Respecting the amendment of convictions &c.
Q. *Ib.* s. 223.

186. Whenever the facts or evidence appearing by the depositions in substance support the adjudication of the justices then if such adjudication does not extend beyond the complaint and if such facts or evidence would have justified the justices in making any necessary allegation or finding omitted in such adjudication or in the formal conviction or order or any warrant issued in pursuance of such adjudication the powers of amendment conferred by the foregoing provisions of this Part of this Ordinance may be exercised and when in a conviction there is some excess which may (consistently with the merits of the case) be corrected the conviction shall be amended accordingly and shall stand good for the remainder. And all amendments shall be subject to such order as to costs and otherwise as the court or judge thinks fit.

Want of summons or complaint.
Q. *Ib.* s. 224.

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

Distribution of penalty.
Q. *Ib.* s. 225.

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

Heading amended by No. 13 of 1940, s. 3 and Schedule.

Appeal to Supreme Court by Way of Special Case.

Justices on application of a party aggrieved to state a case for the opinion of the Supreme Court.
Q. *Ib.* s. 226.
Amended by No. 13 of 1940, s. 3 and Schedule.

189. Any party to a proceeding before justices who desires to appeal from the decision of the justices on the ground that it is erroneous in point of law or is in excess of jurisdiction may apply in writing within seven days after the decision is pronounced to the justices to state and sign a case setting forth the facts and the grounds of decision for appeal thereon to the Supreme Court. The appellant party shall within ten days after receiving such case transmit the same to the Registrar of the Supreme Court first

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giving notice in writing of such appeal with a copy of the case so stated and signed to the other or respondent party.

190. The appellant shall at the time of making such application and before a case is stated and delivered to him by the justices enter into a recognizance before such justices or some other justice with or without a surety or sureties and in such sum as is directed by the justices or justice conditioned to prosecute such appeal without delay and to submit to the judgment of the Supreme Court and pay such costs as the court shall award and the appellant shall at the same time and before the case is delivered to him pay to the clerk of petty sessions the proper fees for and in respect of the case and recognizance and any other fees to which such clerk is entitled which fees except such as are already provided by the law shall be according to the table in the Fourth Schedule to this Ordinance until the same are otherwise appointed by a general rule of the Supreme Court.⁽⁸⁾

Security and notice to be given by the appellant.
Q. 50 Vic. No. 17, s. 227.
Amended by No. 13 of 1940, s. 3 and Schedule.

Fourth Schedule.

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

Release of appellant on further recognizance.
Q. *Ib.* s. 228.
Amended by No. 13 of 1940, s. 3 and Schedule.

192. If the justices are of opinion that the application is merely frivolous but not otherwise they may refuse to state a case and shall in such case on the request of the appellant sign and deliver to him a certificate of such refusal. But the justices shall not refuse to state a case when application for that purpose is made to them by or under the direction of the Government Secretary.

Justices may refuse a case when they think the application frivolous.
Q. *Ib.* s. 229.

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

Where the justices refuse the Supreme Court may order a case to be stated.
Q. *Ib.* s. 230.
Amended by No. 13 of 1940, s. 3 and Schedule.

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

194. The Supreme Court when a case is transmitted under this Part of this Ordinance shall hear and determine the question or questions of law arising thereon and shall thereupon affirm reverse or amend the decision appealed from or remit the matter to the

Supreme Court to determine the questions on the case; its decision to be final.
Q. *Ib.* s. 231.
Amended by No. 13 of 1940, s. 3 and Schedule.

(8) No rule of the Supreme Court has been published in *Papua Govt. Gaz.*

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justices with the opinion of the court thereon or may make such other order in relation to the matter and may make such order as to costs as to the court may seem fit.

Provided that no justices who state and deliver a case in pursuance of this Ordinance shall be liable to any costs in respect or by reason of an appeal against their decision.

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

Case may be sent back for amendment.

Q. 50 Vic. No. 17, s. 232.

Amended by No. 13 of 1940, s. 3 and Schedule.

Powers of Supreme Court may be exercised by a judge in chambers.

Q. *Ib.* s. 233.

Amended by No. 13 of 1940, s. 3 and Schedule.

196. The authority and jurisdiction vested in the Supreme Court in respect of cases stated under this Part of this Ordinance may (subject to any rules and order of such court in relation thereto) be exercised by a judge sitting in chambers.

After the decision of Supreme Court justices may issue warrants.

Q. *Ib.* s. 234.

Amended by No. 13 of 1940, s. 3 and Schedule.

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

Appellants under case stated abandon other rights of appeal.

Q. *Ib.* s. 235.

Amended by No. 13 of 1940, s. 3 and Schedule.

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

Rules for proceedings.

Q. *Ib.* s. 236.

Amended by No. 13 of 1940, s. 3 and Schedule.

199. A Judge of the Supreme Court may make general rules and orders⁽⁹⁾ to regulate the practice and proceedings in reference to stating cases under this Part of this Ordinance.

No Certiorari Necessary.

200. No writ of *certiorari* or other writ shall be required for the removal of any conviction order or other decision in relation to which a case is stated under this Part of this Ordinance or other-

Certiorari not to be required for proceedings under this Ordinance.

Q. *Ib.* s. 251.

Amended by No. 13 of 1940, s. 3 and Schedule.

(9) No general rules and orders have been published in *Papua Govt. Gaz.*

wise for obtaining the judgment or determination of the Supreme Court on such case.

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

Where Action Lies Against Justices.

201. Any person injured by an act done by a justice in a matter of which by law he has not jurisdiction or in which he has exceeded his jurisdiction or by an act done under any conviction or order made or warrant issued by a justice in any such matter may maintain an action against such justice without alleging in his statement of claim or plaint that the act complained of was done maliciously and without reasonable and probable cause.

Justice sued for act not within his jurisdiction.
Q. 50 Vic. No. 17, s. 252.

Provided that no such action shall be maintainable for anything done under any such conviction or order until after the conviction or order has been quashed or set aside upon appeal.

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

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

202. When an order to show cause why a conviction or order should not be quashed has been granted no action shall be maintainable against the justices by whom the conviction or order in question was made in respect of any proceeding taken under or matter arising out of such conviction or order.

No action against justices after order nisi to quash conviction has been granted.
Q. 1b. s. 253.

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

Warrant by one justice upon an order of another.
Q. 1b. s. 254.

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No action for acts done under order of Supreme Court.

Q. 50 Vic. No. 17, s. 255.

Amended by No. 13 of 1940, s. 3 and Schedule.

No action where proceeding confirmed on appeal.

Q. *Ib.* s. 256.

204. When a justice does an act in obedience to an order of the Supreme Court or a judge thereof no action shall be maintainable against him for obeying such order and doing the act thereby required.

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

Actions in cases prohibited.

Q. *Ib.* s. 257.

206. If an action is brought against a justice which by this Ordinance is declared to be not maintainable a judge of the court in which the action is brought upon application of the defendant and upon affidavit of the facts may set aside or stay the proceedings in such action with or without costs.

Limitation.

Limitation of actions.

Q. *Ib.* s. 258.

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

Notice.

Notice of actions.

Q. *Ib.* s. 259.

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

Amends and Payment into Court.

Tender and payment of money into court.

Q. *Ib.* s. 260.

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

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

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

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

Privilege.

210. No action shall be brought in a small debts court against a justice in respect of anything done by him in the execution of his office.

No action against justices for judicial acts in small debts court.
Q. 50 Vic. No. 17, s. 262.

Statement of Claim and Plaint.

211. In an action against a justice 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 it must be expressly alleged in the statement of claim or plaint that the act was done maliciously and without reasonable and probable cause and if such allegations are denied and at the trial of the action the plaintiff fails to prove them judgment shall be given for the defendant.

Justice sued for acts within his jurisdiction only liable in case of malice and absence of reasonable and probable cause.
Q. *Ib.* s. 263.

Evidence.

212. If at the trial of any action against a justice the plaintiff—

- (1) does not prove that the action was brought within the time hereinbefore limited in that behalf; or
 - (2) does not prove that such notice as hereinbefore prescribed was given one calendar month before the action was commenced; or
 - (3) does not prove the cause of action stated in the notice;
- then and in every such case judgment shall be given for the defendant.

Verdict for defendant.
Q. *Ib.* s. 264.

Damages.

213. When the plaintiff in an action against a justice is entitled to recover and he proves the levying or payment of any penalty or sum of money under a conviction or order as parcel of the damages

Damages against a justice when plaintiff really guilty.
Q. *Ib.* s. 265.

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

SCHEDULES.

THE FIRST SCHEDULE.

Date of Enactment.	Title of Enactment.	Extent of Repeal.
11 Vic. No. 41 ..	An Act to enable the Governor of the Colony to cancel appointments of Places for holding Courts of Petty Sessions (Queensland adopted).	The whole Act.
36 Vic. No. 2 ...	The Clerks of Petty Sessions Act of 1872 (Queensland adopted).	The whole Act.
50 Vic. No. 17 ..	The Justices Act of 1886 (Queensland adopted).	The whole of the Act not previously repealed.
No. 4 of 1888 ..	The Courts and Laws Adopting Ordinance of 1888.	Sections 5, 6 and 13
No. 2 of 1889 ..	The Criminal Procedure Ordinance of 1889.	Sections 4 and 5

THE SECOND SCHEDULE.

ORIGINATING PROCEEDINGS.

Q. 50 Vic. No. 17, Form No. 1.

1.—*Complaint to Require Surety of the Peace or for Good Behaviour.*

Papua }
to wit. }

THE complaint of C.D. of _____ in the said Territory made this _____ day of _____, 19____, before the undersigned one of His Majesty's justices of peace for the said Territory who says that A.B. of _____ on the _____ day of _____ last at _____ declared and threatened [*here state the defendant's threats*] and that the said C.D. is therefore afraid that the said A.B. will do him [*or the said _____*] some bodily injury [*or commit a breach of the peace towards him (or the said _____) or burn (or injure) his house or procure some bodily injury to be done to him or as the case may be*] [*or that the said A.B. is a person of evil fame and character making his living by dishonest means or as the case may be*]; and the said C.D. therefore prays that the said A.B. may be required to find sureties to keep the peace towards him [*or the said _____*] [*or be of good behaviour*]: And the said C.D. says that he does not make this complaint from any malice or

Justices Ordinance, 1912-1940.

ill-will [in case of surety of the peace add but merely for the preservation of his life and person (and property) (or the life and person of the said) from injury].

Sworn before me the day and year first abovementioned at in the said Territory.

J.S. J.P.

2.—Complaint to Ground Search Warrant.

Q. 50 Vic. No. 17, No. 2. See Criminal Code.

Papua }
to wit. }

THE complaint of C.D. of in the said Territory made this day of , 19 , before the undersigned one of His Majesty's justices of the peace for the said Territory who says that the following goods of [him] the said C.D. to wit [describe them] were on the day of [or have lately been] feloniously stolen taken and carried away from and out of the dwelling-house [or as the case may be] of the said C.D. situate at in the said Territory and that he the said C.D. has reasonable cause to suspect and does suspect that the said goods or part thereof are concealed in the dwelling-house or premises [or as the case may be] in the occupation of A.B. situate at in the said Territory. [Here state grounds of suspicion.]

Sworn before me the day and year first abovementioned at in the said Territory.

J.S. J.P.

3.—Complaint in All Other Cases.

Q. Ib. No. 3.

Papua }
to wit. }

THE complaint of C.D. of in the said Territory made this day of , 19 , before the undersigned one of His Majesty's justices of the peace for the said Territory who says that on the day of , 19 , at [&c. stating the offence or subject matter].

Sworn [or made] before me the day and year first abovementioned at in the said Territory.

J.S. J.P.

4.—Certificate of Indictment Being Found.

Q. Ib. No. 4. Amended by No. 13 of 1940, s. 3 and Schedule.

I HEREBY certify that at the Criminal Sittings of the Supreme Court of the Territory of Papua held at in the said Territory on the day of , 19 , an information was presented against A.B. therein described as A.B. late of in the said Territory for that he on the day of , 19 , at [&c. stating shortly the offence] and that the said A.B. did not appear or plead to the said information.

Dated this day of , 19 .
J.D.
Registrar of the Supreme Court.

SUMMONSES.

5.—Summons to the Defendant Upon Complaint.

Q. Ib. No. 5.

To A.B. of in the Territory of Papua.
WHEREAS a complaint has this day been made before the undersigned one of His Majesty's justices of the peace for the said Territory that you on the day of , 19 , at

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[here state shortly the matter of the complaint]: These are therefore to command you in His Majesty's name to appear at _____ at _____ in the said Territory on the _____ day of _____, 19____, at _____ o'clock in the forenoon before such justices as may then be there to answer the said complaint and to be further dealt with according to law.

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

J.S. J.P.

Oath of Service (to be Indorsed on Summons).

On the _____ day of _____, 19____, C.D. of _____ appears before the undersigned one of His Majesty's justices of the peace for the Territory of Papua and makes oath that on _____ the _____ day of _____, 19____, at _____ in the said Territory he personally served the within named A.B. with the within summons by delivering a copy of it to him personally and at the same time showing him the original summons.

Sworn before me [*ſc. as in complaint*].

Q. 50 Vic.
No. 17, No. 7.

6.—*Summons of a Witness.*

To E.F. of _____ in the Territory of Papua. WHEREAS a complaint was on the _____ day of _____, 19____, made before the undersigned one of His Majesty's justices of the peace for the said Territory that A.B. [*ſc. as in the summons or warrant against the defendant*]: These are therefore to require you to appear at _____ at _____ in the said Territory on the _____ day of _____, 19____, at _____ o'clock in the afternoon before such justices as may then be there to testify what you know concerning the matter of the said complaint [and you are further required to bring with you and produce at the time and place above named (*here describe the documents to be produced*)].

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

J.S. J.P.

Q. Ib. No. 8.

7.—*Warrant in the First Instance to Apprehend a Person Charged With an Indictable Offence or a Simple Offence.*

To the Principal Police Officer at _____ in the Territory of Papua and to all other police officers in the said Territory.

WHEREAS a complaint has this day been made upon oath before the undersigned one of His Majesty's justices of the peace for the said Territory for that A.B. on the _____ day of _____, 19____, at _____ [*here state shortly the offence or matter of the complaint*]: These are therefore to command you in His Majesty's name forthwith to apprehend the said A.B. and to bring [*him*] before some one or more of His Majesty's justices for the said Territory to answer to the said complaint and be further dealt with according to law.

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

J.S. J.P.

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

For offences committed abroad for which the parties may be indicted in this Territory the warrant also may be the same as in ordinary cases but describing the offence to have been committed "on land out of the Territory of Papua to wit at _____ in the Indian or Pacific Ocean" or as the case may be.

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8.—Search Warrant.

Q. 50 Vic.
No. 17, No. 9.
See Criminal
Code.

To the Principal Police Officer at _____ in the Territory of Papua
and all other police officers in the said Territory.

WHEREAS a complaint has this day been made upon oath before the undersigned
one of His Majesty's justices of the peace for the said Territory for that
[&c. as in Form No. 2 to the end thus]: These are therefore to command you
in His Majesty's name forthwith with proper assistance to enter the said
dwelling-house and premises [or as the case may be] of the said A.B. [in the
day time] and there diligently search for the said goods; and if the same or
any part thereof are found upon search that you attach the goods so found
[and apprehend the said A.B. and bring (him) before some one or more of
His Majesty's justices for the said Territory to give an account of how he
came by the said goods and to be further dealt with according to law].

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

J.S. J.P.

MESNE WARRANTS.

9.—Warrant to Apprehend Defendant Where the Summons is Disobeyed.

Q. Ib. No. 10.

To the Principal Police Officer at _____ in the Territory of Papua
and all other police officers in the said Territory.

WHEREAS on the _____ day of _____, 19 _____, a complaint
was made that A.B. [&c. as in the summons] and a summons was then issued
to the said A.B. commanding [him] to appear at _____ at _____
in the said Territory on the _____ day of _____, 19 _____,
at _____ o'clock in the forenoon before such justices as might
then be there to answer the said complaint: And whereas the said A.B.
neglected to appear at the time and place appointed by the said summons and
it has been proved upon oath that the said summons was duly served upon the
said A.B.: These are therefore to command you in His Majesty's name forth-
with to apprehend the said A.B. and to bring [him] before some one or more
of His Majesty's justices for the said Territory to answer the said complaint
and to be further dealt with according to law.

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

J.S. J.P.

10.—Warrant to Apprehend a Person Required to Give Surety of the Peace
or for Good Behaviour.

Q. Ib. No. 11.

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

Given under my hand at &c.

J.S. J.P.

11.—Warrant Where a Witness Has Not Obeyed a Summons to Attend the
Examination of a Person Charged With an Indictable Offence or the Hearing
of a Charge of a Simple Offence or Breach of Duty.

Q. Ib. No. 12.

To the Principal Police Officer at _____ in the Territory of Papua
and all other police officers in the said Territory.

WHEREAS on the _____ day of _____, 19 _____, a complaint
was made that A.B. [&c. as in the summons or warrant] and a summons was
duly issued to E.F. of _____ in the said Territory
requiring [him] to appear on the _____ day of _____, 19 _____,
at _____ in the said Territory before such justices as might then
be there to testify what [he] knew concerning the matter of the said complaint:

COURTS—

And whereas proof has this day been made upon oath that such summons was duly served upon the said E.F.: And whereas the said E.F. neglected to appear at the time and place appointed by the said summons and no just excuse has been offered for such neglect: These are therefore to command you in His Majesty's name forthwith to apprehend the said E.F. and bring [him] before [me] at in the said Territory or before such other justices as may then be there to testify what [he] knows concerning the matter of the said complaint.

Given under [my] hand at , 19 in the said Territory this day of

J.S. J.P.

Q. 50 Vic.
No. 17, No. 13.

12.—*Warrant for a Witness in the First Instance.*

To the Principal Police Officer at in the Territory of Papua and all other police officers in the said Territory.

WHEREAS on the day of , 19 , at , a complaint was made that A.B. [*&c. as in the summons or warrant*] and it being made to appear before me upon oath that E.F. of in the said Territory [] is likely to give material evidence on behalf of the prosecution [*or as the case may be*] in the matter and it is probable that the said E.F. will not attend to give evidence without being compelled so to do: These are therefore to command you in His Majesty's name forthwith to apprehend the said E.F. and bring [him] before me at in the said Territory or before such other justices as may be there to testify what [he] knows concerning the matter of the said complaint.

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

J.S. J.P.

Q. Ib. No. 14.
Amended by
No. 13 of 1940,
s. 3 and
Schedule.

13.—*Warrant on Certificate of Indictment Having Been Found to Apprehend Person Indicted.*

To the Principal Police Officer at in the Territory of Papua and all other police officers in the said Territory.

WHEREAS it has been certified by the Registrar of the Supreme Court that [*&c. stating the certificate (Form 4)*]: These are therefore to command you in His Majesty's name forthwith to apprehend the said A.B. and to bring [him] before me or some other justice or justices for the said Territory to be dealt with according to law.

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

J.S. J.P.

REMANDS.

Q. Ib. No. 16.

14.—*Warrant Remanding a Prisoner.*

To the Principal Police Officer at in the Territory of Papua and to all other police officers in the said Territory and to the Keeper of the Gaol at in the said Territory.

WHEREAS A.B. was this day charged before the undersigned [*one*] of His Majesty's justices of the peace for the said Territory 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 police officers in His Majesty's name forthwith to convey the said A.B. to the gaol at in the said Territory and there to deliver [him] to the keeper thereof together with this warrant and [I] hereby command you the said keeper to receive the said A.B. into your custody in the said gaol and there safely keep [him] until the day of , 19 , or such earlier day as may be lawfully ordered in that behalf when [I] hereby command you

Justices Ordinance, 1912-1940.

to have [him] at _____ in the said Territory at o'clock in the forenoon before such justices as may then be there further to answer the said charge.

Given under [my] hand at _____ in the said Territory this day of _____, 19 _____ J.S. J.P.

15.—Warrant of Committal for Safe Custody During an Adjournment of the Hearing.

Q. 50 Vic. No. 17, No. 17.

To the Principal Police Officer at _____ in the Territory of Papua and to all other police officers in the said Territory and to the keeper of the gaol at _____ in the said Territory.

WHEREAS on the _____ day of _____, 19 _____, complaint was made before the undersigned [or as the case may be] [one] of His Majesty's justices of the peace for the said Territory for that [§c. as in the summons or warrant] and whereas the hearing of the same is adjourned to the _____ day of _____, 19 _____, at o'clock in the forenoon at _____ in the said Territory and it is necessary that the said A.B. should in the meantime be kept in safe custody: These are therefore to command you the said police officers in His Majesty's name forthwith to convey the said A.B. to the gaol at _____ in the said Territory and there deliver [him] into the custody of the keeper thereof together with this warrant and [I] hereby command you the said keeper to receive the said A.B. into your custody in the said gaol and there keep [him] until the _____ day of _____, 19 _____, when [I] hereby require you to convey and have [him] the said A.B. at the time and place to which the said hearing is so adjourned as aforesaid before such justices as may then be there to answer further the said complaint and to be further dealt with according to law.

Given under [my] hand at _____ in the said Territory this day of _____, 19 _____ J.S. J.P.

RECOGNIZANCES &C.

16.—Certificate of Consent to Bail by the Committing Justice Endorsed on the Commitment.

Q. Ib. No. 18.

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

J.S. J.P.

17.—The Like on a Separate Paper.

Q. Ib. No. 19.

WHEREAS A.B. was on the _____ day of _____, 19 _____, committed by [me] to the gaol at _____ in the Territory of Papua charged with [§c. naming the offence shortly]: [I] hereby certify that [I] consent to the said A.B. being bailed by recognizance himself in the sum of _____ and [two] sureties in the sum of _____ [each].

Dated this _____ day of _____, 19 _____ J.S. J.P.

18.—Recognizance for the Appearance of a Defendant Where the Case is Adjourned or Not to be At Once Proceeded With.

Q. Ib. No. 20.

Papua }
to wit. }
BE it remembered that on the _____ day of _____, 19 _____, A.B. of _____ in the said Territory and L.M. of _____ in the said Territory personally

COURTS—

came before the undersigned [*one*] of His Majesty's justices of the peace for the said Territory and severally acknowledged themselves to owe to our Sovereign Lord the King the several sums following—that is to say the said A.B. the sum of _____ and the said L.M. the sum of _____ sterling to be made and levied of their several goods and chattels lands and tenements respectively to the use of our said Lord the King His Heirs and Successors if [*he*] the said A.B. shall fail in the condition endorsed.

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

Condition.

The condition of the within-written recognizance is such that if the said A.B. charged upon the complaint of C.D. with (*here insert briefly nature of charge such as larceny assault &c.*) shall personally appear at _____ in the said Territory on the _____ day of _____, 19____, at _____ o'clock in the forenoon before such justices as may then be there (*further*) to answer the said charge made by C.D. against the said A.B.; then the said recognizance to be void or else to stand in full force and virtue.

J.S. J.P.

Q. 50 Vic.
No. 17, No. 21.

19.—*Notice of Such Recognizance to be Given to the Defendant and His Surety.*

TAKE notice that you A.B. of _____ in the Territory of Papua are bound in the sum of _____ and you L.M. of _____ in the said Territory in the sum of _____ that you A.B. appear personally at _____ in the said Territory on the _____ day of _____, 19____, at _____ o'clock in the forenoon before such justices of the peace as shall then be there to answer further a certain charge made by C.D. the further hearing of which was adjourned to the said time and place; and unless you appear accordingly the recognizance entered into by you A.B. and by L.M. as your surety will forthwith be put in suit and enforced against you and him.

Dated this _____ day of _____, 19____,
J.S. J.P.

Q. Ib. No. 22.

20.—*Certificate of Non-Appearance or Default to be Endorsed on the Defendant's Recognizance.*

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

J.S. J.P.

Q. Ib. No. 23.

21.—*Recognizance of Bail on Committal for Trial.*
(Same as Recognizance Form 18.)

J.S. J.P.

Condition.

The condition of the within recognizance is such as whereas the said A.B. was this day charged before (*me*) the justice within mentioned that (*&c. as in the warrant*); if therefore the said A.B. shall appear at the next criminal sittings of the Supreme Court to be held at _____ in the Territory of Papua on the _____ day of _____, 19____, and surrender (*himself*) into the custody of the keeper of the gaol there and plead to such information as may be filed against (*him*) in respect of the charge aforesaid and take (*his*) trial upon the same and not depart from the said court without leave then the said recognizance to be void or else to stand in full force and virtue.

Amended by
No. 13 of 1940,
s. 3 and
Schedule.

Justices Ordinance, 1912-1940.

22.—Notice of Recognizance to be Given to the Defendant and His Bail.

Q. 50 Vic. No. 17, No. 24.

TAKE notice that you A.B. of _____ in the Territory of Papua and you L.M. and N.O. in the sum of _____ are bound in the sum of _____ each that you A.B. appear (*&c. as in the condition of the recognizance*) and do not depart from the said court without leave; and unless you the said A.B. personally appear and plead and take your trial accordingly the recognizance entered into by you and your sureties will forthwith be put in suit and enforced against you and them.

Dated this _____ day of _____, 19____ J.S. J.P.

23.—Recognizance of the Peace or for Good Behaviour. (Same as Recognizance Form 18.)

Q. Ib. No. 25.

Condition.

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

24.—Notice of Such Recognizance to be Given to the Defendant and His Sureties.

Q. Ib. No. 26.

TAKE notice that you A.B. of _____ in the Territory of Papua and you L.M. and N.O. in the sum of _____ are bound in the sum of _____ that you A.B. keep the peace towards His Majesty the King and His People and especially towards C.D. of _____ (_____) (*or be of good behaviour*) for the term of (*six months*) from the _____ day of _____ (*last*) and unless you so keep the peace (*or as the case may be*) accordingly the recognizance entered into by you A.B. and by L.M. and N.O. as your sureties will forthwith be put in suit and enforced against you and them.

Dated this _____ day of _____, 19____ J.S. J.P.

25.—Recognizance to Give Evidence.

Q. Ib. No. 27.

Papua }
to wit. }

BE it remembered that on the _____ day of _____, 19____, C.D. of _____ in the said Territory _____ came before (*me*) one of His Majesty's justices of the peace in and for the said Territory and acknowledged (*himself*) to owe to our Sovereign Lord the King the sum of _____ sterling to be made and levied of (*his*) goods and chattels lands and tenements to the use of our said Lord the King His Heirs and Successors if (*he*) the said C.D. shall fail in the condition endorsed.

Taken and acknowledged before (*me*) the day and year first above mentioned at _____ in the said Territory.

J.S. J.P.

Condition.

The condition of the within-written recognizance is such that whereas A.B. was this day charged before (*me*) J.S. the 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 criminal sitting of the Supreme Court to be holden at _____ in the Territory of Papua on _____ the _____ day of _____, 19____, and there give evidence upon an information to be then preferred against the said A.B. for the offence aforesaid then the said recognizance to be void or else to stand in full force and virtue.

Amended by No. 13 of 1940, s. 3 and Schedule.

COURTS—

Q. 50 Vic. No. 17, No. 28.

26.—*Notice of Recognizance to be Given to the Witnesses.*

Papua }
to wit. }
TAKE notice that you C.D. of _____ in the said Territory are bound in the sum of _____ to appear at the next (as in the condition) and then and there to give evidence against A.B. and unless you then appear and give evidence accordingly the recognizance entered into by you will be forthwith put in suit and enforced against you.
Dated this _____ day of _____, 19____
J.S. J.P.

Q. Ib. No. 29.
Amended by No 13 of 1940, s. 3 and Schedule.

27.—*Recognizance on Appeal.*
(Same as Recognizance Form 18.)

Condition.

Whereas the said A.B. was on the _____ day of _____ at _____ convicted before [two] of His Majesty's justices of the peace for the said Territory of an offence against the provisions of the _____ section of the _____ [or as the case may be describing the Ordinance or By-law under which the offence is created] and it was by the said conviction adjudged that the said A.B. should for such offence forfeit and pay &c. [recite conviction] and should also pay to the said A.B. the sum of £ _____ for costs; [or Whereas on the _____ day of _____, 19____, at _____ upon the hearing of a complaint made by C.D. of _____ against A.B. of E.F. and others [two] of His Majesty's justices of the peace for the said Territory adjudged that the said A.B. should pay to the said C.D. the sum of £ _____ on or before the _____ day of _____ then next and should also pay to the said C.D. the sum of £ _____ for costs] [or that the said complaint should be dismissed and that the said C.D. should pay to the said A.B. the sum of _____ for costs]. And whereas the said A.B. has given notice of his intention to appeal from the said conviction [or order] to the Supreme Court of the Territory of Papua: Now the condition of the within-written recognizance is such that if the said A.B. shall prosecute the said appeal without delay and submit to the judgment of the said Supreme Court and pay such costs as the said court shall award [if not in custody add and further shall appear before us or some other justices or justice at the court house at _____ within _____ days after the judgment of the Supreme Court is given to abide such judgment unless the decision appealed against is reversed]; then this recognizance shall be void but otherwise shall remain in full force and virtue.

DEPOSITIONS &C.

Q. Ib. No. 30.

28.—*Depositions of Witnesses.*

Papua }
to wit. }
THE examination of C.D. of _____ in the said Territory and E.F. of _____ in the said Territory _____ taken this _____ day of _____, 19____, at _____ in the said Territory before the undersigned [one] of His Majesty's justices of the peace for the said Territory in the presence and hearing of A.B. who is charged this day before [me] that [he] [&c. describing the offence as in a warrant of commitment].
C.D. on his oath [or affirmation] says as follows [&c. state the deposition of the witness as nearly as possible in the words he uses and when his deposition is complete let him sign it].
E.F. upon his oath [or affirmation] says as follows [&c.]
Taken and sworn [or affirmed] before [me] at _____ in the said Territory on the day and year first above mentioned.
J.S. J.P.

Justices Ordinance, 1912-1940.

29.—Statement of the Defendant.

Q. 50 Vic. No. 17, No. 31.

Papua }
to wit. }

A.B. stands charged before the undersigned [one] of His Majesty's justices of the peace for the said Territory this _____ day of _____, 19____, that [he] [*&c. as in the caption of the depositions*] and the charge being read to the said A.B. and the witnesses for the prosecution C.D. and E.F. being severally examined in [his] presence the said A.B. is now addressed by [me] as follows:—'Having heard the evidence do you wish to say anything in answer to the charge? You are not obliged to say anything unless you desire to do so; but whatever you say will be taken down in writing and may be given in evidence against you upon your trial. You are clearly to understand that you have nothing to hope from any promise of favour and nothing to fear from any threat which may have been held out to you to induce you to make any admission or confession of your guilt; but whatever you now say may be given in evidence against you upon your trial notwithstanding any such promise or threat.' Whereupon the said A.B. says as follows:—(*Here state whatever the prisoner may say and in his very words as nearly as possible; get him to sign it if he will*).

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

A.B.
in the said Territory the day and

J.S. J.P.

MINUTES.

30.—Minute of Conviction or Order.

Q. 1b. No. 32.

Papua }
to wit. }

C.D. versus A.B.

OFFENCE (or BREACH OF DUTY).

Defendant convicted and adjudged (or ordered) to be imprisoned in His Majesty's gaol at _____ for _____ (or to pay the sum of _____ or *&c.*) (and to pay _____ for costs) (and in default of payment of such sum [or sums] within _____ days the amount to be levied by execution and in default of execution the defendant to be [further] imprisoned in the said gaol for _____).

Dated _____ day of _____, 19____.
J.S. J.P.

CONVICTIONS.

31.—Conviction for a Penalty to be Levied by Execution and in Default of Sufficient Execution Imprisonment.

Q. 1b. No. 33.

Papua }
to wit. }

BE it remembered that on the _____ day of _____, 19____, at _____ in the said Territory A.B. of _____ in the said Territory (_____) is convicted before the undersigned (one) of His Majesty's justices of the peace for the said Territory that (he) the said A.B. (*&c. stating the offence and the time and place when and where it was committed*) and (I) adjudged the said A.B. for (his) said offence to forfeit and pay the sum of _____ (*stating the penalty and the compensation if any*) to be paid and applied according to law and also to pay to the said C.D. the sum of _____ for (his) costs and if the said several sums are not paid forthwith (or on or before _____ next) then* (I) order that the same be levied by execution against the goods and chattels of the said A.B. and in default of sufficient goods and chattels* (I) adjudge the said A.B. to be imprisoned in the gaol at _____ in the said Territory (there to be kept to hard labour) for the space of _____ unless the said several sums and all costs and charges of

COURTS—

the said execution (and of taking and conveying the said A.B. to gaol) are sooner paid.

Given under (my) hand at _____ in the said Territory the day and year first above mentioned.

J.S. J.P.

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

Q. 50 Vic. No. 17, No. 34.

32.—Conviction for a Penalty and in Default of Payment Imprisonment.

Papua }
to wit. }

BE it remembered that on the _____ day of _____, 19____, at _____ in the said Territory A.B. of _____ in the said Territory _____ is convicted before the undersigned (one) of His Majesty’s justices of the peace for the said Territory that (he) the said A.B. (etc. stating the offence and the time and place when and where it was committed) and (I) adjudge the said A.B. for (his) said offence to forfeit and pay the sum of (stating the penalty and the compensation if any) to be paid and applied according to law and also to pay to the said C.D. the sum of _____ for (his) costs and if the said several sums are not paid forthwith (or on or before _____ next) (I) adjudge the said A.B. to be imprisoned in the gaol at _____ in the said Territory (there to be kept to hard labour) for the space of _____ unless the said several sums (and the costs and charges of commitment and of conveying the said A.B. to gaol) are sooner paid.

Given under (my) hand at _____ in the said Territory the day and year first above mentioned.

J.S. J.P.

Q. Ib. No. 35.

33.—Conviction When the Punishment is Imprisonment and Costs are Awarded to be Levied by Execution.

Papua }
to wit. }

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

Given under (my) hand at _____ in the said Territory the day and year first above mentioned.

J.S. J.P.

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

Justices Ordinance, 1912-1940.

CONVICTION FOR INDICTABLE OFFENCE.

34.—*Summary Conviction.*

Papua }
to wit. }
BE it remembered that on the _____ day of _____, 19____,
at _____ in the said Territory A.B. being charged before (us)
the undersigned _____ of His Majesty's justices of the peace for
the said Territory (or a resident or assistant resident magistrate for the said
Territory) that (he) the said A.B. (*&c. stating the offence and the time and
place when and where committed*) and the age of the said A.B. on the (*date of
offence*) having in (our) opinion not exceeded sixteen (or twelve) years (or)
and the value of the said goods not exceeding Forty shillings [*or as the case
may be*] and the said A.B. (or C.D. the parent [*or guardian*] of the said A.B.)
consenting to (our) deciding upon the charge summarily the said A.B. is
therefore convicted before (us) of the said offence and (we) adjudge the said
A.B. for (his) said offence to be imprisoned in the gaol at _____ in
the said Territory (there to be kept to hard labour) for the term of _____
(and to be privately whipped with [*six*] strokes of a birch
rod [*or cane or leather strap*] in the presence of the persons prescribed by
the *Justices Ordinance, 1912*).

Given under (our) hand at _____ in the said Territory the
day and year first above mentioned.

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

Q. 50 Vic. No.
17, s. 208.

See Criminal
Code.

Amended by
No. 3 of 1914,
s. 3 of Second
Schedule.

35.—*Summary Conviction on Confession.*

Papua }
to wit. }
BE it remembered that on the _____ day of _____, 19____,
at _____ in the said Territory A.B. being charged before (us) the
undersigned _____ of His Majesty's justices of the peace for the
said Territory (or a resident or assistant resident magistrate of the said
Territory) that (he) the said A.B. (*&c. stating the offence and the time and
place when and where committed*) and (he) the said A.B. pleading guilty to
such charge (he) is thereupon convicted before (us) of the said offence and
(we) adjudge the said A.B. for (his) said offence to be imprisoned in the
gaol at _____ in the said Territory (there to be kept to hard
labour) for the term of _____

Given under (our) hand at _____ in the said Territory the day
and year first above mentioned.

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

Q. Ib. No. 37.

See Criminal
Code.

ORDER AND CERTIFICATES OF DISMISSAL.

36.—*Order of Dismissal of Complaint.*

Papua }
to wit. }
BE it remembered that on the _____ day of _____, 19____,
a complaint was made that (*&c. as in the summons to the defendant or
warrant*) and on this _____ day of _____, 19____, at _____
in the said Territory the said complaint came on for hearing
before the undersigned (one) of His Majesty's justices of the peace for the
said Territory whereupon it appears to (me) that the said complaint is not
proved (or the complainant did not appear) and (I) therefore dismiss the said
complaint and adjudge that the said C.D. pay to the said A.B. the sum of _____
for the costs incurred by (him) in (his) defence and if
the said sum is not paid forthwith (or on or before _____) * (I)

Q. Ib. No. 38.

COURTS—

order that the same be levied by execution against the goods and chattels of the said C.D. and in default of sufficient goods and chattels* (I) adjudge the said C.D. to be imprisoned in the gaol at _____ in the said Territory for the term of _____ unless the said sum and all costs and charges of the said execution (and of taking and conveying the said C.D. to gaol) are sooner paid.

Given under (my) hand at _____ in the said Territory
 this _____ day of _____, 19 _____
 J.S. J.P.

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

Q. 50 Vic. No. 17, No. 39.

37.—Certificate of Dismissal.

Papua }
 to wit. }

(I) the undersigned (one) of His Majesty's justices of the peace for the said Territory hereby certify that on the _____ day of _____, 19 _____, at _____ in the said Territory A.B. was charged before (me) that (he) the said A.B. (&c. stating the offences and the time and place when and where alleged to have been committed) and that (I) thereupon dismissed the said complaint.

Given under (my) hand at _____ in the said Territory
 this _____ day of _____, 19 _____
 J.S. J.P.

Q. 1b. No. 40. See Criminal Code.

38.—Certificate of Dismissal on Summary Hearing of Indictable Offence.

Papua }
 to wit. }

(We) the undersigned (two) of His Majesty's justices of the peace for the said Territory (or I the undersigned a resident or assistant resident magistrate for the said Territory hereby certify that on the _____ day of _____, 19 _____, at _____ in the said Territory A.B. charged before [us] that [stating the offence charged and the time and place when and where committed &c. as in Form 34 to the asterisk]* [we] thereupon dismiss the said complaint.

Given under [our] hand at _____ in the said Territory
 this _____ day of _____, 19 _____
 J.S. J.P.
 H.M. J.P.

ORDERS.

Q. 1b. No. 41.

39.—Order for Payment of Money to be Levied by Execution and in Default of Execution Imprisonment.

Papua }
 to wit. }

BE it remembered that on the _____ day of _____, 19 _____, complaint was made before the undersigned [one] of His Majesty's justices of the peace for the said Territory that [stating the facts entitling the complainant to the order with the time and place when and where they occurred] and on the _____ day of _____, 19 _____, at _____ in the said Territory having heard the said complaint [I] adjudge the said A.B. to pay to the said C.D. the sum of _____ forthwith [or as the case may be] and also to pay to the said C.D. forthwith [or as the case may be] the sum of _____ for _____

Justices Ordinance, 1912-1940.

costs and if the said several sums are not paid as aforesaid* [I] order that the same be levied by execution against the goods and chattels of the said A.B. and in default of sufficient goods and chattels* [I] adjudge the said A.B. to be imprisoned in the gaol at _____ in the said Territory [there to be kept to hard labour] for the term of _____ unless the said several sums and all costs and charges of the said execution [and the costs and charges of commitment and of conveying the said A.B. to gaol] are sooner paid.

Given under [my] hand at _____ in the said Territory
this _____ day of _____, 19 _____, J.S. J.P.

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

40.—Order for Payment of Money and in Default of Payment Imprisonment. Q. 50 Vic. No. 17, No. 42.

Papua }
to wit. }

BE it remembered that on the _____ day of _____, 19 _____, complaint was made before the undersigned [one] of His Majesty's justices of the peace for the said Territory that [stating the facts entitling the complainant to the order with the time and place when and where they occurred] and on the _____ day of _____ at _____ in the said Territory having heard the said complaint [I] adjudge the said A.B. to forfeit and pay to the said C.D. the sum of _____ forthwith [or as may be] and also to pay to the said C.D. the sum of _____ for costs and if the said several sums be not paid as aforesaid [forthwith] [I] adjudge the said A.B. to be imprisoned in the gaol at _____ in the said Territory [there to be kept to hard labour] for the term of _____ unless the said several sums [and the costs and charges of commitment and of conveying the said A.B. to gaol] are sooner paid.

Given under [my] hand at _____ in the said Territory
this _____ day of _____, 19 _____, J.S. J.P.

41.—Order for Any Matter Where the Disobeying of it is Punishable with Imprisonment. Q. 16, No. 43.

Papua }
to wit. }

BE it remembered that on the _____ day of _____, 19 _____, complaint was made before the undersigned (one) of His Majesty's justices of the peace for the said Territory that (stating the facts entitling the complainant to the order with the time and place when they occurred) and on the _____ day of _____ at _____ in the said Territory having heard the said complaint (I) adjudge the said A.B. to (here state the matter required to be done) and if upon a copy of the minute of this order being served upon the said A.B. either personally or by leaving the same for (him) at (his) last known or usual place of abode (he) shall neglect or refuse to obey the same (I) adjudge the said A.B. to be imprisoned in the gaol at _____ in the said Territory (there to be kept to hard labour) for the term of _____ (unless the said order is sooner obeyed if the Ordinance authorize this) and (I) also adjudge the said A.B. to pay to the said C.D. the sum of _____ for costs and if the said sum is not paid forthwith (or on or before next) (I) order the same to be levied by execution against the goods and chattels of the said A.B. and in default of sufficient goods and chattels (I) adjudge the said A.B. to be imprisoned in the said gaol for the term of _____

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to commence at and from the termination of (*his*) imprisonment aforesaid unless the said sum for costs and all the costs and charges of the said execution (and of taking and conveying the said A.B. to gaol) are sooner paid.

Given under (*my*) hand at _____ in the said Territory
this _____ day of _____, 19 _____

J.S. J.P.

WARRANTS OF EXECUTION &C.

42.—*Warrant of Execution Upon a Conviction for a Penalty.*

To the Principal Police Officer at _____ in the Territory of Papua
and all other police officers in the said Territory.

WHEREAS A.B. late of _____ in the said Territory of _____
was on the _____ day of _____, 19 _____, at _____
convicted before E.F. (*and others*) (*one of*) His Majesty's justices of the
peace for the said Territory of an offence against the provisions of the _____
section of the _____ (*or as the case may be*
describing the Ordinance or By-law under which the offence is created) and it
was thereby adjudged that the said A.B. should for such (*his*) offence forfeit
and pay (*&c. as in the conviction*) and should also pay to the said C.D. the
sum of _____ (*his*) costs and it was thereby ordered that if the
said several sums should not be paid (*forthwith*) the same should be levied
by execution against the goods and chattels of the said A.B.*: And whereas
the said A.B. being (*now*) required to pay the said sums has not paid the
same (*or any part thereof*): These are therefore to command you in His
Majesty's name forthwith to take the goods and chattels of the said A.B. and
if within the space of _____ days after taking them the said
sums together with the reasonable charges of taking and keeping the goods
and chattels are not paid that then you sell the said goods and chattels
and pay the money arising by such sale to the clerk of petty sessions at _____
in the said Territory; and if no goods and chattels can
be found that you certify the same to me.

Given under (*my*) hand at _____ in the said Territory
this _____ day of _____, 19 _____

J.S. J.P.

* See Form 59.

Q. 1b. No. 45.

43.—*Warrant of Execution Upon an Order for the Payment of Money.*

To the Principal Police Officer at _____ in the Territory of Papua
and all other police officers in the said Territory.

WHEREAS on the _____ day of _____, 19 _____,
at _____ upon the hearing of a complaint made by C.D. of _____
against A.B. of _____ E.F. (*and others*) (*one of*) His Majesty's
justices of the peace for the said Territory adjudged that the said A.B. should
pay to the said C.D. the sum of _____ on or before the _____
then next (*or as the case may be*) and also should pay to the said C.D. the
sum of _____ for costs and it was thereby ordered that if the said
several sums were not paid on or before the said _____ day
of _____ then next the same should be levied by execution
against the goods and chattels of the said A.B.*: And whereas the said C.D.
has not paid the said several sums of _____ (*or any part thereof*):
These are therefore to command you in His Majesty's name forthwith to take
the goods and chattels of the said A.B. and if within the space of _____
days after taking them the said last-mentioned sums together with the
reasonable charges of taking and keeping the said goods and chattels are not
paid that then you sell the said goods and chattels and pay the money arising
from such sale to the clerk of petty sessions at _____ in the said
Territory; and if no goods and chattels can be found then that you certify
the same to me.

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

J.S. J.P.

* See Form 59.

Justices Ordinance, 1912-1940.

44.—Warrant of Execution for Costs Upon an Order for Dismissal of a Complaint. Q. 50 Vic. No. 17, No. 46.

To the Principal Police Officer at _____ in the Territory of Papua
and all other police officers in the said Territory.

WHEREAS on the _____ day of _____, 19____,
at _____ upon the hearing of a complaint made by C.D. against
A.B. before E.F. (and others) (one of) His Majesty's justices of the peace
for the said Territory dismissed the complaint and adjudged that the said
C.D. should pay to the said A.B. the sum of _____ costs and that
if the said sum were not paid (forthwith) the same would be levied by
execution against the goods and chattels of the said C.D.*: And whereas the
said C.D. being (now) required to pay to the said A.B. the said sum for costs
has not paid the same or any part thereof: These are therefore to command
you in His Majesty's name forthwith to take the goods and chattels of the
said C.D. and if within the space of _____ days next after taking
them the said sum together with the reasonable charges of taking and keeping
the goods and chattels are not paid that then you sell the said goods and
chattels and pay the money arising from such sale to the clerk of petty sessions
at _____ in the said Territory; and if no goods and chattels can
be found that you certify the same to me.

Given under my hand at _____ in the said Territory
this _____ day of _____, 19____,

J.S. J.P.

* See Form 60.

45.—Warrant of Execution for Costs Upon a Conviction Where the Offence is Punishable by Imprisonment. Q. Ib. No. 47.

To the Principal Police Officer at _____ in the Territory of Papua
and all other police officers in the said Territory.

WHEREAS A.B. of _____ in the Territory of Papua was on the
_____ day of _____, 19____, at _____,
convicted before E.F. (and others) (one of) His Majesty's justices of the
peace for the said Territory of an offence against the provisions of the
_____ section of the _____ (or as the case may be
describing the Ordinance or By-law under which the offence is created) and it
was adjudged that the said A.B. should be imprisoned in the gaol at
_____ in the said Territory (there to be kept to hard labour)
for the term of _____ and it was also adjudged that the said A.B.
should pay to the said C.D. the sum of _____ for costs and it was
thereby ordered that if the said sum of _____ for costs should
not be paid (forthwith) the same should be levied by execution against the
goods and chattels of the said A.B.*: And whereas the said A.B. being
required to pay the said sum of _____ has not paid the same (or
any part thereof): These are therefore to command you in His Majesty's
name forthwith to take the goods and chattels of the said A.B. and if within
the space of _____ days next after taking them the said last-
mentioned sum together with the reasonable charges of taking and keeping
the goods and chattels are not paid that then you sell the said goods and
chattels and pay the money arising from such sale to the clerk of petty sessions
at _____ in the said Territory; and if no goods and chattels can
be found that you certify the same to me.

Given under my hand at _____ in the said Territory
this _____ day of _____, 19____,

J.S. J.P.

* See Form 61.

46.—Warrant of Execution for Costs Upon an Order Where the Disobeying of the Order is Punishable with Imprisonment. Q. Ib. No. 48.

To the Principal Police Officer at _____ in the Territory of Papua
and all other police officers in the said Territory.

WHEREAS on the _____ day of _____, 19____,
at _____ upon a complaint made by C.D. of _____
against A.B. of _____ E.F. (and others) (one of) His Majesty's

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

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

J.S. J.P.

* See Form 61.

Q. 50 Vic. No. 17, No. 50.

47.—*Return to a Warrant of Execution.*

I W.T. police officer of _____ in the Territory of Papua hereby certify to J.S. Esquire one of His Majesty's justices of the peace for the said Territory that by virtue of this warrant I have made diligent search for the goods and chattels of the within-mentioned A.B. and that I can find no sufficient goods or chattels of the said A.B. whereon to levy the sums within mentioned.

Witness my hand this _____ day of _____, 19 _____
 W.T.

WARRANTS OF COMMITTAL &C.

Q. 1b. No. 51.
 Amended by
 No. 13 of 1940,
 s. 3 and
 Schedule.

48.—*Warrant of Commitment for Trial or for Sentence.*

To all police officers in the Territory of Papua and to the keeper of the gaol at _____ in the said Territory.
 WHEREAS A.B. was this day charged before me J.S. one of His Majesty's justices of the peace for the said Territory on the oath of C.D. of _____ in the said Territory and others that (*&c. stating shortly the indictable offence*) (and the said A.B. being asked admitted that he is guilty of the said offence) and thereupon it was ordered that the said A.B. should be committed to take his trial (*or to be sentenced*) for the said offence at the criminal sittings of the Supreme Court to be holden at &c.: These are therefore to command you the said police officers to convey the said A.B. to the gaol at _____ aforesaid and deliver (*him*) to the keeper thereof together with this warrant; and (*I*) hereby command you the said keeper of the said gaol to receive the said A.B. into your custody in the said gaol and (*him*) there keep until the said sittings of the said court or until (*he*) shall be thence delivered by due course of law.

Given under (*my*) hand at _____ in the said Territory
 this _____ day of _____, 19 _____

J.S. J.P.

Q. 1b. No. 52.

49.—*Warrant to Convey Accused Person Before a Justice of the Place in which the Offence is Committed.*

To the Principal Police Officer at _____ in the Territory of Papua and all other police officers in the said Territory.

Justices Ordinance, 1912-1940.

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

Given under (*my*) hand at _____ in the said Territory
this _____ day of _____, 19 . J.S. J.P.

50.—Warrant of Commitment of a Person Indicted.

Q. 50 Vic.
No. 17, No. 53.

To all police officers in the Territory of Papua and to the keeper of the gaol at _____ in the said Territory.

WHEREAS by warrant under (*my*) hand dated the _____ day of _____, 19 _____, after reciting that it had been certified by J.D. (*&c. as in the certificate*) (*I*) commanded the Principal Police Officer at _____ in the said Territory and all other police officers of the said Territory in His Majesty's name forthwith to apprehend the said A.B. and to bring (*him*) before some justice or justices for the said Territory: And whereas the said A.B. having been apprehended and brought before (*me*) it is proved to (*me*) upon oath that the said A.B. is the same person who is charged in the said information: These are therefore to command you in His Majesty's name forthwith to convey the said A.B. to the gaol at _____ in the said Territory and deliver (*him*) to the keeper thereof together with this warrant and (*I*) command you the said keeper to receive the said A.B. into your custody in the said gaol and to keep (*him*) there until (*he*) shall be thence delivered by due course of law.

Given under (*my*) hand at _____ in the said Territory
this _____ day of _____, 19 . J.S. J.P.

51.—Warrant to Detain a Person Indicted Who is Already in Custody for Another Offence.

Q. Ib. No. 54.
Amended by
No. 13 of 1940,
s. 3 and
Schedule.

To the keeper of the gaol at _____ in the Territory of Papua.
WHEREAS it has been duly certified by the Registrar of the Supreme Court that (*&c. stating the certificate Form 4*): And whereas (*I*) am informed that the said A.B. is in your custody in the said gaol at _____ in the said Territory charged with some offence or other matter and it is now proved upon oath before (*me*) that the said A.B. so indicted as aforesaid and the said A.B. in your custody as aforesaid are one and the same person: These are therefore to command you in His Majesty's name to detain the said A.B. in your custody in the gaol aforesaid until (*he*) shall be lawfully removed therefrom for the purpose of being tried upon the said information or until (*he*) shall otherwise be removed or discharged out of your custody by due course of law.

Given under (*my*) hand at _____ in the said Territory
this _____ day of _____, 19 . J.S. J.P.

- COURTS -

Q. 50 Vic. No.
17, No. 55.

52.—*Warrant of Commitment of a Witness for Refusing to be Sworn or to Give Evidence.*

To all police officers in the Territory of Papua and to the keeper of the gaol at _____ in the said Territory.

WHEREAS on the _____ day of _____, 19____, upon the hearing of a charge before the undersigned (one) of His Majesty's justices of the peace for the said Territory that (*&c. as in the summons or warrant*) E.F. of _____ in the said Territory (_____) being required to make oath (or affirmation) as a witness to testify what (he) knew concerning the said charge refused so to do (or being duly sworn as a witness refused to answer certain questions concerning the premises which were put to him) without offering any just excuse for such refusal: These are therefore to command you the said police officers to convey the said E.F. to the gaol at _____ in the said Territory and deliver (him) to the keeper thereof together with this warrant and (I) hereby command you the said keeper of the said gaol to receive the said E.F. into your custody in the said gaol and keep (him) there for the space of _____ days for (his) contempt unless in the meantime he consents to be examined and to answer concerning the premises.

Given under (my) hand at _____ in the said Territory
this _____ day of _____, 19____

J.S. J.P.

Q. 1b. No. 56.

53.—*Warrant of Commitment for Want of Sureties of the Peace or for Good Behaviour.*

To all police officers in the Territory of Papua and to the keeper of the gaol at _____ in the said Territory.

WHEREAS on the _____ day of _____, 19____, upon the hearing of a charge before the undersigned (one) of His Majesty's justices of the peace for the said Territory that (*&c. as in the complaint*) the said A.B. being ordered to enter into his own recognizance in the sum of £ _____ with (two) sufficient sureties in the sum of £ _____ each to keep the peace &c. (or as the case may be—see condition of the recognizance to keep the peace &c. ante Form 23) refused and neglected and still refuses and neglects so to do: These are therefore to command you the said police officers to convey the said A.B. to the gaol at _____ in the said Territory and deliver him to the said keeper thereof together with this warrant: And (I) command you the said keeper of the said gaol to receive the said A.B. into your custody and there keep (him) for the term of (six months) unless he in the meantime enters into such recognizance with such sureties as aforesaid to keep the peace &c. (or as may be).

Given under (my) hand at _____ in the said Territory
this _____ day of _____, 19____

J.S. J.P.

Q. 1b. No. 57.

Amended by
No. 13 of 1940,
s. 3 and
Schedule.

54.—*Commitment of Witness for Refusing to Enter into Recognizance.*

To all police officers in the Territory of Papua and to the keeper of the gaol at _____ in the said Territory.

WHEREAS A.B. of _____ in the said Territory (_____) was on the _____ day of _____, 19____, charged before the undersigned (one) of His Majesty's justices of the peace for the said Territory that (*&c. as in the summons or warrant*) E.F. of _____ in the said Territory (_____) having been examined as a witness touching the premises and being required to enter into a recognizance conditioned to give evidence against the said A.B. refused so to do: These are therefore to command you the said police officers to convey the said E.F. to the gaol at _____ in the said Territory and deliver him to the said keeper thereof together with this warrant and (I) hereby command you the said keeper of the said gaol to receive the said E.F. into your custody in the said gaol there to keep (him) until after the trial of the said A.B. for the

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offence aforesaid unless in the meantime the said E.F. duly enters into such recognizance as aforesaid in the sum of _____ pounds before some justice for the said Territory conditioned to appear at the next criminal sittings of the Supreme Court to be held at _____ in the said Territory and there to give evidence upon any complaint which may be then and there preferred against the said A.B. for the offence aforesaid and also to give evidence upon the trial of the said A.B. for the said offence.

Given under (*my*) hand at _____ in the said Territory
this _____ day of _____, 19 _____ J.S. J.P.

55.—*Warrant of Commitment Upon a Conviction for a Penalty in the First Instance.*

Q. 50 Vic. No.
17, No. 58.

To all police officers in the Territory of Papua and to the keeper of the gaol at _____ in the said Territory.

WHEREAS A.B. of _____ in the said Territory (_____) was on the _____ day of _____, 19 _____, convicted before the undersigned (*one*) of His Majesty's justices of the peace in and for the said Territory for that (*stating the offence as in the conviction*) and it was adjudged that the said A.B. for (*his*) said offence should forfeit and pay the sum of _____ (*&c. in the conviction*) and should pay to the said C.D. the sum of _____ costs; and it was further adjudged that if the said several sums should not be paid (*forthwith*) the said A.B. should be imprisoned in the gaol at _____ in the said Territory (and there kept to hard labour) for the term of _____ unless the said several sums (and the costs and charges of conveying the said A.B. to the said gaol) should be sooner paid: And whereas the time in and by the said conviction appointed for the payment of the said several sums has lapsed but the said A.B. has not paid the same or any part thereof: These are therefore to command you the said police officers to apprehend the said A.B. and convey (*him*) to the gaol at _____ aforesaid and deliver (*him*) to the keeper thereof together with this warrant and (*I*) hereby command you the said keeper of the said gaol to receive the said A.B. into your custody in the said gaol there to imprison (*him*) and keep (*him*) to hard labour for the term of _____ unless the said several sums (and the costs and charges of conveying [*him*] to the said gaol amounting to the further sum of _____) are sooner paid.

Given under (*my*) hand at _____ in the said Territory
this _____ day of _____, 19 _____ J.S. J.P.

56.—*Warrant of Commitment on an Order in the First Instance.*

Q. 1b. No. 59.

To all police officers in the Territory of Papua and to the keeper of the gaol at _____ in the said Territory.

WHEREAS on the _____ day of _____, 19 _____, upon the hearing of a complaint before the undersigned (*one*) of His Majesty's justices of the peace for the said Territory that (*&c. as in the order*) (*I*) adjudged the said A.B. to pay to the said C.D. the sum of _____ on or before the _____ day of _____, 19 _____, and also to pay to the said C.D. the sum of _____ costs and (*I*) also adjudged that if the said several sums should not be paid on or before the said _____ day of _____, 19 _____, the said A.B. should be imprisoned in the gaol at _____ in the said Territory (and there to be kept to hard labour) for the term of _____ unless the said several sums (and the costs and charges of conveying A.B. to the said gaol) should be sooner paid: And whereas the said A.B. has not paid the same sums or any part thereof: These are therefore to command you the said police officers to apprehend the said A.B. and convey (*him*) to the said gaol at _____ aforesaid and there deliver him to the keeper thereof together with this warrant

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and (I) hereby command you the said keeper to receive the said A.B. into your custody in the said gaol there to imprison (him) and keep (him) to hard labour for the term of _____ unless the said several sums (and the costs and charges for conveying [him] to the said gaol amounting to the further sum of _____) are sooner paid.

Given under (my) hand at _____ in the said Territory
 this _____ day of _____, 19 _____ J.S. J.P.

Q. 50 Vic. No.
 17, No. 60.

57.—*Warrant of Commitment on an Order Where the Disobeying of it is Punishable by Imprisonment.*

To all police officers in the Territory of Papua and to the keeper of the gaol at _____ in the said Territory.

WHEREAS on the _____ day of _____, 19 _____ upon the hearing of a complaint before the undersigned (one) of His Majesty's justices of the peace for the said Territory that (&c. as in the order) (I) adjudged the said A.B. to (&c. as in the order) and ordered that if upon a copy of the minute of that order being served upon the said A.B. either personally or by leaving the same for (him) at (his) last known or usual place of abode (he) should refuse or neglect to obey the same the said A.B. should be imprisoned in the gaol at _____ in the said Territory (there to be kept to hard labour) for the term of _____ unless the said order should be obeyed: And whereas it is now proved to (me) that after the making of the said order a copy of the minute thereof was duly served upon the said A.B. but (he) then refused (or neglected) to obey the same and has not as yet obeyed the said order: These are therefore to command you the said police officers to apprehend the said A.B. and convey (him) to the gaol at _____ aforesaid and deliver (him) to the keeper thereof together with this warrant and (I) hereby command you the said keeper of the said gaol to receive the said A.B. into your custody in the said gaol there to imprison (him) and keep (him) to hard labour for the term of _____

Given under (my) hand at _____ in the said Territory
 this _____ day of _____, 19 _____ J.S. J.P.

Q. Ib. No. 61.

58.—*Warrant of Commitment on a Conviction Where the Punishment is by Imprisonment.*

To all police officers in the Territory of Papua and to the keeper of the gaol at _____ in the said Territory.

WHEREAS A.B. of _____ [labourer] was this day duly convicted before the undersigned [one] of His Majesty's justices of the peace for the said Territory that [stating the offence as in the conviction as in Forms 33, 34, and 35] and it was adjudged that the said A.B. should be imprisoned in the gaol at _____ in the said Territory [there to be kept to hard labour] for a term of _____: These are therefore to command you the said police officers to convey the said A.B. to the gaol at _____ aforesaid and deliver [him] to the keeper thereof together with this warrant and [I] command you the said keeper of the said gaol to receive the said A.B. into your custody in the said gaol there to imprison [him] and keep [him] to hard labour for the term of _____

Given under [my] hand at _____ in the said Territory
 this _____ day of _____, 19 _____ J.S. J.P.

EXECUTION AND IMPRISONMENT.

Q. Ib. No. 62.

59.—*Warrant of Commitment for Want of Execution Upon a Conviction for a Penalty or Upon an Order for Payment of Money.*

To all police officers in the Territory of Papua and to the keeper of the gaol at _____ in the said Territory.

WHEREAS [&c. as in either of the foregoing warrants of execution 42 and 43 to

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

Given under [my] hand at _____ in the said Territory this _____ day of _____, 19 _____

J.S. J.P.

60.—*Warrant of Commitment for Want of Execution for Costs on Dismissal of a Complaint.* Q. 50 Vic. No. 17, No. 63.

To all police officers in the Territory of Papua and to the keeper of the gaol at _____ in the said Territory.
WHEREAS [*&c. as in Form 44 to the asterisk (*) and then proceed as in Form 59 "And it was adjudged &c."* reciting order of dismissal according to its terms].

61.—*Warrant of Commitment for Want of Execution for Costs Where Offence is Punishable by Imprisonment or Upon an Order Where Disobeying the Order is Punishable with Imprisonment.* Q. Ib. No. 64.

To all police officers in the Territory of Papua and to the keeper of the gaol at _____ in the said Territory.
WHEREAS [*&c. as in Forms 45 and 46 respectively to the asterisk (*) and then proceed as in Form 59 "And it was adjudged &c."* reciting conviction or order according to its terms].

GAOLER'S RECEIPT.

62.—*Gaoler's Receipt for the Prisoner.*

Q. Ib. No. 66.

I HEREBY certify that I have received from W.T. police officer of _____ in the Territory of Papua the body of A.B. in good health (*or as the case may be*) together with a warrant under the hand of J.S. Esquire (*one*) of His Majesty's justices of the peace for the said Territory.

P.K.

Keeper of the Gaol.

DELIVERANCE.

63.—*Warrant of Discharge on Bail Being Given for a Prisoner Already Committed.*

Q. Ib. No. 67.

Amended by No. 13 of 1940, s. 3 and Schedule.

To the keeper of the gaol at _____ in the Territory of Papua.
WHEREAS A.B. late of _____ in the said Territory has before the undersigned (*one*) of His Majesty's justices of the peace for the said Territory entered into his own recognizance and found sufficient sureties for (*his*)

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appearance at the next criminal sittings of the Supreme Court to be held at
in the said Territory to answer a charge that (*ſc. as in
the commitment*) for which (*he*) was committed to your said gaol: These are
therefore to command you in His Majesty's name that if the said A.B. is now
in your custody in the said gaol for the said cause and for no other you
forthwith suffer [*him*] to go at large.

Given under [*my*] hand at _____ in the said Territory
this _____ day of _____, 19 _____
J.S. J.P.

Q. 50 Vic. No.
17, No. 68.

64.—*Warrant to Discharge a Person Committed for Want of Sureties of
the Peace or for Good Behaviour.*

To the keeper of the gaol at _____ in the Territory of Papua.
WHEREAS A.B. late of _____ in the said Territory _____ has
before the undersigned [*one*] of His Majesty's justices of the peace for the
said Territory entered into his own recognizance and found sufficient sureties
to keep the peace [*ſc. as in the condition of the recognizance*]. These are
therefore to command you [*ſc. as in preceding warrant of discharge*].

Given under [*my*] hand at _____ in the said Territory
this _____ day of _____, 19 _____
J.S. J.P.

Q. Ib. No. 69.

65.—*Order to Discharge a Witness upon Prisoner Not Being Committed
for Trial.*

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

Given under [*my*] hand at _____ in the said Territory
this _____ day of _____, 19 _____
J.S. J.P.

Q. Ib. Fourth
Schedule.

THE THIRD SCHEDULE.

ACCOUNT OF CLERK OF PETTY SESSIONS AND OF THE KEEPER OF THE GAOL.

RETURN to His Majesty's justices of the peace in petty sessions assembled
at _____ in the Territory of Papua on the _____ day
of _____, 19 _____, of all fines penalties and sums of money
received by the clerk of the petty sessions [*or by the keeper of the gaol*]
at _____ in the said Territory from the _____ day
of _____, 19 _____, to the _____ day of _____, 19 _____,
and how applied.

Justices Ordinance, 1912-1940.

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

(Signed)

Clerk of Petty Sessions or Keeper of the above-named Gaol.

THE FOURTH SCHEDULE.

FEEs TO BE TAKEN BY CLERKS OF PETTY SESSIONS IN CONNECTION WITH APPEALS TO THE SUPREME COURT.

For drawing case and copy where the case does not exceed five folios of ninety words each	s.	d.
.. .. .	10	0
Where the case exceeds five folios then for every additional folio	1	0
For the recognizance to be taken in pursuance of the Ordinance	5	0
For every enlargement or renewal thereof	2	6
For certificate of refusal of case	2	0

Q. 50 Vic.
No. 17, Fifth
Schedule.

Amended by
No. 13 of 1940,
s. 3 and
Schedule.

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that parallel to its intersection with the one hundred and fifty-fifth Meridian of East Longitude; thence bearing South by that Meridian to its intersection with the twelfth parallel of South Latitude; thence bearing West by that parallel to its intersection with the Meridian of 151 degrees 30 minutes of East Longitude; thence by that Meridian bearing North to its intersection with the eleventh parallel of South Latitude; thence bearing East by that parallel to its intersection with the Meridian 152 degrees 10 minutes of East Longitude; thence bearing North by that Meridian to its intersection with the parallel of Latitude 10 degrees South; thence bearing West by that parallel to its intersection with the Meridian 151 degrees 30 minutes of East Longitude; thence bearing North by that Meridian to its intersection with the ninth parallel of South Latitude; thence bearing West by that parallel to the point of commencement.

[Proclamation dated 5th November, 1940, and published in
Papua Govt. Gaz. of 6th November, 1940.]

PROCLAMATION.

By His Honour HERBERT WILLIAM CHAMPION, Commander of the Most Excellent Order of the British Empire, Acting Administrator of the Territory of Papua.

[L.S.]

H. W. CHAMPION.

I, Herbert William Champion, the Acting Administrator aforesaid, by and with the advice of the Executive Council do, under the power conferred upon me by the *Justices Ordinance, 1912-1940*, hereby proclaim and declare that Courts of Petty Sessions shall be and the same are hereby established within and for those portions of the Territory of Papua hereinafter described, and that the said Courts of Petty Sessions shall be known respectively as:—

- (1) The Court of Petty Sessions for the Western Division;
- (2) The Court of Petty Sessions for the Delta Division;
- (3) The Court of Petty Sessions for the Gulf Division;
- (4) The Court of Petty Sessions for the Central Division;
- (5) The Court of Petty Sessions for the East-Central Division;
- (6) The Court of Petty Sessions for the Eastern Division;
- (7) The Court of Petty Sessions for the Northern Division;
- (8) The Court of Petty Sessions for the South-Eastern Division;

and the respective districts of the said Courts of Petty Sessions shall be defined and constituted within the limits described in the Schedule hereto.

And I, the Acting Administrator aforesaid, do further proclaim and declare that the Proclamations bearing the date the twenty-fifth day of May, 1920, and the twenty-eighth day of January, 1935, pub-

lished in *Gazette* No. 8 of the second day of June, 1920,⁽³⁰⁾ and in *Gazette* No. 2 of the sixth day of February, 1935,⁽³¹⁾ respectively, are hereby revoked:

And I do further proclaim and declare that any such Court of Petty Sessions may, at the discretion of any Magistrate for the time being presiding over such Court, initiate or hear and adjudicate causes at any place within the limits of the respective district either on shore or on board of any boat or vessel that shall for the time being be so situate as to be within the Jurisdiction of the Common Law of the Territory:

And I do further proclaim and declare that this Proclamation shall come into operation on the first day of January, One thousand nine hundred and forty-one.

Given under my Hand and the Seal of the said Territory, at Port Moresby, this fifth day of November, in the year of Our Lord, One thousand nine hundred and forty, and in the fourth year of His Majesty's reign.

By His Honour's Command,

L. P. B. ARMIT,
for Government Secretary.

GOD SAVE THE KING!

SCHEDULE.

Description of Boundaries.

WESTERN DIVISION.

Description of that piece or parcel of land being the Western Division of the Territory of Papua commencing at a point on the coast-line of the Arafura Sea in the middle of the mouth of the Bensbach River being approximately one hundred and forty-one degrees one minute forty-seven and nine-tenths seconds of East longitude and bounded thence on the West by Dutch New Guinea bearing North along the said meridian to the right bank of the Fly River; thence again on the West by Dutch New Guinea bearing North-Westerly and Northerly along the right bank of the said Fly River to its intersection with the one hundred and forty-first meridian of East longitude; thence again on the West by Dutch New Guinea bearing North along the said meridian to the intersection of the boundaries of Papua, Dutch New Guinea and the Mandated Territory of New Guinea; thence on the North-East by the Mandated Territory of New Guinea bearing South-Easterly to the one hundred and forty-third meridian of East longitude; thence on the East by the Gulf Division of the Territory of Papua bearing South along the said meridian to the right bank of the Turama River; thence on the North-East by the Gulf Division bearing South-Easterly along the right bank of the said Turama River to Bell Point on the Southern coast-line of the Territory of Papua; thence on the South-East and South by the said coast-line bearing South-Westerly and Westerly to the point of commencement and including all those islands and reefs forming part of the Territory of Papua lying off the coast between the mouth of the Bensbach River and Bell Point.

(30) Printed on p. 985.

(31) Printed on p. 988.

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DELTA DIVISION.

Description of that piece or parcel of land being the Delta Division of the Territory of Papua commencing at a point known as Bell Point situate on the South coast-line of the Territory of Papua and on the right bank of the mouth of the Turama River and bounded thence on the West by the Western Division of the Territory of Papua bearing North-Westerly along the right bank of the said Turama River to its intersection with the one hundred and forty-third meridian of East longitude; thence again on the West by the Western Division bearing North along the said meridian to its intersection with the Northern boundary of the Territory of Papua; thence on the North by the Mandated Territory of New Guinea bearing South-Easterly to its intersection with the one hundred and forty-fifth meridian of East longitude; thence on the East by the Gulf Division of the Territory of Papua bearing South along the said meridian to the left bank of the Purari River; thence on the North and East by the Gulf Division bearing Easterly and Southerly along the left bank of the said Purari River to the Southern coast-line of the Territory of Papua; thence on the South by the said coast-line bearing Westerly to the point of commencement and including all those islands and reefs forming part of the Territory of Papua lying off the coast between the left bank of the mouth of the Purari River and Bell Point.

GULF DIVISION.

Description of that piece or parcel of land being the Gulf Division of the Territory of Papua commencing at a point on the Southern coast-line of the Territory of Papua being on the left bank of the mouth of the Purari River and bounded thence on the West and South by the Delta Division of the Territory of Papua bearing generally Northerly and Westerly along the left bank of the said Purari River to its intersection with the one hundred and forty-fifth meridian of East longitude; thence again on the West by the Delta Division bearing North along the said meridian to its intersection with the Northern boundary of the Territory of Papua; thence on the North-East by the Mandated Territory of New Guinea bearing South-Easterly to a point due North of Cape Possession; thence on the East by the Central Division of the Territory of Papua bearing South to a point on the Southern coast-line of the Territory of Papua known as Cape Possession; thence on the South-East and South by the said coast-line bearing generally North-Westerly and Westerly to the point of commencement and including all those islands and reefs forming part of the Territory of Papua lying off the coast between Cape Possession and the left bank of the mouth of the Purari River.

CENTRAL DIVISION.

Description of that piece or parcel of land being the Central Division of the Territory of Papua commencing at a point on the Southern coast-line of the Territory of Papua being known as Cape Possession and bounded thence on the West by the Gulf Division of the Territory of Papua bearing North to the Northern boundary of the Territory of Papua; thence on the North-East by the Mandated Territory of New Guinea bearing South-Easterly to a point being the intersection of the one hundred and forty-seventh meridian of East longitude with the eighth parallel of South latitude; thence again on the North-East by the Northern Division of the Territory of Papua bearing South-Easterly to the summit of the Western peak of Mount Albert Edward; thence again on the North-East by the Northern Division bearing generally South-Easterly along the watershed of the Owen Stanley Range to the summit of Mount Brown; thence on the South by the East-Central Division of the Territory of Papua bearing West for approximately four miles; thence on the East by the East-Central Division bearing South to the most South-Westerly point of Macfarlane Harbour on the South coast-line of the Territory of Papua; thence on the South and South-West by the said coast-line bearing generally Westerly and North-Westerly to the point of commencement and including all those islands and reefs forming part of the Territory of Papua lying off the coast between Cape Possession and the most South-Westerly point of Macfarlane Harbour.

EAST-CENTRAL DIVISION.

Description of that piece or parcel of land being the East-Central Division of the Territory of Papua commencing at a point being the most South-Westerly point of Macfarlane Harbour and bounded thence on the West by the Central Division of the Territory of Papua bearing North to a point West of Mount Brown; thence on the North again by the Central Division bearing East to the summit of Mount Brown; thence on the North-East, North-West and North-East by the Northern Division bearing South-Easterly, North-Easterly and South-Easterly along the watershed of the Owen Stanley Range to the summit of Mount Tantam; thence on the North, East and North-East by the Eastern Division bearing Easterly, Southerly and South-Easterly along the watershed of the Owen Stanley Range to a point between Mount Bago and Mount Gwenouri; thence on the East again by the Eastern Division bearing South to the South-Western extremity of Boioro Point on the Southern coast-line of the Territory of Papua; thence by the Southern coast-line of the Territory of Papua bearing generally Westerly to the point of commencement and including all islands and reefs forming part of the Territory of Papua lying off the coast between Boiojo Point and the most South-Westerly point of Macfarlane Harbour.

EASTERN DIVISION.

Description of that piece or parcel of land being the Eastern Division of the Territory of Papua commencing at a point known as Boioro Point on the Southern Coast of the Territory of Papua and bounded thence on the West by the East-Central Division of the Territory of Papua bearing North to a point on the watershed of the Owen Stanley Range between Mount Bago and Mount Gwenouri; thence on the South-West, West and South again by the East-Central Division bearing North-Westerly, Northerly and Westerly along the watershed of the Owen Stanley Range to the summit of Mount Tantam; thence on the North-West by the Northern Division bearing North-Easterly to Dark Hill Point on the Southern shores of Collingwood Bay; thence by the Southern coast-line of Collingwood Bay bearing generally Easterly to its intersection with the one hundred and fiftieth meridian of East longitude; thence on the West by that meridian bearing North to its intersection with the ninth parallel of South latitude; thence on the North by that parallel bearing East to its intersection with the meridian of one hundred and fifty-one degrees thirty minutes of East longitude; thence on the East by that meridian bearing South to its intersection with the tenth parallel of South latitude; thence again on the North by that parallel bearing East to its intersection with the meridian of one hundred and fifty-two degrees ten minutes of East longitude; thence again on the East by that meridian bearing South to its intersection with the eleventh parallel of South latitude; thence on the South by that parallel bearing West to its intersection with the one hundred and fiftieth meridian of East longitude; thence again on the West by that meridian bearing North to its intersection with the Southern coast-line of the Territory of Papua; thence again on the South by the Southern coast-line of the Territory of Papua bearing generally Westerly to the point of commencement and including all islands and reefs forming part of the Territory of Papua lying off the coast between the one hundred and fiftieth meridian of East longitude and Boioro Point on the Southern coast-line of the Territory of Papua and between Dark Hill Point on the Southern shores of Collingwood Bay and the one hundred and fiftieth meridian of East longitude.

NORTHERN DIVISION.

Description of that piece or parcel of land being the Northern Division of the Territory of Papua commencing at a point being the intersection of the eighth parallel of South latitude with the one hundred and forty-seventh meridian of East longitude and bounded thence on the South-West by the Central Division of the Territory of Papua bearing South-Easterly to the summit of the Western peak of Mount Albert Edward again on the South-West by the Central Division bearing South-Easterly along the watershed of the Owen Stanley Range to the summit of Mount Brown; thence on the South-West, South-East and South-West

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by the East-Central Division bearing South-Easterly, North-Easterly and South-Easterly along the watershed of the Owen Stanley Range to the summit of Mount Tantom; thence on the South-East by the Eastern Division bearing North-Easterly to Dark Hill Point on the Southern shores of Collingwood Bay; thence by the coast-line of the Territory of Papua bearing generally North-Westerly to its intersection with the eighth parallel of South latitude; and thence on the North by the Mandated Territory of New Guinea bearing West along the eighth parallel of South latitude to the point of commencement and including all islands and reefs forming part of the Territory of Papua lying off the coast between Dark Hill Point and the eighth parallel of South latitude.

SOUTH-EASTERN DIVISION.

Description of that piece or parcel of land being the South-Eastern Division of the Territory of Papua commencing at a point being the intersection of the one hundred and fiftieth meridian of East longitude with the ninth parallel of South latitude and bounded thence on the West by that meridian bearing North to its intersection with the eighth parallel of South latitude; thence on the North by that parallel bearing East to its intersection with the one hundred and fifty-fifth meridian of East longitude; thence on the East by that meridian bearing South to its intersection with the twelfth parallel of South latitude; thence on the South by that parallel bearing West to its intersection with the meridian of one hundred and fifty-one degrees thirty minutes of East longitude; thence again on the West by that meridian bearing North to its intersection with the eleventh parallel of South latitude; thence again on the North by the Eastern Division of the Territory of Papua along that parallel bearing East to its intersection with the meridian of one hundred and fifty-two degrees ten minutes of East longitude; thence again on the West by the Eastern Division along the said meridian bearing North to its intersection with the tenth parallel of South latitude; thence again on the South by the Eastern Division along the said parallel bearing West to its intersection with the meridian of one hundred and fifty-one degrees thirty minutes of East longitude; thence again on the West by the Eastern Division along the said meridian bearing North to its intersection with the ninth parallel of South latitude; and thence on the South by the Eastern Division along the said parallel bearing West to the point of commencement.