ACT

Amended by

Act No. 48 of 1979

Act No. 43 of 1980

Act No. 8 of 1981

Act No. 30 of 1989

Act No. 13 of 1991

Act No. 17 of 1991

Act No. 9 of 1992

Act No. 19 of 1992

Act No. 38 of 1993

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CHAPTER 72B

CRIMINAL PROCEDURE CODE

An Act to establish a Code of Criminal Procedure in the Magistrates' Court and the Supreme Court.

[Amended by Act No. 48 of 1979, Act No. 43 of 1980, Act No. 8 of 1981, Act No. 30 of 1989, Act No. 13 of 1991, Act No. 17 of 1991, Act No. 9 of 1992, Act No. 19 of 1992, Act No. 38 of 1993.]

[20th January, 1897.]

1. Short title

This Act may be cited as the Criminal Procedure Code.

2. Arrangement

This Code is divided into Books, Parts and Titles, as follows—

Procedure Relating to Summary Offences (pages 32 – 42)

PART II:

Proceedings up to Hearing

TITLE XII:

Institution of Proceedings

PART III:

Hearing and Subsequent Proceedings

TITLE XIII:

Hearing and Order

TITLE XIV:

Miscellaneous Matters

BOOK III

Procedure Relating to Indictable Offences (pages 42 – 82)

PART IV:

Preliminary Inquiry before a Magistrate

TITLE XV:

Proceedings up to Committal

TITLE XVI:

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PART V:

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TITLE XVII:

Mode of Trial

TITLE XVIII:

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TITLE XIX:

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PART VI:

Capital Punishment

TITLE XX:

Procedure Relating to Capital Punishment

PART VII

Miscellaneous Provisions

TITLE XXI:

Miscellaneous Matters

BOOK I

General Provisions

PART I

Miscellaneous Provisions

TITLE I

Preliminary and Miscellaneous Matters

3. Interpretation

(1) In this Code, unless the context otherwise requires—

“crime”, “gaoler”, “indictable offence”, “indictment”, “person” and “prison” have the same meanings as in the Criminal Code Act, Chapter 72A;

“process server” includes constables and rural constables, and, as regards the Supreme Court, the Bailiffs of that Court;

“Registrar” means the Registrar of the Supreme Court; and

“summary offence” means an offence punishable on summary conviction, and includes any matter in respect of which a Magistrate’s Court can make an order in the exercise of its summary criminal jurisdiction.

(2) In Book I of this Code, unless the context otherwise requires, “the Court” means either a Magistrate’s Court in the exercise of its jurisdiction in respect of summary offences or the Supreme Court in the exercise of its criminal jurisdiction according to the nature of the particular case.

(3) In Book II of this Code, unless the context otherwise requires—

“child” means a person, who, in the opinion of the Court before which he or she is brought, is under the age of twelve years;

“complainant” includes any informant or prosecutor;

complaint” includes any information or charge;

“Court” means a Magistrate’s Court in the exercise of its jurisdiction in respect of summary offences;

“defendant” means any person against whom a complaint has been made;

“fine” includes any pecuniary penalty, forfeiture or compensation recoverable or payable under an order;

“guardian”, in relation to a child, means the parent or other lawful guardian of the child, and includes any person who, in the opinion of the Court having cognizance of any case in which a child is concerned, has for the time being the custody, control or charge of the child;

“order” includes any conviction; and

“sum adjudged to be paid by an order” includes any costs or compensation adjudged to be paid by the order, of which the amount is fixed by the order.

(4) In Book III of this Code, unless the context otherwise requires, “the Court” means the Supreme Court in the exercise of its criminal jurisdiction.

Application of the Code

4. Application of the Code generally, and of the several parts thereof

(1) Unless the contrary is expressly provided by any statute, the provisions of this Code shall extend and apply to all proceedings which may be taken after the commencement of this Code in respect of summary or indictable offences.

(2) The provisions of this Book shall, unless the contrary is expressly provided or by necessary implication appears to be intended, apply generally to proceedings under this Code.

(3) The provisions of Book II of this Code shall apply only to proceedings in respect of summary offences.

(4) The provisions of Book III of this Code shall apply only to proceedings in respect of indictable offences.

TITLE II

Statement of Ownership

5. Mode of stating ownership of property of partners, etc.

(1) Where, in any document in any proceeding under this Code, it is necessary to state the ownership of any property, whether real or personal, which belongs to or is in the possession of more than one person, it shall be sufficient to name one of the persons, and to state the property to belong to the person so named and another or others, as the case may be.

(2) Where, in any such document, it is necessary to mention for any purpose any partners or other joint owners or possessors, it shall be sufficient to describe them in manner aforesaid.

(3) Where, in any such document, it is necessary to state the ownership of any property of an intestate in respect of whose estate no administration has been granted, it shall be sufficient to state that the property belongs to the Chief Justice.

(4) The provisions of this section shall be construed to extend to all joint stock companies and associations, societies and trustees.

6. Mode of stating ownership of church, etc.

Where, in any document in any proceeding under this Code, it is necessary to state the ownership of any church, chapel or building set apart for religious worship, or of anything belonging to or being in the same, it shall be sufficient to state that the church, chapel, building or thing, is the property of the clergyman, or the officiating minister, or the churchwarden, without its being necessary to name him or her.

7. Mode of stating ownership of public property

(1) Where, in any document in any proceeding under this Code, it is necessary to state the ownership of any work or building made, erected or maintained either wholly or in part, at the expense of the inhabitants of this Colony or of any district, town or village thereof, or of anything belonging to or being in or used in relation to the same, or of anything provided for the use of the poor, or of any public institution or establishment, or of any materials or tools provided or used for repairing any such work or building or any public road or highway, or of any other property whatsoever of such inhabitants as aforesaid, it shall be sufficient to state that the property is the property of the inhabitants of the Colony, or of the district, town or village, without naming any of them.

(2) Where, in any document in any proceeding under this Code, it is necessary to state the ownership of any telephone line or works or of anything in a public cemetery or burial place, it shall be sufficient to state that it is the property of the Queen.

(3) Where, in any document in any proceeding under this Code, it is necessary to state the ownership of any mail bag or postal matter, or of any chattel, money or security sent by post, it shall be sufficient to state that it is the property of the Postmaster-General.

(4) It shall not be necessary in the case of any property mentioned in this section to prove ownership or to allege or prove any value.

TITLE III

Arrest

8. Summary arrest of persons committing summary offences in certain cases

Whoever is found committing any summary offence against the person or against property may be arrested, without warrant, by any constable, or by any person whom a constable may call to his or her assistance, or by the owner of the property on or with respect to which the offence is committed, or by his or her servant or any other person authorised by him or her.

9. Summary of arrest of persons committing indictable offences in certain cases

(1) Whoever is found committing any indictable offence may be arrested by any person without warrant.

(2) Any person may, without warrant, arrest any person who has in fact committed an indictable offence, or any person who is being pursued by hue and cry, but not otherwise.

(3) Any person to whom any property is offered to be sold pawned or delivered, and who has reasonable ground to suspect that any indictable offence has been or is about to be committed on or with respect to the property, may, and if he or she can, shall, without warrant, arrest the person offering it, and take possession thereof.

(4) Whoever finds any person in possession of any property which he or she, upon reasonable grounds, suspects to have been obtained by any indictable offence, may arrest the person without warrant, and take possession of the property.

10. Saving of powers of summary arrest given to constables

Nothing contained in the preceding sections shall affect the powers of arrest without warrant conferred by law upon constables.

11. Form and requisites of warrant of apprehension

(1) Every warrant for the arrest of any person issued under this Code, or, unless the contrary is expressly provided, under any other law, shall be dated of the day on which it is issued, and shall be signed by the Judge or Magistrate by whom it is issued.

(2) No such warrant shall be signed in blank.

(3) No such warrant shall be issued by a Magistrate without an information upon oath.

(4) Every such warrant may be directed either to any constable by name, or to a constable by name, and all other constables, or generally to all constables, or, in the case of a warrant issued by the Supreme Court, to a bailiff.

(5) Every such warrant may be executed by any constable named therein, or by any one of the constables to whom it is directed, or by a bailiff.

(6) Every such warrant shall state shortly the offence or matter for which it is issued, and shall name or otherwise describe the person to be arrested, and it shall order the constable or constables, or bailiff, to whom it is directed, to arrest the person, and bring him or her before the Court to answer the information, or to testify, or otherwise, according to the circumstances of the case. It shall not be necessary to make the warrant returnable at any particular time, but it shall remain in force until executed.

(7) A copy of every such warrant shall be kept by the Court by which it is issued.

12. Execution of warrant

(1) Every warrant of arrest may be issued and executed on a Sunday.

(2) The constable or bailiff executing the warrant must have it in his or her possession, and must, upon request by the person to be arrested, show him or her the warrant. He or she must also, before making the arrest, inform the person to be arrested that he or she has the warrant, unless there is reasonable cause for abstaining from giving the information on the ground that it is likely to occasion escape, resistance or rescue.

(3) Any constable or bailiff authorised to execute the warrant may, for the purpose of executing it, either with or without assistance from any other person, break open and enter any house, building or enclosed place, if admittance cannot otherwise be obtained. Before so doing, he or she must, as far as practicable, notify his or her possession of the warrant.

(4) It shall be lawful for the Chief of Police to cause copies of warrants to be made and when made to certify the same, and every copy thus duly certified shall for all purposes be as valid as the original warrant.

13. All persons arrested to be brought speedily before the Court

Every person arrested for any cause, whether with or without a warrant, shall be brought before a Judge or a Magistrate, as the case may be, as soon as practicable; and every person arrested under any of the provisions hereinbefore contained by any person other than a constable or bailiff shall as soon as possible be delivered into the custody of a constable for that purpose.

14. Handcuffing of person arrested

A person arrested, whether with or without warrant, shall not be handcuffed, or otherwise bound, or searched; unless in case of necessity, or of reasonable apprehension of violence, or of attempt to escape, or by order of the Court.

TITLE IV

Search Warrant and Seizure and Restitution of Property

15. Cases in which search warrant may be issued, and proceedings thereunder

(1) Any Magistrate who is satisfied upon oath that there is reasonable ground for believing that there is, in any building, ship, carriage, box, receptacle or place—

(*a*)anything upon or in respect of which any offence has been or is suspected to have been committed, for which, according to any law for the time being in force, the offender may be arrested without warrant;

(*b*)anything which there is reasonable ground for believing will afford evidence as to the commission of any such offence; or

(*c*)anything which there is reasonable ground for believing is intended to be used for the purpose of committing any offence against the person, for which according to any law for the time being in force, the offender may be arrested without warrant,

may at any time issue a warrant authorising some constable named therein to search the building, ship, carriage, box, receptacle, or place for the thing, and to seize and carry it before the Magistrate issuing the warrant or some other Magistrate.

(2) Every search warrant may be issued and executed on a Sunday, and shall be executed between the hours of five o'clock in the morning and eight o'clock at night:

Provided, however, that the Magistrate, in his or her discretion may by the warrant, authorise the constable to execute it at any hour.

(3) When the thing is seized and brought before the Magistrate, he or she may detain it, taking reasonable care to preserve it till the conclusion of the case; and, if any appeal is made, or any person is committed for trial, he or she may order it further to be detained for the purpose of the appeal or of evidence on the trial. If no appeal is made, or no person is committed, the Magistrate shall direct the thing to be restored to the person from whom it was taken, except in the cases hereinafter mentioned, unless he or she is authorised or required by law to dispose of it otherwise.

(4) If, under any such warrant, there is brought before any Magistrate any forged banknote paper, instrument or any other thing, the possession whereof, in the absence of lawful excuse, is an indictable offence according to any law for the time being in force, the Magistrate may direct the

thing to be detained for production in evidence, or to be otherwise dealt with as the case may require.

(5) If, under any such warrant, there is brought before any Magistrate any counterfeit coin or any other thing, the possession of which, with knowledge of its nature and without lawful excuse, is an indictable offence, according to any statute for the time being in force, it shall be delivered up to the Permanent Finance Secretary, or to any person authorised by him or her to receive it, as soon as it has been produced in evidence, or as soon as it appears that it will not be required to be so produced.

(6) If the thing to be searched for is gunpowder or any other explosive or dangerous or noxious substance or thing, the person making the search shall have the same powers and protections as are given by any statute for the time being in force to any person lawfully authorised to search for any such thing, and the thing itself shall be disposed of in the manner directed by the statute, or, in default of such direction, as the Governor-General may order.

16. Seizure of property obtained by, or the proceeds of, an offence

A Judge or any Magistrate may order the seizure of any property which there is reason to believe has been obtained by, or is the proceeds of, any offence, or into which the proceeds of any offence have been converted, and may direct that the same shall be kept or sold, and that the same, or the proceeds thereof, if sold, shall be held as he or she directs, until some person establishes, to his or her satisfaction, a right thereto. If no person establishes such a right within twelve months from the seizure, the property, or the proceeds thereof, shall become vested in the Permanent Finance Secretary for the use of the State and shall be disposed of accordingly.

17. Seizure of things intended to be used in commission of an offence

A Judge or any Magistrate may order the seizure of any instruments, materials, or things which there is reason to believe are provided or prepared, or being prepared, with a view to the commission of any offence, and may direct them to be held and dealt with in the same manner as property seized under the last preceding section.

18. Enforcement of order of seizure by search warrant

Any order made under either of the two last preceding sections may be enforced by a search warrant.

19. Application of money found on person apprehended

If, upon the arrest of any person charged with an offence, any money is taken from him or her, the Court may, in its discretion, in case of his or her conviction, order the money, or any part thereof, to be applied to the payment of any costs or compensation directed to be paid by him or her.

20. Restitution of property in case of conviction

(1) Subject as hereinafter provided, when any person is convicted of an offence, any property found in his or her possession, or in the possession of any other person for him or her, may be ordered by the Court to be delivered to the person who appears to the Court to be entitled thereto.

(2) When any person is convicted of having stolen or dishonestly obtained any property, and it appears to the Court that it has been pawned to a pawnbroker or other person, the Court may order its delivery to the person who appears to the Court to be the owner, either on payment or without payment to the pawnbroker or other person of the amount of the loan or any part thereof, as to the Court, under all the circumstances of the case, may seem just. If the person in whose favour any such order is made pays the money to the pawnbroker or other person under the order and obtains the property, he or she shall not afterwards question the validity of the pawn, but, save to that extent, no order made under this section shall have any further effect than to change the possession, and no such order shall prejudice any right of property or right of action in respect to property existing or acquired in the goods either before or after the offence was committed.

(3) Nothing in this section shall prevent the Court from ordering the return to any person charged with an offence, or to any person named by the Court, of any property found in the possession of the person charged or in the possession of any other person for him or her, or of any portion thereof, if the Court is of opinion that the property or portion thereof can be returned consistently with the interests of justice and with the safe custody or otherwise of the person charged.

TITLE V

Keeping of the Peace

21. Procedure in case of articles of the peace

(1) In any case where a complaint is made by any person against some other person to the effect that there is reason to fear that the defendant will do the complainant some bodily injury, the Magistrate may, if the complainant is established, order the defendant, to enter into a recognisance, with or without a surety or sureties, to keep the peace and be of good behaviour towards the complainant, for a period not exceeding six months.

(2) In any case where a complaint is made by any person against some other person to the effect that the defendant has incited any other person or persons to commit a breach of the peace, the Magistrate may, if the complaint is established and he or she is satisfied that the defendant intends to persevere in such incitement, order him or her to enter into a recognisance, with or without a

surety or sureties, to keep the peace and be of good behaviour for a period not exceeding six months. The Magistrate may make such an order although it has not been established that the defendant caused any individual person to go in bodily fear.

(3) The provisions of this Code shall apply to the hearing of any such complaint, and the complainant and the defendant and the witnesses may be called and examined and cross-examined, and the complainant and the defendant shall respectively be liable to the payment of costs, or of costs and compensation, as in the case of any other complaint.

(4) The Magistrate may order the defendant, in default of compliance with the order, to be imprisoned for three months.

22. Power to bind parties to be of good behaviour

A Judge or a Magistrate shall have power upon the trial of any indictable or summary offence, whether the person accused be convicted or not, to bind both the prosecutor and the accused, or either of them, to be of good behaviour for a period not exceeding six months, and may order the prosecutor or the accused, in default of compliance with the order, to be imprisoned, where the order is made by a Judge, for six months, and, where the order is made by a Magistrate, for three months.

TITLE VI

Witnesses

23. Issue of summons for witnesses

If either before or on the trial of any summary or indictable offence, or the holding of any preliminary inquiry, it appears to the Court or to a Justice of the Peace, on the statement of either of the parties thereto, or otherwise, that any person is likely to give material evidence for the prosecution or defence, the Court, or such Justice of the Peace, may issue a summons for the person requiring him or her to appear before the Court, at a time mentioned therein, to give evidence respecting the case, and to bring with him or her any document relating thereto which may be in his or her possession, power or control.

24. Service of summons on witness

Every summons shall be served by a process server upon the person to whom it is directed, either by delivering a copy of it to him or her personally, or if he or she cannot conveniently be met with, by leaving the copy for him or her at his or her last or most usual place of abode.

25. Warrant for witness after summons

If any person to whom the summons is directed does not appear before the Court at the time mentioned therein, and no just excuse is offered for his or her non-appearance, then, after proof upon oath that the summons was duly served or that the person to whom it is directed wilfully avoids service, the Court, being satisfied by proof upon oath that he or she is likely to give material evidence, may issue a warrant to bring him or her, at a time mentioned therein, before the Court, in order to testify as aforesaid.

26. Issue of warrant for witness in first instance

If the Court is satisfied by evidence upon oath that any person likely to give material evidence, either for the prosecution or for the defence, will not attend to give evidence without being compelled to do so, then, instead of issuing a summons, it may issue a warrant in the first instance.

27. Mode of dealing with witness arrested under warrant

(1) Every witness arrested under a warrant issued in the first instance shall, if the hearing of the case for which his or her evidence is required is appointed for a time which is more than twenty-four hours after the arrest, be taken before a Magistrate, and the Magistrate may, on his or her furnishing security by recognisance, to the satisfaction of the Magistrate, for his or her appearance at the hearing, order him or her to be released from custody, or shall, on his or her failing to furnish security, order him or her to be detained for production at the hearing.

(2) A witness arrested or detained under this section shall not be kept in the same room or place as the accused, if the accused is in custody.

28. Non-attendance of witness on adjourned hearing

Every witness who is present when the hearing or further hearing of a case is adjourned, or who has been duly notified of the time and place to which such hearing or further hearing is so adjourned, shall be bound to attend at such time and place, and in default of so doing, may be dealt with in the same manner as if he or she had failed to attend before the Court in obedience to a summons to attend and give evidence.

29. Mode of examination of witness

Every witness shall be examined upon oath, but if any witness refuses or is unwilling from alleged conscientious motives to be sworn, it shall be lawful for the Court, upon being satisfied of the sincerity of his or her objection, to allow him or her to make a solemn affirmation, which shall have the same force and effect as if he or she had taken an oath in the usual form, and shall, if untrue, entail the same penalties as are provided against persons guilty of perjury.

30. Mode of dealing with witness refusing to be sworn, etc.

(1) Where any person, appearing either in obedience to a summons, or by virtue of a warrant, or being present in Court, and being verbally required by the Court to give evidence—

(*a*)refuses to be sworn as a witness;

(*b*)having been so sworn, refuses to answer any question put to him or her by or with the sanction of the Court; or

(*c*)refuses or neglects to produce any document which he or she is required to produce,

without in any such case offering any sufficient excuse for his or her refusal or neglect, the Court may adjourn the case for any period not exceeding eight days, and may, by warrant, commit him or her to prison in the meantime, unless he or she sooner consents to do what is required of him or her.

(2) If, upon being brought before the Court at or before the adjourned hearing, he or she again refuses to do what is so required of him or her, the Court may, if it sees fit, again adjourn the case, and commit him or her for the like period, and so again from time to time until he or she consents to do what is so required of him or her.

(3) Nothing herein contained shall affect his or her liability to any other punishment or proceedings for refusing or neglecting to do what is so required of him or her, or shall prevent the Court from disposing of the case in the meantime, according to any other sufficient evidence taken by it.

31. Administration of oath

The Court shall have power, by itself or by an officer thereof, to administer an oath, or affirmation, to all such witnesses as are lawfully called before it.

TITLE VII

Payment of Costs and Compensation

32. When costs may be ordered

Whenever an order is made against any person charged with a summary offence, or an accused person is convicted of an indictable offence, the Court may, in addition to any sentence it may pass on him or her, order the person to pay such a sum for costs as the Court shall fix, and as may appear to it just and reasonable.

33. When costs or compensation may be ordered to be paid by a complainant

Whenever a complaint is dismissed, the Court may order that the complainant shall pay to the defendant such costs as the Court shall deem just and reasonable, and, if the Court is of the opinion that the complaint was frivolous or vexatious, it may also order that the complainant shall pay to the defendant a sum, not exceeding nine dollars and sixty cents, as compensation for any trouble or expense to which the defendant may have been put by reason of such complaint, in addition to his or her costs.

TITLE VIII

Enforcement of Order

34. Power of the Court to accept deposit of money in lieu of surety

The Court may accept a deposit of money from or on account of any person in lieu of a surety or sureties, and on any breach of the condition of his or her recognisance, such deposit shall be forfeited and shall be dealt with in the manner hereinafter mentioned.

35. Issue of distress warrant in certain cases

(1) Any sum of money adjudged to be paid by an order shall, if the statute on which the order is founded so directs, but subject to the provisions hereafter in this section contained, and may, in the discretion of the Court in other cases, be levied upon the movable property of the accused by distress and sale thereof.

(2) In any such case the Court shall, but subject as aforesaid, or may, as the case may be, issue its warrant of distress for the purpose of levying the same, and the warrant shall be in writing and signed by the presiding officer of the Court.

(3) If it appears to the Court, when application is made to it to issue any such warrant, that the accused has no movable property whereon to levy the distress, or that, in the event of a warrant of distress being issued, his or her movable property will be insufficient to satisfy the sum of money adjudged to be paid by the order, or that the levy of the distress will be more injurious to him or her or his or her family than imprisonment, the Court may, if it thinks fit, instead of issuing the warrant, order the accused, on non-payment of the said sum, to be imprisoned, with or without hard labour, for any term not exceeding the term hereinbefore prescribed in respect of a like sum in the scale of imprisonment in default of payment of sums or money adjudged to be paid by an order.

(4) The wearing apparel and bedding of a person and his or her family, and to the value of twenty-four dollars, the tools and implements of his or her trade, shall not be taken under a warrant of distress.

36. Commitment of security until return made to the distress warrant

Where a warrant of distress is issued against an accused, the Court may either suffer him or her to go at large or, by warrant in that behalf, order him or her to be kept in safe custody until return has been made to the warrant, unless the accused gives sufficient security by recognisance or otherwise, to the satisfaction of the Court, for his or her appearance before the Court at the time and place appointed for the return of the warrant.

37. Imprisonment in default of distress

Where a warrant of distress is issued against an accused, and a return is made by the process server charged with the execution of the warrant to the effect that no sufficient movable property of the accused can be found whereon to levy the distress, the Court may order the accused on non-payment of the sum of money adjudged to be paid by the order and all costs and charges of the distress and of the commitment, to be imprisoned, with or without hard labour, for any term not exceeding the term herein-before prescribed in respect of a like sum in the scale of imprisonment in default of payment of sums of money adjudged to be paid by an order.

38. General provisions with respect to distress warrants

The following provisions shall have effect with respect to the execution of warrants of distress issued by the Court, namely—

(*a*)the warrant shall be executed by or under the direction of a process server;

(*b*)if the process server charged with the execution of the warrant is prevented from executing the same by the fastening of doors or otherwise, the Judge or Magistrate issuing the warrant may by writing under his or her hand endorsed on the warrant, authorise him or her to use such force as may be necessary to enable him or her to execute it;

(*c*)except so far as the person upon whose movable property the distress is levied otherwise consents in writing, the distress shall be sold at public auction, and three days at least shall intervene between the making of the distress and the sale, but where consent in writing is so given as aforesaid the sale may be made in accordance with such consent;

(*d*)subject as aforesaid, the distress shall be sold within the time fixed by the warrant, and if no time is so fixed, then within the period of fourteen days from the date of making the distress, unless the sum for which the warrant was issued, and also the charges of taking and keeping the distress are sooner paid;

(*e*)if any person charged with the execution of the warrant wilfully retains from the produce of any property sold to satisfy the distress, or otherwise exacts any greater costs or charges than those to which he or she is for the time being entitled by law, or makes any improper charge, he or she shall on being convicted thereof, be liable to a fine of forty-eight dollars:

Provided that nothing herein contained shall affect the liability of any such person to be prosecuted and punished for extortion;

(*f*)a written account of the costs and charges incurred in respect of the execution of the warrant shall, as soon as practicable, be delivered by the process server charged with its execution to the Court; and it shall be lawful for the person upon whose movable property the distress was levied, at any time within one month after the making of the distress, to inspect the account, without fee or reward, at any time during office hours, and to take a copy thereof; and

(*g*)the process server charged with the execution of the warrant shall sell the distress or cause the same to be sold, and may deduct out of the amount realised by the sale all costs and charges actually incurred in effecting the sale, and shall pay into the Court, or to some person specified by it, the remainder of the amount, in order that it may be applied in payment of the sum for which the warrant was issued and of the proper costs and charges of its execution, and that the overplus, if any, may be rendered to the person upon whose movable property the distress was levied.

39. Payment of amount of distress warrant

Where any person against whom a warrant of distress is issued, pays or tenders to the process server executing it the sum or sums in the warrant mentioned, or produces to him or her the receipt for the same of the Court, and also pays the amount of the costs and charges of the distress up to the time of such payment or tender, the process server shall cease to execute the warrant.

40. Power of the Court to commit an accused in certain cases

Whenever an order is made against any person for the payment of a sum of money, and he or she is liable to be imprisoned for a certain term, unless the sum shall be sooner paid, if he or she does not pay it either forthwith or at the time specified in the order, as the case may be, the Court may issue its warrant of commitment, requiring the process server to whom the same is directed, to take and convey the person to prison and there deliver him or her to the gaoler, and requiring the gaoler to receive him or her into the prison, and there imprison him or her, with or without hard labour, as the case may be, for such time as may be directed by the warrant, unless the sum of money, and also all other costs, charges and expenses, shall be sooner paid.

41. Power of the Court to postpone issue of warrant of commitment

Where application is made to the Court to issue a warrant of commitment against a person for non-payment of any sum of money adjudged to be paid by an order, the Court may, if it thinks fit, postpone the issue of the warrant until such time and on such conditions, if any, as to the Court may seem just.

42. Commencement of imprisonment

Where any person is brought by a process server to the prison to be imprisoned by virtue of a warrant of commitment, the process server shall endorse thereon the day on which the person was arrested by virtue thereon, and the imprisonment shall be computed from that day and inclusive thereof.

43. Varying or discharging order for sureties

Where any person has been committed to prison by the Court for default in finding a surety or sureties, the Court may, on application made to it by him or her, or by some person acting on his or her behalf, inquire into his or her case, and if, upon new evidence produced to the Court or proof of a change of circumstances, the Court thinks, having regard to all the circumstances of the case, that it is just to do so, the Court may reduce the amount for which it was ordered that the surety or sureties should be bound, or dispense with the surety or sureties, or otherwise deal with the case as the Court may think just.

44. Right of person imprisoned in default to be released on paying sum, etc.

Where any person has been committed to prison by the Court for non-payment of any sum of money adjudged to be paid by an order, he or she may pay or cause to be paid to the gaoler the sum mentioned in the warrant of commitment together with the amount of the costs, charges and expenses, if any, also mentioned therein, and the gaoler shall receive the same, and thereupon discharge him or her, unless he or she is in his or her custody for some other matter.

45. Determination of liability of accused on satisfaction of or discharge from order

Where the accused, having been convicted of the offence with which he or she was charged, has paid the sum of money adjudged to be paid by the order, or has been discharged therefrom by the Crown, or has undergone imprisonment for non-payment thereof or imprisonment adjudged in the first instance, or both, or has been discharged from his or her conviction in manner aforesaid he or she shall be released from all other criminal proceedings for the same matter:

Provided that nothing in this section shall affect the liability of any person in respect of any continuing or recurring offence.

TITLE IX

Enforcement of Recognisance

46. Mode of enforcing recognisance

(1) Where a recognisance is conditioned for the appearance of any person before the Court or for his or her doing some other act or things to be done in, to, or before the Court or in a proceeding in the Court, the Court may, if the recognisance appears to the Court to be fortified, declare it to be forfeited, and enforce payment of the sum due thereunder in the same manner as if the sum were a fine adjudged by the Court to be paid, and were ascertained by an order:

Provided, however, that the Court may at any time cancel or mitigate the forfeiture, upon the person liable applying and giving security, to the satisfaction of the Court, for the future performance of the condition of the recognisance, and paying, or giving security for the payment of, the costs incurred in respect of the forfeiture, or upon such other conditions as the Court may think just:

Provided also that, if it appears to the Court that a warrant of distress should not, under the provisions hereinbefore contained, be issued against the person liable under the recognisance, but that the person has real property, the Court may, if it thinks fit, postpone the issue of a warrant of commitment against him or her and transmit the recognisance to the Registrar, together with a description of such property.

(2) Every recognisance so transmitted shall have the same effect on such property as an order by the Supreme Court for the sale of that of a judgement debtor, and the Registrar shall act accordingly.

(3) Where a recognisance to keep the peace, or to be of good behaviour, or not to do or commit some act or thing has been entered into by any person as principal or surety before the Court, the Court may, upon proof of the conviction of the person bound as principal by the recognisance of any offence which is by law a breach of the condition of the same, by order adjudge the recognisance to be forfeited, and adjudge the persons bound thereby, whether as principal or sureties, or any of them, to pay the sums for which they are respectively bound; and the recognisance shall be dealt with in the manner herein before mentioned.

(4) All sums paid or recovered in respect of any recognisance declared or adjudged by the Court in pursuance of this section to be forfeited shall be paid into the Court, and accounted for in the manner in which fines imposed by the Court are accounted for.

TITLE X

Bail

47. Provisions relating to bail

(1) Subject to subsection (2), where a person accused of having committed any offence that is punishable with a fine or with imprisonment for any period whatsoever, the Magistrate may, in his or her discretion, admit the accused person to bail, so that in relation to any such offence bail shall in every case be in the discretion of the Magistrate.

(2) A Magistrate shall not admit to bail any person charged with treason, misprision of treason, treason-felony or murder.

48. Further provisions relating to bail

(1) Every accused person, whether he or she has been committed to prison or not, shall or may, as the case may be, be admitted to bail, upon providing a surety or sureties sufficient, in the opinion of the Magistrate, to secure his or her appearance, or upon his or her own recognisance, if the Magistrate thinks fit. Where, by any law for the time being in force, bail may be allowed or refused in the discretion of the Magistrate, his or her discretion may be exercised at any stage of the proceedings.

(2) If a person who has appeared and has been admitted to bail to appear at any adjournment, fails to appear according to the condition of the recognisance, the Magistrate before whom he or she ought to have appeared may issue a warrant for his or her arrest, whether there has been any complaint or information in writing and upon oath or not.

49. Power of the Court, etc., to bail

A Judge may at any time order any person charged with any offence except treason to be admitted to bail, and the bail may, if the order so directs, be taken before any Magistrate or Justice of the Peace. A person charged with treason shall not be admitted to bail except by order of the Governor-General.

50. Provisions relating to bail

(1) Subject to subsection (2), where a person is accused of having committed any offence that is punishable with a fine or with imprisonment for any period whatsoever, the Magistrate may, in his discretion, admit the accused person to bail, so that in relation to any such offence bail shall in every case be in the direction of the Magistrate.

(2) A Magistrate shall not admit to bail any person charged with treason, misprision of treason, treason-felony or murder.

51. Committal of accused person to prison for safe custody, pending preliminary inquiry

(1) A person charged with an indictable offence who is not admitted to bail shall be committed for safe custody to the prison, or as the case may require.

(2) If the Magistrate adjourns the preliminary inquiry and demands the accused, the remand shall be by warrant.

(3) The Magistrate may, whilst the accused is under remand and before the expiration of the period for which he or she has been remanded, order the accused to be brought before him or her, and the gaoler or person in whose custody he or she then is shall obey the order, or, if the accused is on bail, may summon him or her to appear at an earlier day than that to which he or she was remanded. If the summons is not obeyed, a warrant may issue to enforce his or her attendance, and may be executed like any other warrant.

52. Bailing of accused person on committal for trial

(1) If an accused person who is committed for trial is admitted to bail, the recognisance of bail shall be taken in writing either from the accused person and one or more surety or sureties or from the accused person alone, in the discretion of the Magistrate, according to the nature and circumstance of the case, and shall be signed by the accused and his or her surety or sureties, if any.

(2) The condition of the recognisance shall be that the accused person shall personally appear before the Supreme Court at its next practicable sitting (which shall be specified), there and then, or at any time within twelve months from the date of the recognisance, to answer to any indictment that may be filed against him or her in the said Court in respect of the offence wherewith he or she is charged, and that he or she will not depart the said Court without leave of the Court.

53. Conveying accused person to prison after committal for trial

(1) If any accused person who is committed for trial is not released on bail, the process server to whom the warrant of commitment is directed shall convey him or her to the prison and shall there deliver him or her, together with the warrant, to the gaoler, who shall thereupon give the process server a receipt for the accused, which shall set forth the condition in which the accused was when he or she was delivered into the custody of the gaoler.

(2) It shall not be necessary to address any warrant of committal under this or any other section of this Code to the gaoler, but upon delivery of any such warrant to the gaoler by the person charged with the execution thereof, the gaoler shall receive and detain the person named therein (or detain him or her if already in his or her custody) for such period and for such purpose as the warrant directs. In case of adjournments or remands the gaoler shall bring the person or cause him or her to be brought, at the time and place fixed by the warrant for that purpose, before the Court.

(3) The provisions of this section shall apply to every person who is committed to prison under any provision of this Code.

54. Bailing of accused person after committal

(1) If an accused person who is entitled to be admitted to bail, or if an accused person whom the Magistrate has power to bail and who, in his or her opinion, ought to be bailed, is committed to prison only because he or she does not, at the time of his or her committal for trial, procure a

sufficient surety or sureties for appearing to take his or her trial, the Magistrate shall upon the application of the accused write on the back of the warrant of commitment, or on a separate paper, a certificate of his or her consent to the accused being bailed, and shall state the amount of bail which ought to be required. Any Magistrate attending or being at the prison whilst the accused is confined therein shall, upon the production of the certificate, admit him or her to bail accordingly, and shall order him or her to be discharged by a warrant of deliverance.

(2) The Magistrate holding the preliminary inquiry shall, if required, at any time before the trial, by or on, behalf of the accused, make and sign one or more duplicate copies of the certificate hereinbefore mentioned; and, upon the production of any such duplicate to any Justice of the Peace, such Justice may take the recognisance of one or more sureties in conformity therewith, and shall thereupon transmit the recognisance to the Magistrate of the district in which the accused was committed. When the recognisances of all the sureties required have been received, the committing Magistrate shall issue his or her warrant of deliverance to the gaoler, requiring him or her to take the recognisance of the accused and to discharge him or her, and the gaoler is hereby authorised to take such recognisance, and he or she shall forthwith do so, and shall discharge the accused, unless he or she is detained for some other cause.

55. Duration of bail until sentence or discharge

Subject to the power of the Court to require fresh bail, any bail bond or recognisance shall be held to continue in force until the case is finally disposed of and the accused sentenced or discharged, notwithstanding adjournments or that the case may not have been called in the meantime:

Proviso for withdrawal of surety

Provided always that the surety shall always be entitled to withdraw his or her bond at any sitting of the Court at which the accused appears personally, and that the Court may allow him or her to do so at any time otherwise for a just cause and in such conditions as may be considered proper.

56. Bailing married woman or infant

If an accused person who is admitted to bail is a married woman or an infant, the recognisance of bail shall be taken only from the surety or sureties.

57. Amount of bail

The amount of bail to be taken in any case shall be in the discretion of the Court by which the order for the taking of the bail is made, but no accused person shall be required to give excessive bail.

TITLE XI

Miscellaneous Matters

Special Provisions as to Certain Charges

58. Case of full offence charged, attempt proved

Where the complete commission of the offence charged is not proved, but the evidence establishes an attempt to commit the offence, the accused may be convicted of this attempt, and punished accordingly:

Provided that, after a conviction for the attempt, the person so convicted shall not be liable to be tried again for the offence which he or she was charged with committing.

59. Case of attempt charged, full offence proved

Where an attempt to commit an offence is charged, but the evidence establishes the commission of the full offence, the accused shall not be entitled to be discharged, but he or she may be convicted of the attempt, and punished accordingly:

Provided that, after a conviction for the attempt, the accused shall not be liable to be tried again for the offence which he or she was charged with attempting to commit.

60. Case of full offence charged, part proved

Every complaint or count shall be deemed divisible; and when a person is charged with a crime, and part of the charge is not proved, but the part which is proved amounts to a different crime, he or she may be convicted of the crime which he or she is proved to have committed, although he or she was not charged with it, or he or she may be convicted of an attempt to commit any offence so included, although not charged with the attempt:

Provided that on a count charging murder the Court after the expiration of two hours from the end of the Judge's summing up, may receive the verdict of ten jurors as the verdict of the jury if they return a verdict according to the evidence, convicting the accused of manslaughter or of any other offence less than murder of which they are entitled by law to convict him or her.

Trifling Offence

61. Power of the Court in trifling case to discharge defendant without punishment

If, upon the hearing of any complaint, it appears to the Court that, although the offence charged is proved, it was in the circumstances of the case of so trifling a nature that it is inexpedient to inflict

any punishment, or any other than a nominal punishment, the Court may, without proceeding to a conviction, discharge the accused, and may, if the Court thinks fit, order him or her to pay such damages, not exceeding forty-eight dollars, and such costs of the proceeding, or either of them, as the Court thinks reasonable, and to such person as the Court may direct.

Attendance of Prisoners as Witnesses

62. Power of the Court to order persons confined in prison to attend the Court to give evidence

(1) For the purpose of giving evidence in any case pending before it, the Court may by warrant require the gaoler to deliver to the police to be brought, at any time to be named therein, any person confined in the prison before the Court for examination.

(2) The gaoler shall upon receipt thereof act in accordance with the warrant, and the police shall provide for the safe custody of the person during his or her absence from the prison for the purpose aforesaid and return him or her to the prison in due course.

Appropriation of Fines, etc.

63. Appropriation of fines

(1) Subject to the provisions of this or any other statute, every fine recovered in any Court in respect of any offence, and also the proceeds of any seizure or forfeiture made or incurred subject to the process of the Court, shall be paid into the Treasury for the use of the State.

(2) Subject to the express provisions of any statute, all forfeitures not pecuniary which are incurred in respect of an offence triable by the Court, or which may be enforced by the Court, may be sold or disposed of in such manner as the Court may direct, and the proceeds of sale shall be applied in the like manner as if the proceeds were a fine imposed under the statute on which the proceeding for the forfeiture is founded.

Remission of Fines, etc.

64. Power to the Governor-General to remit fine, and to release offender imprisoned for non-payment of fine

(1) It shall be lawful for the Governor to remit, in whole or in part, any sum of money which may be imposed as a fine on any convicted offender, and as costs, charges and expenses in connection with such fine, although the money may be in whole or in part payable into the Treasury for the use of

the State or to some party other than the Crown; and to extend the royal mercy to any person who may be imprisoned for non-payment of any sum of money so imposed, although the same may be, in whole or in part, payable into the Treasury for the use of the State or to some party other than the Crown.

(2) It shall be lawful for the Governor-General to order the restoration of anything seized or detained in connexion with an offence.

(3) Every such remission or restoration may be made in such manner and subject to such terms and conditions as the Governor-General, may see fit to direct.

65. Effect of acquiescence in remission, etc.

Every person who accepts or acquiesces in any such remission or restoration as aforesaid shall be thereby debarred from having, maintaining, or continuing, any action in respect of any matter to which such remission or restoration may relate.

Pardon

66. Provisions relating to pardon

(1) The Court may, with the consent in writing of the Attorney-General, order that a pardon be granted to any person accused or suspected of or committed for trial for any indictable offence, on condition of his or her giving full and true evidence upon any preliminary inquiry or trial; and such order shall have effect as a pardon by the Governor-General, but may be withdrawn by the Court upon proof satisfying that the person has withheld evidence or given false evidence.

(2) Where either a free or conditional pardon is granted, the discharge of the offender, in the case of a free pardon, and the performance of the condition, in the case of a conditional pardon, shall have the same effect as a pardon has in the like cases under the great seal.

Forms

67. Use of forms

Subject to any rules which may be made under the Magistrates Act, Chapter 177, the Forms contained in the Schedule to this Code, may with such variations and additions as the circumstances of the particular case may require, be used in the cases to which they apply. The Governor-General may, from time to time, add to, rescind, or alter the said Forms.

67A. Public to be excluded in sexual cases

Notwithstanding section 10(iv), or any other law, a Judge or Magistrate shall, in any matter before him or her involving a sexual offence or indecent assault, order that no person other than the officers of the Court, the virtual complainant, other persons engaged in the prosecution, and the accused, his or her witnesses and his or her Counsel, if any, shall have access to or remain in the room or building in which the matter is being heard.

67B. Written statement of charge to be supplied to accused

When any person is charged with any criminal offence, the person proffering the charge shall supply to the person charged a written statement of the charge, at least five days before the hearing of that charge commences:

Provided that if it is not practicable and feasible in a particular case to supply to the person charged such written statement of the said charge at least five days before the hearing of the said charge commences, the person proffering the said charge shall supply to the person charged such written statement of the said charge as soon as it is reasonably practicable to do so.

67C. Cautioned statement to be supplied to accused

When any person charged with a criminal offence makes a cautioned statement regarding that charge, either before or after he or she is charged, the person to whom the cautioned statement is made shall supply a copy thereof to the person who made the statement, at least five days before the hearing of that charge commences:

Provided that if it is not practicable and feasible in a particular case to supply to the person charged a copy of such cautioned statement made by him or her regarding the said charge at least five days before the hearing commences, the person to whom such cautioned statement is made shall supply a copy thereof to the person who made such cautioned statement as soon as it is reasonably practicable to do so.

BOOK II

Procedure Relating to Summary Offences

PART II

Proceedings up to Hearing

TITLE XII

Institution of Proceedings

Complaint

68. Mode of instituting proceeding in the Court

(1) Every proceeding in the Court for the obtaining of an order against any person shall be instituted by information or complaint made before a Magistrate.

(2) It shall be lawful for any person to make a complaint against any person committing a summary offence, unless it appears from the statute on which the complaint is founded that any complaint for such offence shall be made only by a particular person or class of persons.

69. Limitation of period for making complaint

(1) Where no time is specially limited for making a complaint for any summary offence in the statute relating to the offence, the complaint shall be made within three months from the time when the matter of the complaint arose; or, if it arose upon the high seas, then within three months after the arrival of the vessel at her port of discharge in the State.

(2) Notwithstanding anything in subsection (1) of this section contained, the complaint shall be made within six months from the time when the matter of the complaint arose in the case of the following summary offences—

(*a*)larceny or stealing;

(*b*)attempting to commit larceny or to steal;

(*c*)aiding or abetting or counselling or procuring the commission of larceny or stealing;

(*d*)receiving;

(*e*)unlawful possession;

(*f*)obtaining anything, including credit, by false pretences or fraud;

(*g*)fraudulent breach of trust.

70. Form and requisites of complaint

(1) The complaint need not be in writing, unless it is required to be so by the statute on which it is founded, or by some other statute.

(2) Subject to the provisions of section 74, every complaint may, unless some statute otherwise requires, be made without any oath being made of the truth thereof.

(3) Every such complaint shall be for one offence.

(4) Every such complaint may be made by the complainant in person, or by his or her counsel or other person authorised in writing in that behalf.

(5) The description of any offence in the words of the statute creating the offence, or in similar words, with a specification, so far as may be practicable of the time and place when and where the offence was committed, shall be sufficient in law.

(6) Any exception, exemption, proviso, condition, excuse or qualification, whether it does or does not accompany in the same section the description of the offence in the statute creating the offence, may be proved by the defendant, but need not be specific or negatived in the complaint, and if so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the complainant.

70A. Public to be excluded in sexual cases

Notwithstanding section 104(iv), or any other law, a Judge or Magistrate shall, in any matter before him or her involving a sexual offence or indecent assault, order that no person other than the officers of the Court, the virtual complaint, other persons engaged in the prosecution, and the accused, his or her witnesses and his or her Counsel, if any, shall have access to or remain in the room or building in which the matter is being heard.

70B. Written statement of charge to be supplied to accused

When any person is charge with any criminal offence, the person proffering the charge shall supply to the person charged a written statement of the charge, at least five days before the hearing of that charge commences:

Provided that if it is not practicable and feasible in a particular case to supply to the person charged with such written statement of the said charge at least five days before the hearing of the said charge commences, the person proffering the said charge shall supply to the person charged such written statement of the said charge as soon as it is reasonably practicable to do so.

70C. Cautioned statement to be supplied to accused

When any person charged with a criminal offence makes a cautioned statement regarding that charge, either before of after he or she is charged, the person to whom the cautioned statement is made shall supply a copy thereof to the person who made the statement, at least five days before the hearing of that charge commences:

Provided that if it is not practicable and feasible in a particular case to supply to the person charged a copy of such cautioned statement made by him or her regarding the said charge at least five days before the hearing of the said charge commences, the person to whom such cautioned statement is made shall supply a copy thereof to the person who made such cautioned statement as soon as it is reasonably practicable to do so.

Enforcing Appearance of Defendant

71. Issue of summons to defendant

(1) Where a complaint is made before a Magistrate that any person has committed or is suspected to have committed, within the jurisdiction of the Magistrate, a summary offence, it shall be lawful for the Magistrate, in his or her discretion, to issue his or her summons directed to the person, stating concisely the substance of the complaint, and requiring him or her to appear at a certain time, being not less than forty-eight hours after the service of the summons, and at a certain place, before the Magistrate's Court, to answer the said complaint, and to be further dealt with according to law:

Provided that the Court may, if it thinks fit, with the consent of the parties, hear and determine a complaint notwithstanding the said period of forty-eight hours may not have elapsed.

(2) Nothing herein contained shall oblige any Magistrate to issue any such summons in any case where the application for an order may by law be made *ex parte*.

72. Service of summons on defendant, and proof thereof

(1) Every such summons shall be served upon the person to whom it is directed, either by delivering it or a copy of it to him or her personally, or, if he or she cannot conveniently be, met with, by leaving it or a copy of it with some person for him or her at his or her last or most usual place of abode.

(2) The person by whom the summons is served shall, under ordinary circumstances, attend at the time and place specified therein, in order, if necessary, to prove the service:

Provided that the Court may, in its discretion, receive proof of such service by a declaration of the fact and date of service if endorsed on the original summons before a Magistrate or Justice of the Peace. Any person making any such endorsement falsely shall be liable to imprisonment for three months.

73. Hearing *ex parte* or issue of warrant on non-appearance of defendant

If the person against whom the summons is issued does not appear before the Court at the time and place mentioned therein, and it is proved upon oath, to the satisfaction of the Court, that the summons was duly served or that the defendant wilfully avoids service, the Court may, in its discretion, either—

(*a*)unless the statute on which the complaint is founded otherwise directs, proceed *ex parte* to the hearing of the complaint, and adjudicate thereon as fully and effectually to all intents and purposes as if the defendant had personally appeared before it in obedience to the summons;

(*b*)adjourn the hearing to some future day; or

(*c*)upon oath being made by or on behalf of the complainant, substantiating the matter of the complaint to the satisfaction of the Court, issue a warrant to arrest the person so summoned or avoiding service, and to bring him or her before the Court to answer to the complaint, and to be further dealt with according to law.

74. Issue of warrant in first instance

Upon a complaint, in writing and upon oath, being made before a Magistrate for any summary offence, the Magistrate may, upon good cause being shown to him or her for so doing, and upon oath being made before him or her substantiating the matter of the complaint to his or her satisfaction, instead of issuing a summons, issue in the first instance a warrant to arrest the person against whom the complaint has been made, and to bring him or her before the Court of the Magistrate to answer the complaint, and to be further dealt with according to law.

PART III

Hearing and Subsequent Proceedings

TITLE XIII

Hearing and Order

Hearing of Complaint

75. Time and place of hearing

Upon the day and at the place mentioned in the summons, or on the day and at the place on and at which the defendant is brought before the Court under a warrant, as the case may be, the case with respect to which the complaint has been made shall be called for hearing in the Court.

76. Mode of conducting case

Both the complainant and the defendant shall be entitled to conduct their cases in person or by counsel.

77. Procedure on non-appearance of complainant

(1) If, when the case is called, the defendant attends voluntarily in obedience to the summons or is brought before the Court under a warrant, and the complainant, having had due notice of the time and place of hearing (which shall be proved to the satisfaction of the Court), does not appear in

person or by counsel, the Court may dismiss the complaint, or adjourn the hearing to some future day, upon such terms as the Court may think just.

(2) If, when the case is called, neither the complainant nor the defendant appears, the Court shall make such order the justice of the case requires.

78. Procedure on non-appearance of defendant

(1) If, when the case is called, the defendant does not appear, the Court may, if the case comes within the provisions of section 76, proceed as therein directed.

(2) If service of the summons is not proved to the satisfaction of the Court, or if a warrant is issued for the arrest of the defendant, the Court may adjourn the hearing of the case to some future day, in order that proper service may be effected, or until the defendant is arrested, as the case may be.

(3) If the defendant is afterwards arrested on a warrant as aforesaid, he or she shall be brought before the Magistrate, who shall thereupon commit him or her, by warrant or endorsement on the warrant, either to prison, or to such other safe custody as he or she thinks fit, and order him or her to be brought at a certain time and place before the Court; and of such time and place the complainant shall, by direction of the Magistrate, be served with due notice.

79. Procedure on appearance of both parties

(1) If, when the case is called, both the complainant and the defendant appear, the Court shall proceed to hear and determine the complaint.

(2) At the commencement of the hearing the Court shall state to the defendant the substance of the complaint, and ask him or her whether he or she is guilty or not guilty.

(3) If the defendant says that he or she is guilty, and shows no cause, or no sufficient cause, why an order should not be made against him or her, the Court shall make such order against him or her as the justice of the case requires.

(4) If the defendant says that he or she is not guilty, the witnesses on both sides, shall, unless the Court in any instance otherwise expressly orders, be called and placed out of Court and out of hearing, under the charge of a constable or other person appointed by the Court.

(5) The Court shall then proceed to hear the complainant and such witnesses as he or she may examine, and such other evidence as he or she may adduce, in support of his or her complaint, and also to hear the defendant and such witnesses as he or she may examine, and such other evidence as he or she may adduce, in his or her defence, and also, if the Court thinks fit, to hear such witnesses as the complainant may examine in reply:

Provided that nothing herein contained shall render a defendant compellable to be a witness for or against himself or herself.

(6) The Magistrate shall, in every case, take notes in writing of the evidence, so far as it is material, and of every order that he or she makes, in a book kept for that purpose, and shall sign the book at the conclusion of each day's proceedings:

Provided that, if the Magistrate is from any cause unable to take notes, they may be taken by a Clerk of the Court under his or her direction.

80. Joint hearing of separate complaints with reference to same subject matter

(1) Where a complaint is made by one or more parties against another party or other parties, and there is a cross complaint by the defendant or defendants in such first named case, either by himself, herself or themselves or together with another person or other persons against the complainant or complainants in the first named case either by himself, herself or themselves or together with another person or other persons, and such complaint and cross complaint are with reference to the same matter, the Court may, if it thinks fit, and if the parties consent, hear and determine such complaints at one and the same time.

(2) Where a complaint is made by a member of the Police Force against another party or parties and there is a complaint by the defendant or defendants by himself, herself or themselves against any other party or parties and such complaints are with reference to the same matter, the Court may, if it thinks fit, and if the parties consent, hear and determine such complaints at one and the same time.

(3) Where two or more complaints are made by one or more parties against another party or parties and such complaints refer to the same matter, such complaints may, if the Court thinks fit, be heard and determined at one and the same time if each defendant is informed of his or her right to have such complaints taken separately and consents to their being taken together.

81. Addresses

The complainant shall be entitled to address the Court at the commencement of his or her case; the defendant shall be entitled to address the Court at the commencement or the conclusion of his or her case, as he or she may think fit; and if the defendant has examined any witnesses or given any evidence, or has raised any question of law, the Magistrate may allow the complainant to reply on the conclusion of the case.

Adjournment

82. Power of adjournment and proceedings thereon

(1) At any time before or during the hearing of a complaint, the Court may, in its discretion, adjourn the hearing to a certain time and place then stated in the presence and hearing of the parties, or their counsel or agents.

(2) Upon any adjournment, the Court may—

(*a*)suffer the defendant to go at large;

(*b*)commit him or her by warrant or endorsement on an information or warrant either to prison or to such other safe custody as the Court thinks fit:

Provided that no such committal shall be for a longer term than eleven days, the day following that on which the committal is made being counted as the first day; or

(*c*)admit him or her to bail, conditioned for his or her appearance at the time and place to which such hearing or further hearing is adjourned.

(3) If, at the time and place to which the hearing is adjourned, the defendant does not appear, the Court may proceed to the hearing as if the defendant was present, or may issue a warrant for the arrest of the defendant, further adjourning the hearing; or, if the complainant does not appear, the Court may further adjourn the hearing or dismiss the complaint, with or without costs.

Making of Order

83. Giving of decision upon conclusion of hearing

(1) Upon the conclusion of the hearing, the Court shall, either at the same or at an adjourned sitting of the Court, give its decision on the case, by either dismissing the complaint or making such order as the justice of the case requires against the defendant.

(2) If the complaint is dismissed on the merits, the Court shall, upon being required by or on behalf of the defendant, at any time within six months after the dismissal, make a formal order of dismissal, and give to the defendant a certificate thereof; and the certificate shall, upon production, without further proof, be a bar to any subsequent complaint for the same matter against the defendant.

(3) If an order is made against the defendant, a concise minute or memorandum thereof shall be forthwith entered in a book kept for that purpose; and, if necessary, an order in proper form may be drawn up at any time thereafter.

84. Power to order guardian to pay fine, etc., instead of child

(1) Where a child is convicted of a summary offence, the Court may order that any fine, compensation or costs awarded be paid by the guardian of the child instead of by the child, unless the Court is satisfied that the guardian has not conduced to the commission of the offence by neglecting to exercise due care of the child.

(2) Where a child is charged with a summary offence, the Court may order his or her guardian to give security by way of recognisance for his or her good behaviour.

(3) Where the Court thinks that a charge against a child is proved, the Court may make an order on the guardian under this section for the payment of compensation or costs or requiring him or her to give security by way of recognisance for good behaviour, without proceeding to the conviction of the child.

(4) An order under this section may be made against a guardian who, having been required to attend, has failed to do so, but, save as aforesaid, no such order shall be made without giving the guardian an opportunity of being heard.

(5) Any sums imposed and ordered to be paid by a guardian under this section, or on forfeiture of any such security as aforesaid, may be recovered from him or her by distress or imprisonment in like manner as if the order had been made on the conviction of the guardian of the offence with which the child was charged.

(6) Where a child is arrested, the constable by whom he or she is arrested or the officer of police in charge of the police station to which he or she is to be brought shall cause the guardian of the child, if he or she can be found, to be warned to attend at the Court before which the child will appear.

(7) For the purpose of enforcing the attendance of a guardian and enabling him or her to take part in the proceedings and enabling an order to be made against him or her, a summons or warrant may be issued by the Court to enforce his or her attendance in the same manner as if an information were laid or a complaint made upon which a summons or warrant could be issued against a defendant; and a summons to a child may include a summons to a guardian to enforce his or her attendance for the said purpose.

(8) For the purposes of this section, the expression “child” means a person who, in the opinion of the Court before which he or she is brought, is under the age of fourteen years, and the expression “guardian”, in relation to a child, means the parent or other lawful guardian of the child, and includes any person who, in the opinion of the Court having cognizance of any case in which a child is concerned, has for the time being the custody, control or charge of the child.

85. Procedure where charge appears to be one proper for indictment

If, upon the hearing of any complaint, it appears to the Court that the case ought to be tried as an indictable offence, or if the Attorney-General intimates to the Court his or her opinion in writing to that effect, all further proceedings thereon as for a summary offence shall be stayed, and depositions shall be taken, and the case shall in all other respects be dealt with, as if the charge had been originally one for an indictable offence.

Summary Order

86. Summary order to do specific act

(1) Where by any statute power is given to the Court to require any person to do or to abstain from doing any act or thing other than the payment of money, or to require any act or thing to be done or left undone other than the payment of money, and no mode is prescribed of enforcing the requisition, the Court may exercise the power by an order, and may annex to its order any conditions as to time or mode of action or otherwise which the Court may think just, and may suspend or rescind the order on such undertaking being given, or such condition being performed, as the Court may think just, and generally may make such arrangement for carrying into effect the power as to the Court may seem fit.

(2) Every person who makes default in complying with an order of the Court in relation to any matter arising under a statute, other than the payment of money, shall be punished in the manner prescribed by the statute, or, if no punishment is so prescribed, may, in the discretion of the Court, be ordered to pay a sum not exceeding four dollars and eighty cents for every day during which he or she is in default or to be imprisoned until he or she has remedied his or her default:

Provided that a person shall not, for non-compliance with the requisition of the Court, whether made by one or more orders, to do or to abstain from doing any act or thing, be liable under this section to the payment of any sums amounting in the aggregate to more than ninety-six dollars or to imprisonment for a period amounting in the aggregate to more than two months.

(3) In making any such order as aforesaid, it shall be lawful for the Court to order that, in default of compliance with the order, the defendant shall pay to the complainant such sum as the Court may award as a fair compensation to him or her for such default, and to direct that, in default of the payment of the sum, the defendant shall be imprisoned for any term not exceeding the term hereinbefore prescribed in respect of a like sum in the scale of imprisonment in default of payment of sums of money adjudged to be paid by orders.

(4) Where by any statute, some duty is required to be performed, or some act is expressly forbidden, but no penalty is provided to ensure observance of the law, then in every such case, the person offending shall be liable to a penalty of twenty-four dollars.

TITLE XIV

Miscellaneous Matters

Saving of Validity of Process

87. Provision as to certain proceedings in the Court

The following provisions with respect to certain proceedings in the Court shall have effect, that is to say—

(*a*)a warrant of commitment shall not be held void by reason only of any defect therein, if it is therein alleged that the offender has been ordered to do or to abstain from doing any act or thing required to be done or left undone, and there is a good and valid order to sustain the same;

(*b*)a warrant of distress shall not be held void by reason only of any defect therein, if it is therein alleged that an order has been made, and there is a good and valid order to sustain the same; and a person acting under a warrant of distress shall not be deemed a trespasser from the beginning by reason only of any defect in the warrant or of any irregularity in the execution of the warrant, but this enactment shall not prejudice the right of any person to satisfaction for any special damage caused by any defect in or irregularity in the execution of a warrant of distress, so, however, that if amends are tendered before action brought, and, if the action is brought, are paid into Court in the action, and the plaintiff does not recover more than the sum so tendered and paid into Court, the plaintiff shall not be entitled to any costs incurred after such tender, and the defendant shall be entitled to costs, to be taxed as between solicitor and client; and

(*c*)a summons, warrant or other process shall not be held void by reason of the Magistrate who signed the same dying or ceasing to hold office.

Variances and Defects

88. Effect of variance or defect in process

(1) In any case in the Court, no variance between the information or complaint, or summons, or warrant and the evidence adduced in support thereof, as to the time or place at which the cause of complaint is alleged to have arisen, shall be deemed material, if it is proved that the complaint was in fact made within the time limited by law for making it.

(2) No objection shall be taken or allowed, in any proceeding in the Court, to any information, complaint, summons, warrant or other process for any alleged defect therein in substance or in form, or for any variance between any information, complaint or summons and the evidence adduced in support thereof:

Provided, however, that if any such variance or defect appears to the Court at the hearing to be such that the defendant has been thereby deceived or misled, it shall be lawful for the Court to make any necessary amendments, and, if it is expedient to do so, to adjourn, upon such terms as it thinks fit, the further hearing of the case.

Proof of Previous Conviction

89. Proof of previous conviction

Where upon the hearing of any complaint, it is proposed to prove against the defendant the fact of a former conviction, a copy of the order of any Magistrate's Court in respect of the former offence, certified by the Magistrate or Clerk of the Court, shall, upon proof of the identity of the defendant, be deemed sufficient evidence of the former conviction.

Decision as to Value of Property

90. Decision as to value to be conclusive

The decision of the Magistrate as to the value of the property with respect to which an offence is alleged to have been committed, shall be conclusive and not subject to appeal.

Reduction of imprisonment on part payment of sums adjudged to be paid

91. Reduction of imprisonment on part payment of sums adjudged to be paid

Where a term of imprisonment is imposed in respect of the non-payment of any sum of money adjudged to be paid by a conviction or order that term shall, on payment of a part of such sum be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days in the term as the sum paid bears to the sum adjudged to be paid:

Provided that, in reckoning the number of days by which any term of imprisonment would be reduced under this section, the first day of imprisonment shall not be taken into account, and that in reckoning the sum which will secure the reduction of a term of imprisonment amounts under two cents shall be omitted.

Obligation to allow time for payment of fines

92. Payment of fine

Notwithstanding anything in Title VIII of this Code, the following provisions shall have effect, that is to say—

(1) A warrant committing a person to prison in respect of non-payment of a sum adjudged to be paid by a conviction shall not be issued forthwith unless the Court which passed the sentence is satisfied that he or she is possessed of sufficient means to enable him or her to pay the sum forthwith, or unless, upon being asked by the Court whether he or she desires that time should be allowed for payment, he or she does not express any such desire, or fails to satisfy the Court that he or she has a fixed abode within its jurisdiction, or unless the Court for any other special reason expressly directs that no time shall be allowed.

(2) Where any such person desires to be allowed time for payment, the Court in deciding what time shall be allowed shall consider any representation made by him or her, but the time allowed shall not be less than seven clear days:

Provided that if before the expiration of the time allowed the person convicted surrenders himself or herself to the Court and states that he or she prefers immediate committal to awaiting the expiration of the time allowed, the Court may, if it thinks fit, forthwith issue a warrant committing him or her to prison.

(3) In all cases where time is not allowed for payment, the reasons of the Court for the immediate committal shall be stated in the warrant of commitment.

BOOK III

Procedure Relating to Indictable Offences

PART IV

Preliminary Inquiry before a Magistrate

TITLE XV

Proceedings up to Committal

93. When Magistrate may compel appearance of accused person before him or her

Every Magistrate may issue a warrant or summons as hereinafter mentioned to compel the appearance of an accused person before him or her, for the purpose of preliminary inquiry, in any of the following cases, that is to say—

(*a*)if the person is accused of having committed in any place whatever an indictable offence triable in this State and is or is suspected to be within the limits over which the Magistrate has jurisdiction, or resides or is suspected to reside within those limits;

(*b*)if the person wherever he or she may be, is accused of having committed an indictable offence within those limits, or upon any journey during any part of which he or she has passed through those limits; or

(*c*)if the person is alleged to have anywhere unlawfully received property which was unlawfully obtained within those limits, in such manner as to be liable for an indictable offence.

94. Power of Magistrate to inquire into suspected offence

(1) Any Magistrate who has reason to believe that any indictable offence has been committed within the limits of his or her jurisdiction for which the offender might, according to the law for the time being in force, be arrested without warrant, or that there is reasonable ground for inquiring whether such an indictable offence has been committed within those limits, or, in either case, that there is reasonable ground for inquiring by whom the suspected offence has been committed, may (whether any particular person is charged or not) summon to his or her Court any person whom he or she has reason to believe to be capable of giving material evidence concerning the offence, and may examine him or her on oath concerning the offence, and, if he or she sees cause, bind him or her by recognisance to appear and give evidence, if called upon by any Magistrate or by the Supreme Court, at any time within the twelve months then next ensuing, unless the person can show some reasonable excuse to the contrary.

(2) If any person so summoned neglects to appear, or refuses without lawful excuse to take the oath, or having taken it, to answer any question concerning the offence which may then be put to him or her, or to enter into a recognisance as aforesaid, he or she may be dealt with in the same

manner as a witness may be dealt with who neglects or refuses to attend or give evidence, or to be bound by recognisance to do so, after having been served with a summons for that purpose.

Complaint or Information

95. Reception of complaint or information

Upon any complaint or information given to a Magistrate that an indictable offence has been committed by any person whose appearance he or she has power to compel, he or she shall consider the allegations of the complainant or informant, and, if he or she is of opinion that a case for so doing is made out, he or she shall issue a summons or warrant, as the case may be, in the manner hereinafter mentioned; and he or she shall not refuse to issue a summons or warrant only because the alleged offence is one for which an offender may be arrested without warrant.

Summons to Accused Person

96. Issue, contents, and service of summons

(1) The Magistrate may issue a summons although there is not any complaint or information in writing or upon oath.

(2) The summons shall be directed to the accused person, and shall require him or her to appear at a time and place to be therein mentioned.

(3) No summons shall be signed in blank.

(4) Every summons shall be served by a process server upon the person to whom it is directed, either by delivering it to him or her personally, or, if he or she cannot conveniently be met with, by leaving it for him or her at his or her last or most usual place of abode.

(5) The process server by whom the summons is served shall, under ordinary circumstances, attend at the time and place specified therein for the appearance of the accused, in order, if necessary, to prove the service:

Provided that the Magistrate before whom the accused ought to appear may, in his or her discretion, receive proof of service by affidavit, which shall require no stamp or fee.

Warrant for Arrest of Accused Person

97. Issue of warrant of arrest in first instance

(1) If there is a complaint or information in writing and upon oath, the Magistrate may issue a warrant for the apprehension of the accused.

(2) The fact that a summons has been issued shall not prevent any Magistrate from issuing a warrant at any time before or after the time mentioned in the summons for the appearance of the accused; and where the service of the summons for the appearance of the accused has been proved and the accused does not appear, or where it appears that the summons cannot be served, the warrant may issue.

(3) The Magistrate who would have heard the charge if the person summoned had appeared, may issue the warrant, either upon information in writing and upon oath taken before himself or herself, or upon information in writing and upon oath taken before another Magistrate or any Justice of the Peace, either before or after the summons was issued.

98. Power of Justice of the Peace to issue warrant in certain cases

Wherever, from the absence of a Magistrate or from any other cause, it is not practicable to make immediate application to a Magistrate for the issue of a search warrant or of a warrant for the arrest of an accused, and the ends of justice would be likely to be defeated by the delay required for the making of the application to a Magistrate, any Justice of the Peace may and shall take the necessary information, and, if he or she is of opinion that a case for so doing is made out, issue a warrant in the same manner as a Magistrate could do, but all subsequent proceedings in the case shall be taken before a Magistrate.

Proceedings on Appearance of Accused

99. Person arrested upon warrant: how dealt with

When any person is arrested upon a warrant he or she shall be brought before a Magistrate, as soon as may be practicable after his or her arrest, and the Magistrate shall either proceed with the preliminary inquiry or postpone it to a future time, in which latter case he or she shall either commit the accused to prison, or admit him or her to bail, or permit him or her to be at large on his or her own recognisance, according to the provisions hereinafter contained.

Irregularity

100. Irregularity in summons, warrant, service or arrest

(1) No irregularity or defect in the substance or form of the warrant, and no variance between the charge contained in the warrant and the charge contained in the information, or between either and the evidence adduced on the part of the prosecution at the preliminary inquiry, shall affect the validity of any proceeding at or subsequent to the hearing.

(2) When any person accused of any indictable offence is before a Magistrate, whether voluntarily or upon summons, or after being arrested with or without warrant, or while in custody for the same or any other offence, the preliminary inquiry may be held notwithstanding any irregularity, illegality,

defect or error in the summons or warrant or the issuing, service or execution of the same, and notwithstanding the want of any information upon oath, and notwithstanding any defect in the information, or any irregularity or illegality in the arrest or custody of the accused; the Magistrate may, if he or she thinks that the ends of Justice require it, adjourn the hearing of the case, at the request of the accused, to some future day, and in the meantime remand him or her or admit him or her to bail; and upon such adjournment, the accused shall not be committed to prison unless, before his or her committal, an information in writing and upon oath has been taken.

Proceedings at Preliminary Inquiry

101. General discretionary powers of Magistrate with respect to mode of holding inquiry

The Magistrate holding a preliminary inquiry may, in his or her discretion—

(*a*)give or refuse permission to the prosecutor, or his or her counsel, to address him or her in support of the charge, either by way of opening or summing up the case, or by way of reply upon any evidence which may be produced by the accused;

(*b*)receive further evidence on the part of the prosecutor, after hearing any evidence given on behalf of the accused;

(*c*)adjourn the hearing on the inquiry from time to time and change the place of hearing, if, from the absence of a witness, the inability of a witness who is ill to attend at the place where the Magistrate usually sits, or any other reasonable cause, it appears desirable to do so, and may, from time to time, remand the accused if required:

Provided that no remand shall be for more than twenty-one days, the day following that on which the remand is made being counted as the first day;

(*d*)order that no person, other than the officers of the Court, the persons engaged in the prosecution, and the accused and his or her counsel, if any, shall have access to or remain in the room or building in which the inquiry is held, if it appears to him or her that the ends of justice will be best answered by so doing; and

(*e*)regulate the course of the inquiry in any way which may appear to him or her desirable, and which is not inconsistent with the provisions of this Code or of any other statute for the time being in force.

102. Taking of evidence for prosecution

(1) When the accused is before a Magistrate at a preliminary inquiry, the Magistrate shall take the evidence of the witnesses called on the part of the prosecution.

(2) The evidence of every witness shall be given in the presence of the accused; and the accused, or his or her counsel, shall be entitled to cross-examine each witness.

(3) The evidence of every witness shall be taken down in writing by the Magistrate in a legible hand, and on one side only of the paper, in the form of a deposition, and as nearly as possible in the witness' own words.

(4) The deposition shall, at some time before the accused is called on for his or her defence, be read over to and signed by the witness and the Magistrate; the accused, the witness and the Magistrate being all present together at the time of the reading and signing.

(5) Any witness who refuses, without reasonable excuse, to sign his or her deposition, may be committed by the Magistrate holding the inquiry by a warrant to prison, there to be kept until after the trial, or until the witness signs his or her deposition before a Magistrate:

Provided that, if the accused person is afterwards discharged, any Magistrate may order any such witness to be discharged.

(6) The signature of the Magistrate may be either at the end of the deposition of each witness, or at the end of several or of all the depositions, in such a form as to show that the signature is meant to authenticate each separate deposition.

103. Reading of evidence to and charging of accused

(1) After the examination of the witnesses on the part of the prosecution has been completed, and the depositions have been signed as aforesaid, the Magistrate shall, unless he or she discharges the accused, address him or her in these words, or to the like effect: "Having heard the evidence, do you wish to say anything in answer to the charge? You are not bound to say anything, but whatever you do say will be taken down in writing, and may be given in evidence against you at your trial."

(2) Whatever the accused then says in answer thereto shall be taken down in writing, as nearly as possible in the accused person's own words, and shall be signed by him or her, if he or she will, and by the Magistrate, and kept with the depositions of the witnesses, and may, without further proof, be given in evidence at the trial.

104. Taking of evidence for defence

(1) The Magistrate shall then ask the accused if he or she wishes to call any witnesses. Every witness called by him or her who testifies to any fact relevant to the case shall be heard, and his or her deposition shall be taken, signed and given in evidence in the same manner as the deposition of a witness for the prosecution.

(2) If the accused calls no witnesses the Magistrate shall state that fact on the depositions.

105. Discharge of accused

(1) When all the witnesses on the part of the prosecutor and of the accused, if any, have been examined, the Magistrate shall, if upon the whole of the evidence he or she is of opinion that no sufficient case is made out to put the accused upon his or her trial, discharge him or her; and in such case any recognisance taken in respect of the charge shall become void.

(2) In every case in which a Magistrate shall discharge a person accused before him or her as aforesaid, it shall be lawful for the Attorney-General to require the Magistrate to transmit to him or her the information and all the evidence taken in the case and it shall be the duty of the Magistrate forthwith to comply with such requisition; if the Attorney-General, on perusing and considering the evidence, shall be of opinion that the accused ought not to have been discharged, it shall be lawful for him or her to apply to a Judge for a warrant for the arrest and committal for trial of the accused person; and if the Judge shall be of opinion that the evidence, as given before the Magistrate, was sufficient to place the accused person on his or her trial, it shall be lawful for him or her to issue a warrant for the arrest of the accused person and for his or her committal to prison, there to be kept until discharged in due course of law, and every person so proceeded against shall be further prosecuted in the same and the like manner as if he or she had been committed for trial by the Magistrate by whom he or she was discharged.

Committal for Trial

106. Committal of accused person for trial

If, upon the whole of the evidence, the Magistrate thinks that a sufficient case is made out to put the accused on his or her trial, he or she shall commit him or her for trial to the next sitting of the Court:

Provided always that if the Court be then sitting, the Magistrate may, with the consent of the accused, commit him or her for trial forthwith.

107. Copy of depositions for accused person

Every person who has been committed for trial, whether he or she is bailed or not, shall be entitled, at any reasonable time before the trial, to have copies of the depositions and of his or her own statement, if any, from the officer who has the custody thereof.

108. Binding over to give evidence

(1) When any person is committed for trial, the Magistrate holding the preliminary inquiry shall bind over every witness for the prosecution whose deposition has been taken, and every witness for the defence whose evidence is, in his or her opinion, material, to give evidence at the trial of the accused person before the Court.

(2) The recognisance may be either at the foot of the deposition or separate therefrom, and shall be acknowledged by the person entering into it, and be subscribed by the Magistrate before whom it is acknowledged.

(3) Any witness who, without reasonable excuse, refuses to enter into the recognisance may be committed by the Magistrate by a warrant to the prison, there to be kept until after the trial or until the witness enters into such a recognisance as aforesaid before a Magistrate:

Provided that, if the accused is afterwards discharged, any Magistrate may order the witness to be forthwith discharged.

109. Procedure where person able to give material evidence is dangerously ill

(1) Whenever it appears to a Magistrate that any person able to give material evidence either for or against the accused in respect of any indictable offence, is so dangerously ill, that it is not practicable to take his or her evidence according to the usual course of law, the Magistrate, if he or she thinks fit, or any Justice of the Peace so authorised by any such Magistrate, may take his or her deposition, first giving the prosecutor and the accused such reasonable notice as the case admits, that he or she intends to take it, specifying the time and place, and stating that the prosecutor and the accused will be at liberty to attend and cross-examine such person. Copies of the deposition shall be transmitted by the Magistrate or by the Justice of the Peace, as the case may be, to the Registrar, and to the prosecutor and accused, or to the places of abode of the prosecutor and accused.

(2) If the accused is in prison, the Magistrate, by order in writing, may direct the gaoler to convey him or her to the place and at the time notified, and the gaoler shall convey him or her accordingly.

TITLE XVI

Proceedings Subsequent to Committal

110. Transmission of documents relating to case to the Registrar

(1) The Magistrate shall as soon as may be after the committal of the accused, send to the Registrar the information, if any, the depositions of the witnesses, the documentary exhibits thereto, the statement of the accused, and all the recognisances entered into.

(2) A copy of all such documents shall at the same time be transmitted by the Magistrate to the Registrar, who shall immediately on receipt thereof transmit the same to the Attorney-General.

(3) All exhibits, other than documentary exhibits, shall, unless the Magistrate otherwise directs, be taken charge of by the police, and shall be produced by them at the trial.

111. Taking deposition of witness after committal of accused person

(1) After any person has been committed for trial, proof upon oath may be given, either by the prosecutor or the accused person, that any person who has not been examined as a witness is able to give evidence tending to prove either the guilt or the innocence of the accused.

(2) Such proof shall, if practicable, be given before the Magistrate by whom the accused was committed, and, if not so practicable, then before some other Magistrate, and shall be taken in the form of a deposition.

(3) The Magistrate shall, if he or she is satisfied by the proof that it is for the interests of justice that the examination should take place, appoint a time and place for the examination of the person intended to be examined, and if the person is able to attend, the Magistrate shall have the same powers for compelling his or her attendance as he or she has for compelling the attendance of witnesses at the preliminary inquiry.

(4) The person making the application shall give reasonable notice in writing to the accused or the prosecutor, as the case may be, and to the Attorney-General, of the time and place at which the examination is to take place, and the Magistrate shall, before taking the deposition, be satisfied that the notice has been given.

(5) If the application is made by the prosecutor and if the accused is in prison, the Magistrate may, by an order in writing under his or her hand, direct the gaoler having the custody of the accused to convey him or her, or cause him or her to be conveyed, to the place where the examination is to be taken, for the purpose of being present when it is taken, and to take him or her back to prison afterwards.

(6) At the time and place appointed, the Magistrate shall take the deposition of the person to be examined in the same way in which other depositions are taken, and all the provisions of law relating to the signing and reading over of depositions, and to their admissibility in evidence, shall apply to every such deposition:

Provided that if the party against whom the deposition is to be read neglects to attend at the time when it is taken, after receiving due notice thereof, the deposition shall be admissible in evidence against him or her, although it was taken and signed in his or her absence:

Provided, also, that if the prosecutor or the accused does not himself or herself attend at the taking of the deposition, but causes his or her counsel to attend, his or her counsel shall be entitled to cross-examine the witness.

(7) Every deposition taken under this section shall be transmitted, together with a copy thereof, by the Magistrate, and shall be treated in all respects in the same way as, and shall be considered as being for all purposes, a deposition taken upon the preliminary inquiry.

(8) Nothing herein contained shall prevent a witness being summoned to attend the trial to give evidence, although that witness was available for examination and was not previously examined.

112. Power to the Attorney-General to refer back case for further inquiry

(1) At any time after the receipt of any documents mentioned in this Title and before the sitting of the Court to which the accused person has been committed for trial, the Attorney-General may, if he or she thinks fit, direct the Registrar to refer back such documents to the Magistrate with directions to re-open the inquiry for the purpose of taking evidence or further evidence on a certain point or points to be specified, and with such other directions as he or she may think proper.

(2) Subject to any express directions which may be given by the Attorney-General, the effect of any such reference back to the Magistrate shall be that the inquiry shall be re-opened and dealt with in all respects as if the accused person had not been committed for trial.

113. Power to the Attorney-General to refer back case to be dealt with summarily

If, after the receipt of any documents mentioned in this Title, the Attorney-General is of opinion that the accused person should not have been committed for trial, but that the case should have been dealt with summarily, the Attorney-General may, if he or she thinks fit, at any time after such receipt, direct the Registrar to refer back such documents to the Magistrate with directions to deal with the case accordingly and with such other directions as he or she may think proper.

114. Further provisions as to referring back of case

(1) Any directions given by the Attorney-General under either of the two last preceding sections shall be in writing signed by him or her, and shall be complied with by the Magistrate, and by him or her be attached to the proceedings.

(2) The Attorney-General may at any time add to, alter or revoke any such directions.

115. Caution to accused admitting guilt in any of his or her statements as to whether he or she wishes witnesses to appear against him or her at trial

(1) Except when the charge is one of high treason, murder or manslaughter, if the accused person in any statement referred to in section 106 of this Code says or admits that he or she is guilty of the charge, then the Magistrate shall further say to him or her the words following, or words to the like effect: “Do you wish the witnesses again to appear to give evidence against you at your trial? If you do not, you will now be committed for sentence, instead of being committed for trial.”

(2) The Magistrate shall explain to such accused person the meaning and effect of the said words.

(3) If the accused replies in the negative the Magistrate shall ask the accused if he or she desires to call at the preliminary examination any witnesses to give evidence of any circumstances in mitigation of punishment and shall free of charge subpoena such witnesses and take their depositions before committing the accused for sentence.

(4) If the accused, in answer to such question, as aforesaid, states that he or she does not wish the witnesses again to appear to give evidence against him or her, his or her statement shall be taken down in writing and read to him or her and shall be signed by the Magistrate and by the accused, if he or she will, and shall be kept with the depositions of the witnesses and transmitted to the Registrar.

(5) In any such case as is mentioned in the preceding subsection, the Magistrate shall, instead of committing the accused for trial, order him or her to be committed for sentence before the Supreme Court, and in the meantime, the Magistrate shall, by his or her warrant, commit him or her to prison to be there safely kept until the sittings of that Court, unless or until he or she is admitted to bail or delivered by due course of law.

116. Admissibility of statement of accused in evidence

The statement of the accused made under the preceding section shall be received in evidence upon its mere production without further proof thereof by the Supreme Court before which he or she is brought for sentence.

117. Transmission of proceedings within three days

The Magistrate shall within three days after such committal or so soon there after as is practicable with all due despatch, transmit the complaint or information, depositions, and any statement or confession of the accused, taken on the hearing of such charge, to the Registrar, together with a copy of all such documents for the use of the Attorney-General, and the Registrar shall, as soon as practicable after receiving the same deliver them to the Judge and to the Attorney-General.

118. Judge's order to bring up accused and notice thereof by Registrar to accused and Attorney-General

The Judge shall, as soon as conveniently may be after receiving such documents as aforesaid, issue an order to the gaoler to bring the prisoner before the Judge at a time to be fixed by the Judge, and the Registrar shall notify the Attorney-General and the accused accordingly.

119. Indictment against and plea by accused committed for sentence

When a person has been committed for sentence, the Attorney-General shall prefer an indictment against such person, who shall be called upon to plead to it in the same manner as if he or she had been committed for trial and he or she may plead either, that he or she is guilty of the offence charged in the indictment, or with the consent of the prosecutor of any other offence of which he or she might be convicted on the indictment.

120. Withdrawal by accused of consent to his or her committal for sentence

(1) A person may at any time before he or she is brought up for sentence give notice in writing to the Registrar that he or she desires to withdraw his or her consent to be committed for sentence, and in such case the prisoner shall not be taken before the Court for sentence, but shall be brought up for trial at the regular sessions of the Court.

(2) No statement by the accused made under section 115 of this Code shall be given in evidence or in any other manner referred to at such trial.

121. Filing of notice of withdrawal of consent to committal for sentence. Evidence thereof

The notice shall be filed in the Registrar's Office, and the Registrar shall make an entry on the record of the withdrawal of the consent to committal for sentence, and such notice may be put in evidence at the trial or mention may be made at the trial of the fact that such notice was given.

122. Proceedings on plea of not guilty or if indictment not sustainable in Court's opinion

If a person committed for sentence pleads in the Supreme Court that he or she is not guilty or such special plea in cases of defamatory libel as is mentioned in section 149 of this Code or if, although he or she pleads that he or she is guilty, it appears to the Court, upon the examination of the depositions of the witnesses, that he or she has not in fact committed the offence, charged in the indictment, or any other offence of which he or she might be convicted on the indictment, a plea of not guilty shall be entered and the trial is to proceed as in other cases when that plea is entered, and the Judge shall postpone the case for trial by a jury at the next regular criminal sessions of the Court accordingly, and may remand the accused to prison or admit him or her to bail in the meantime.

123. Pleas competent to person committed for sentence

A person who has been committed for sentence may plead *autrefois acquit*, *autrefois convict*, or pardon, and in such case unless the accused and the prosecutor and the Judge consent to the issue being tried by the Judge without a jury, the Judge shall postpone the case for trial by a jury as in the preceding section provided.

124. Powers of Court and Judge when dealing with committals for sentence

(1) The Judge and the Court when sitting to deal with persons committed for sentence shall, subject to these provisions respectively possess all the powers, authorities and jurisdiction, vested in the Supreme Court, with respect to the trial of criminal cases in the exercise of the ordinary criminal jurisdiction of the said Court.

(2) The Registrar or other proper officer shall attend before the Judge or the Court in any proceedings respecting persons committed for sentence, and keep a record thereof in like manner as in other proceedings in the Court.

125. Notice by person committed for trial of intention to plead guilty

(1) A person committed for trial, whether he or she is in custody or not, may if he or she wishes to plead guilty and be sentenced prior to the next regular session of the Court, file with the Registrar a notice in writing to that effect.

(2) The notice shall be filed of record and entry thereof made by the Registrar.

(3) In such case the Registrar shall notify a Judge, Attorney-General, or other Counsel for the Crown thereof and the subsequent proceedings shall be as in the case of a person committed for sentence, and the provisions of this Code shall apply.

PART V

Trial in the Supreme Court

TITLE XVII

Mode of Trial

126. General mode of trial

(1) Every person committed for trial shall be tried on an indictment in the Court; and such trial shall be had by and before a Judge and a jury.

(2) Any number of persons may be charged in one indictment and tried together for a crime which they are alleged to have jointly committed, or in which they, or any of them, are alleged to have participated, directly or indirectly, by abetment or otherwise:

Provided that the Court may on application either on behalf of any of the accused persons or of the Attorney-General, at any time, order that any of such other persons shall be tried separately from all or any of the others.

127. Saving of right of the Attorney-General to file information for misdemeanour

(1) Nothing in this Code shall affect the right of the Attorney-General to file an information in the Court against any person for any misdemeanour.

(2) Subject to the provisions of this Code or of any other statute for the time being in force, the law, practice and procedure in respect of any such information shall be, as nearly as may be, the same as

the law, practice and procedure for the time being in force in relation to informations filed by the Attorney-General of England in the High Court of Justice in England, so far as such law, practice, and procedure are applicable to the circumstances of this State.

Pleading

Indictment

128. Heading of indictment

(1) Every indictment shall be preferred by and in the name of the Attorney-General.

(2) Any mistake in the heading of an indictment shall, upon being discovered, be forthwith amended, and, whether amended or not, shall be immaterial.

(3) The venue may be sufficiently stated by the word "Grenada" placed in the margin of the indictment.

129. Form and contents of count

(1) Every count of an indictment shall contain, and shall be sufficient if it contains in substance, a statement that the accused has committed some offence therein specified. Such statement may be made in popular language, without any technical averments or any allegations of matter not essential to be proved.

(2) Such statement may be in the words of the enactment describing the offence or declaring the matter charged to be an indictable offence, or in any words sufficient to give the accused notice of the offence with which he or she is charged.

(3) Every count shall contain so much detail of the circumstances of the alleged offence as is sufficient to give the accused reasonable information as to the act to be proved against him or her, and to identify the transaction referred to:

Provided that the absence or insufficiency of such details shall not *vitiate* the count, but the Court may order an amendment or further particulars, as hereinafter mentioned.

(4) A count may refer to any section or subsection of any statute creating the offence charged in such count, and, in estimating the sufficiency of the count, the Court may have regard to such reference.

(5) Every count shall in general apply only to a single transaction.

130. Power to charge offence in the alternative

(1) A count shall not be deemed objectionable on the ground that it charges in the alternative several different matters or acts which are stated in the alternative in the enactment describing any offence or declaring the matters or acts charged to be an indictable offence, or on the ground that it is double or multifarious:

Provided that the accused may, at any stage of the trial, apply to the Court to amend or divide any such count on the ground that it is so framed as to embarrass him or her in his or her defence.

(2) The Court may, at any stage, if it is satisfied that the ends of justice require it, order any count to be amended or divided into two or more counts, and, on such order being made, the count shall be so divided or amended and thereupon a formal commencement may be inserted before each of the counts into which it is divided.

131. Statement of certain inadmissible objections to court

No count shall be deemed objectionable or insufficient on any of the following grounds, that is to say, that it—

(*a*)contains one name only of the accused;

(*b*)contains one name only or does not contain the name of the person injured;

(*c*)does not state who is the owner of any property therein mentioned;

(*d*)charges an intent to defraud without naming or describing the person whom it was intended to defraud;

(*e*)does not set out any document which may be the subject of the charge;

(*f*)does not set out the words used where words used are the subject of the charge;

(*g*)does not specify the means by which the offence was committed;

(*h*)does not specify the parish in which the offence was committed; or

(*i*)does not name or describe with precision any person or thing:

Provided that the Court may, if it is satisfied that it is necessary for a fair trial, order that the Crown shall furnish particulars further describing the person, document, words, means or thing.

132. Count for libel

(1) No count for publishing a blasphemous, seditious, obscene, or defamatory libel, or for selling or exhibiting any obscene book, pamphlet, newspaper or other printed or written matter, shall be deemed insufficient on the ground that it does not set out the words thereof:

Provided that the Court may order that the Crown shall furnish particulars stating what passages in the book, pamphlet, newspaper or writing are relied on in support of the charge.

(2) A count for libel may charge that the matter published was written in a sense which would make the publishing criminal, specifying that sense without any prefatory averment showing how that matter was written in that sense; and on the trial it shall be sufficient to prove that the matter published was criminal, either with or without such innuendo.

133. Counts for perjury and certain other offences

(1) No count charging perjury, the making of a false oath or of a false statement, or fabricating evidence, or subornation, or procuring the commission of any of these offences, shall be deemed insufficient on the ground that it does not state the nature of the authority of the tribunal before which the oath or statement was taken or made, or the subject of the inquiry, or the words used, or the evidence fabricated, or on the ground that it does not expressly negative the truth of the words used:

Provided that the Court may, if it is satisfied that it is necessary for a fair trial, order that the prosecutor shall furnish a particular of what is relied on in support of the charge.

(2) No count which charges any false pretence, or any fraud, or any attempt or conspiracy by fraudulent means shall be deemed insufficient because it does not set out in detail in what the false pretences, or the fraud, or the fraudulent means consisted:

Provided that the Court may, if it is satisfied as aforesaid, order that the prosecutor shall furnish a particular of the above matters or any of them.

134. Saving of general provisions of sections 132 and 134

Nothing in the last two preceding sections shall be construed as restricting or limiting in any way the general provisions of sections 132 and 134.

135. Delivery and entry of particulars

(1) When any such particulars as aforesaid are delivered, a copy shall be given without charge to the accused or his or her counsel. A copy shall be annexed to the depositions; and the trial shall proceed in all respects as if the indictment had been amended in conformity with the particulars.

(2) In determining whether particulars are required or not, and whether a defect in the indictment is material to the substantial justice of the case or not, the Court may have regard to the depositions.

136. Variances and amendments

(1) If, on the trial of any indictment, there appears to be a variance between the proof and the charge in any count in the indictment, either as preferred, or as amended, or as it would have been

if amended in conformity with any such particulars, the Court may amend the indictment, or any count in it, or any particulars, so as to make it conformable with the proof. If the Court is of opinion that the accused has not been misled or prejudiced in his or her defence by the variance, it shall make the amendment.

(2) If it appears that there is in the indictment, or in any count in it, an omission to state or a defective statement of anything requisite to constitute the offence, or an omission to negative any exception which ought to have been negatived, but that the matter omitted is proved by the evidence, the Court shall, if it is of opinion that the accused has not been misled or prejudiced in his or her defence by the omission, amend the count by inserting in it the matter omitted.

(3) The trial in either of these cases may then proceed in all respects as if the indictment or count had been originally framed as amended:

Provided that, if the Court is of opinion that the accused has been misled or prejudiced in his or her defence by any such variance, or omission, or defective statement as aforesaid, but that the effect of such misleading or prejudice might be removed by adjourning or postponing the trial, the Court may, in its discretion, make the amendment and adjourn the trial to a future day, or discharge the jury and postpone the trial, on such terms as it thinks just.

(4) In determining whether the accused has been misled or prejudiced in his or her defence, the Court shall consider the contents of the depositions, as well as the other circumstances of the case.

137. Proceedings on making an amendment

(1) In any case where an amendment is made, the order for the amendment shall be endorsed on the indictment.

(2) Every verdict and judgement which may be given after the making of any amendment shall be of the same force and effect in all respects as if the indictment had been originally in the same form in which it was after such amendment was made.

(3) If it becomes necessary at any time for any purpose to draw up a formal record in any case where an amendment has been made, such record shall be drawn up in the form in which the indictment was after such amendment was made, without taking any notice of the fact of such amendment having been made.

138. Misdemeanour charged, felony proved

Where an offence charged is a misdemeanour and the evidence establishes the commission of a felony, the accused shall not by reason thereof be entitled to be acquitted:

Provided that no person tried for a misdemeanour shall be liable to be afterwards prosecuted for felony on the same facts, unless the Court before which the trial may be had thinks fit to discharge the jury from giving a verdict, and to direct the person to be indicted for felony, in which case the

person may be dealt with in all respects as if he or she had not been put upon his or her trial for the misdemeanour.

139. Joinder of counts, and proceedings thereon

(1) Any number of counts for any offences whatever may be joined in the same indictment, and shall be sufficiently distinguished:

Provided that to a count charging murder no count charging any offence other than murder shall be joined.

(2) When there are more counts than one in an indictment, each count may be treated as a separate indictment.

(3) If the Court thinks it conducive to the ends of justice to do so, it may order that the accused shall be tried upon any one or more of the counts separately. The order may be made either before or in the course of the trial, and, if it is made in the course of the trial, the jury shall be discharged from giving a verdict on the counts on which the trial is not to proceed. The counts in the indictment which are not then tried shall be proceeded upon in all respects as if they had been contained in a separate indictment:

Provided that, unless there are special reasons for so doing, no order shall be made preventing the trial at the same time of any number of distinct charges of stealing, not exceeding five, alleged to have been committed within six months from the first to the last of the offences, whether against the same person or not.

(4) If one sentence is passed upon any verdict of guilty on an indictment containing more counts than one, the sentence shall be good if any of the counts would have justified the sentence.

140. Charges of previous conviction

In any count charging the accused with having been previously convicted, it shall be sufficient to state that the accused was, at a certain time and place, convicted of an offence punishable on summary conviction, or of an indictable offence punishable by imprisonment for one or two years as the case may be without further describing the offence.

141 Objection of substance to indictment

(1) No objection to an indictment shall be taken by way of demurrer, but if an indictment does not state in substance an indictable offence, or states an offence not triable by the Court, the accused may move the Court to quash it or, in arrest of judgement.

(2) If the motion is made before the accused pleads, the Court shall either quash the indictment or amend it, if it thinks that it ought to be amended.

(3) If the defect in the indictment appears to the Court during the trial, and the Court does not think fit to amend it, it may, in its discretion, quash the indictment, or leave the objection to be taken in arrest of judgement.

(4) If the indictment is quashed, the Court may direct the accused to plead to another indictment when called on at the same sitting of the Court.

Pleas

142. Special pleas allowed to be pleaded

(1) The following special pleas, and no others, may be pleaded, that is to say, a plea of *autrefois acquit*, a plea of *autrefois convict*, a plea of pardon, and such plea in cases of defamatory libel as is hereinafter mentioned.

(2) All other grounds of defence may be relied on under the plea of not guilty.

(3) The pleas of *autrefois acquit*, *autrefois convict*, and pardon may be pleaded together, and shall, if pleaded, be disposed of before the accused is called on to plead further; and if every such plea is disposed of against the accused, he or she shall be allowed to plead not guilty.

(4) In any plea of *autrefois acquit* or *autrefois convict*, it shall be sufficient for the accused to state that he or she has been lawfully acquitted or convicted, as the case may be, of the offence charged in the count to which the plea is pleaded.

(5) Every special plea shall be in writing, and shall be filed with the Registrar not less than twenty-four hours before the arraignment of the accused.

143. General effect of pleas of *autrefois acquit* and *convict*

(1) On the trial of an issue on a plea of a*utrefois acquit* or *autrefois convict*, if it appears that the matter on which the accused was tried on the former trial is the same in whole or in part as that on which it is proposed to try him or her, and that he or she might on the former trial, have been convicted of all the offences of which he or she may be convicted on the count to which the plea is pleaded, the Court shall give judgement that he or she be discharged from that count.

(2) If it appears that the accused might, on the former trial, have been convicted of any offence of which he or she may be convicted on the count to which the plea is pleaded, but that he or she may be convicted on that count of some offence of which he or she could not have been convicted on the former trial, the Court shall direct that he or she shall not be convicted on that count of any offence of which he or she might have been convicted on the former trial, but that he or she shall plead over as to the other offence charged.

144. Effect where previous offence charged was without aggravation

(1) Where an indictment charges substantially the same offence as that charged in the indictment on which the accused was given in charge on a former trial, but adds a statement of intention or circumstances of aggravation tending, if proved, to increase the punishment, the previous acquittal or conviction shall be a bar to the subsequent indictment.

(2) A previous acquittal or conviction on an indictment for murder shall be a bar to a second indictment for the same homicide charging it as manslaughter; and a previous acquittal or conviction on an indictment for manslaughter shall be a bar to a second indictment for the same homicide charging it as murder.

145. Use of depositions, etc., on former trial, on trial of special plea

On the trial of an issue on a plea of *autrefois acquit* or *autrefois convict*, the depositions transmitted to the Registrar on the former trial, together with the Judge's notes, if available, and the depositions transmitted to the Registrar on the subsequent charge, shall be admissible in evidence to prove or disprove the identity of the charges.

146. Plea of justification in case of libel

(1) Where any person accused of publishing a defamatory libel pleads that the defamatory matter published by him or her was true, that it was for the public benefit that the matters charged should be published in the manner in which and at the time when they were published, the plea may justify the defamatory matter in the sense specified, if any, in the count, or in the sense which the defamatory matter bears without any such specification; or separate pleas justifying the defamatory matter in each sense may be pleaded separately, as if two libels had been charged in separate counts. The plea must be in writing, and must set forth the particular fact or facts by reason of which it was for the public good that the matters should be so published. The Crown may reply generally denying the truth thereof.

(2) The truth of the matters charged in an alleged libel shall in no case be inquired into without such plea of justification, unless the accused is put upon his or her trial upon any indictment or information charging him or her with publishing the libel, knowing the same to be false, in which case evidence of the truth may be given in order to negative the allegation that the accused knew the libel to be false.

(3) The accused may, in addition to such plea, plead not guilty, and the pleas shall be inquired of together. No such plea of justification as is herein provided for shall be pleaded to any indictment or count so far as it charges a libel to be a seditious, or blasphemous, or obscene libel.

(4) If, when such plea of justification is pleaded, the accused is convicted, the Court may, in pronouncing sentence, consider whether his or her guilt is aggravated or mitigated by the plea.

(5) If, when such plea of justification is pleaded, the issue thereon is found against the accused, the Crown shall be entitled to recover from the accused the costs sustained by the Crown by reason of such plea.

(6) The costs to be so recovered by the Crown shall be taxed by the Registrar.

147. Application of provisions respecting indictments to criminal information

The provisions of this Part relating to indictments shall, so far as they are applicable thereto, apply to criminal informations.

TITLE XVIII

Proceedings Preliminary to Trial

148. Institution of proceedings by the Attorney-General

Upon receipt of the documents relating to the preliminary inquiry, the Attorney-General, if he or she sees fit to institute criminal proceedings, shall institute such proceedings in the Court against the accused as to him or her may seem legal and proper:

Provided that the Attorney-General shall not be bound to prosecute an accused in any case in which he or she may be of opinion that the interests of public justice do not require his or her interference; and in any such case he or she may direct the release of the accused from custody, and he or she shall be released accordingly.

149. Indictment to be filed, and copy to be furnished to accused on application

Every indictment shall be filed in the office of the Registrar, together with a copy of the list of witnesses intended to be called on the trial thereof; and any person committed for trial, upon application, shall be entitled to be furnished without payment by the Registrar with a copy of the indictment and list of witnesses intended to be used and called on his or her trial.

150. Bench warrant where accused does not appear

Where any person against whom an indictment has been duly preferred, and who is then at large, does not appear to plead to the indictment, whether he or she is under recognisance to appear or not, the Court may issue a warrant for his or her arrest.

TITLE XIX

Trial

Records

151. Minute of proceedings at trial

(1) It shall not in any case be necessary to draw up any formal record of the proceedings on any trial for an indictable offence, but the Registrar shall cause to be preserved all indictments and all depositions filed with or transmitted to him or her, and he or she shall keep a book, to be called the Crown Book, and such book shall be the property of the Court and shall be deemed a record thereof.

(2) In the Crown Book shall be entered the name of the Judge, and a memorandum of the substance of all proceedings at every trial and of the result of every trial:

Provided that nothing herein contained shall dispense with the taking of notes by the Judge presiding at the trial.

(3) Any erroneous or defective entry in the Crown Book may at any time be amended by the Judge in accordance with the fact.

152. Original record of proceedings

The indictment, the plea or pleas thereto, the verdict and the judgement or sentence of the Court shall form and be the record of the proceedings in each case, and shall be kept and preserved in the office of the Registrar, as of record.

Arraignment

153. Bringing prisoner up for arraignment

If any person against whom an indictment is preferred is at the time confined in the prison for some other cause, the Court may, by order in writing, direct the gaoler to bring up the accused, as often as may be required, for the purpose of the trial, and the gaoler shall obey the order.

154. Postponement of trial on application of accused

If an application is made to the Court by the accused for a postponement of the trial, and the Court is of opinion that the accused ought to be allowed further time, either to prepare his or her defence or otherwise, the Court may postpone the trial either to a later day in the same sitting of the Court or to the next subsequent sitting, as the Court may think fit, upon such terms as to bail or otherwise as to the Court may seem fit.

155. Arraignment of accused

Every accused shall, upon being called upon to plead, be entitled to have the indictment on which he or she is to be tried read over to him or her.

156. Charge of previous conviction

Where an indictment contains a count charging the accused with having been previously convicted, he or she shall not, at the time of his or her arraignment, be required to plead to it unless he or she pleads guilty to the rest of the indictment, nor shall the count be mentioned to the jury when the accused is given in charge to them, or when they are sworn, nor shall he or she be tried upon it if he or she is acquitted on the other counts, but if he or she is convicted on any other part of the indictment, he or she shall be asked whether he or she has been previously convicted as alleged or not, and, if he or she says that he or she has not or does not say that he or she has been so convicted, the jury shall be charged to inquire into the matter as in other cases.

157. Proof of previous conviction of accused person

Where an indictment contains a count charging the accused with having been previously convicted, and it becomes necessary upon the trial to prove the previous conviction, a copy of the conviction for the offence punishable on summary conviction, or a certificate containing the substance and effect only (omitting the formal part) of the indictment and conviction for the indictable offence, or as the case may be, purporting to be signed by the officer having the custody of the records of the Court where the offender was convicted, shall upon proof of the identity of the person, be sufficient evidence of the said conviction, without proof of the signature or official character of the person appearing to have signed the same.

158. Proof of previous trial on trial for perjury

A certificate containing the substance and effect only (omitting the formal part) of the indictment and trial for any indictable offence, purporting to be signed by the Registrar, shall, upon the trial of any indictment for perjury, or abetment of perjury, be sufficient evidence of the trial of the said indictment, without proof of the signature or official character of the person appearing to have signed the same.

Plea

159. Abolition of pleas in abatement

No plea in abatement shall be allowed.

160. Pleading and refusal to plead

When the accused is called upon to plead, he or she may plead either guilty or not guilty, or such special pleas as are hereinbefore provided for; and if he or she wilfully refuses to plead or will not answer directly, the Court may, if it thinks fit, order the Registrar to enter a plea of not guilty.

161. Recording of plea

Every plea shall be entered by the Registrar on the back of the indictment or on a sheet of paper annexed thereto.

Further Proceedings at Trial

162. Case for the prosecution

After the accused has been given in charge to the jury or when the jury have been sworn, the counsel for the Crown, if there is one, may open the case against the accused, and adduce evidence in support of the charge. If there is no counsel for the Crown, the witnesses shall be called and examined as the Court may direct.

163. Case for the defence

The accused or his or her counsel may then open his or her case, and adduce evidence in support of the defence, and when all the evidence is concluded, may sum up the evidence.

164. Right of reply

The counsel for the Crown shall in all cases have the right of reply.

165. Procedure where person is committed for trial through error

(1) If either before or during the trial of an accused, it appears to the Court that the accused has been guilty of a summary offence, the Court may either order that the case shall be remitted to a Magistrate with such directions as it may think proper, or allow the case to proceed, and in case of conviction, impose such punishment upon the person so convicted as may be lawful and proper.

(2) It shall be the duty of the Magistrate to whom any such directions are addressed to obey the same.

166. Adjourning and postponing trial for attendance of witnesses

(1) If the Court is of opinion that the accused is taken by surprise, in a manner likely to be prejudicial to his or her defence, by the production on behalf of the Crown of a witness who has not made any deposition, and of the intention to produce whom the accused has not had sufficient notice, the Court may, on the application of the accused, adjourn the further hearing of the case, or discharge the jury, and postpone the trial.

(2) If the Court is of opinion that any witness who is not called for the prosecution ought to be so called, it may require the Crown to call him or her, and, if the witness is not in attendance, make an order that his or her attendance be procured, and adjourn the further hearing of the case to some other time during the sitting until the witness attends, or may, upon the application of the accused, discharge the jury, and postpone the trial.

167. Recalling a witness

The Court shall have full power during any part of the trial, or after the case on both sides has been closed, to call up and examine any witness, whether such witness has been produced before the Court in the course of the trial or not.

168. Summing up of the Judge

When the case on both sides is closed, the Judge shall, if necessary, sum up the law and evidence in the case.

169. Consideration of verdict by jury

After the summing up, if any, the jury shall consider their verdict.

170. Recording of verdict

The verdict, when returned by the jury and accepted by the Court, shall be entered by the Registrar on the back of the indictment, or on a sheet of paper annexed thereto, before the jury are discharged.

171. Verdict of not guilty

If the jury find the accused not guilty, he or she shall be immediately discharged from custody on that indictment.

172. Verdict or plea of guilty, motion in arrest of judgement, and sentence

(1) If the jury find the accused guilty or if the accused pleads guilty, it shall be the duty of the Registrar to ask him or her whether he or she has anything to say why sentence should not be passed upon him or her according to law, but the omission so to ask shall have no effect on the validity of the proceedings.

(2) The accused may at any time before sentence, move in arrest of judgement on the ground that the indictment does not (after any amendment which the Court is willing and has power to make) state any indictable offence.

(3) If the motion is made, the Court may, in its discretion, either hear and determine it during the same sitting, or adjourn the hearing thereof to a future time to be fixed for that purpose. If the Court decides in favour of the accused, he or she shall be discharged from that indictment. If no such motion is made or if the Court decides against the accused upon it, the Court may either sentence the accused at any time during the sitting, or may, in its discretion, discharge him or her on his or her own recognisance, or on that of such sureties as the Court thinks fit, or both, to appear and receive judgement at the same or some future sitting of the Court, or when called upon.

173. Recording of judgement

The judgement or sentence of the Court shall be entered by the Registrar on the back of the indictment, or on a sheet of paper annexed thereto.

174. Procedure where woman convicted of capital offence alleges she is pregnant

(1) Where a woman convicted of an offence punishable with death alleges that she is pregnant, or where the court before whom a woman is so convicted thinks fit so to order, the question whether or not the woman is pregnant shall, before sentence is passed on her, be determined by a jury.

(2) Subject to the provisions of this subsection, the said jury shall be the trial jury, that is to say, the jury to whom she was given in charge to be tried for the offence, and the members of the jury need not be re-sworn:

Provided that—

(*a*)if any member of the trial jury, either before or after the conviction, dies or is discharged by the court as being through illness incapable of continuing to act, or for any other cause, the inquiry as to whether or not the woman is pregnant shall proceed without him; and

(*b*)where there is no trial jury, or where a jury have disagreed as to whether the woman is or is not pregnant, or have been discharged by the court without giving a verdict on that question, the jury shall be constituted as if to try whether or not she was fit to plead, and shall be sworn in such manner as the court may direct.

(3) The question whether the woman is pregnant or not shall be determined by the jury on such evidence as may be laid before them either on the part of the woman or on the part of the Crown, and the jury shall find that the woman is not pregnant unless it is proved affirmatively to their satisfaction that she is pregnant.

175. Sentence of death not to be passed on pregnant women

Where a woman convicted of an offence punishable with death is found in accordance with the provisions of this Act to be pregnant, the sentence to be passed on her shall be a sentence of imprisonment with hard labour for life instead of sentence of death.

176. Adjournment of trial

From the time when the accused is given in charge to the jury, or when the jury are sworn, the trial shall proceed continuously, subject to the power of the Court to adjourn it. Upon every adjournment the Court may in all cases, if it thinks fit, direct that during the adjournment the jury shall be kept together, and proper provision made for preventing them from holding communication with any one on the subject of the trial. Such direction shall be given in all cases in which the accused might, upon conviction, be sentenced to death. In other cases, if no such direction is given, the jury shall be permitted to separate. No formal adjournment of the Court shall be required, and no entry thereof in the Crown Book shall be necessary.

177. Presence of accused at trial

(1) Every accused person shall be entitled to be present in Court during the whole of his or her trial, unless he or she misconducts himself or herself by so interrupting the proceedings as to render their continuance in his or her presence impracticable.

(2) The Court may, if it thinks proper, permit the accused to be out of Court during the whole or any part of the trial, on such terms as it thinks proper.

178. How and when objections may be raised

Objections to a trial on the ground of improper admission or rejection of evidence, or of any irregularity or informality in the proceedings (other than defects in the indictment), must be made as follows—

(*a*)if the irregularity or informality occurs before verdict given, the objection must be made before verdict given;

(*b*)if the irregularity or informality occurs in the giving of the verdict or before sentence is pronounced, the objection must be made before sentence is pronounced;

(*c*)if the irregularity or informality occurs in or after passing sentence, the objection must be made in writing to the Judge within twenty-four hours after sentence has been pronounced;

(*d*)objections to admission or rejection of evidence must be made at the time of such admission or rejection;

(*e*)no objection shall be entertained by the Court unless made as herein directed;

(*f*)when any objection is duly made before sentence is pronounced, the Court shall so far as possible correct such irregularity or informality and may direct the trial to be adjourned or to be recommenced from any point.

The taking of the verdict of the jury, or any other proceeding of the Court, shall not be invalid by reason of its happening on Sunday.

179. Stay of proceedings at instance of the Attorney-General

The Attorney-General may, at any time after an indictment has been preferred against any person and before judgement is given thereon, direct the Registrar to make on the indictment or in the Crown Book an entry that the proceedings are stayed by his or her direction, and, on such entry being made, the proceedings shall be stayed accordingly.

Arraignment and Trial of Insane Persons

180. Procedure where accused appears upon arraignment, or during trial, to be insane

(1) If any accused appears, before or upon arraignment, to be insane, the Court may order a jury to be impanelled to try his or her sanity, and the jury shall thereupon, after hearing evidence for that purpose, find whether he or she is or is not insane and unfit to take his or her trial.

(2) If, during the trial of the accused, he or she appears to the jury to be insane, the Court shall direct the jury to abstain from finding a verdict upon the indictment, and in lieu thereof to return a verdict that the accused is insane:

Provided that a verdict under this section shall not affect the trial of any person so found to be insane for the offence for which he or she was indicted, in case he or she subsequently becomes of sound mind.

181. Special verdict where accused found guilty, but insane at date of act or omission charged

Where in any indictment any act or omission is charged against any person as an offence, and it is given in evidence on his or her trial for that offence that he or she was insane, so as not to be responsible, according to law, for his or her actions at the time when the act was done or omission made, then, if it appears to the jury before whom he or she is tried that he or she did the act or made the omission charged, but was insane as aforesaid at the time when he or she did or made the same, the jury shall return a special verdict to the effect that the accused was guilty of the act or omission charged against him or her, but was insane as aforesaid at the time when he or she did the act or made the omission.

182. Provision for custody of accused found insane

(1) Where any person is found to be insane, or has a special verdict found against him or her under the provisions of the two last preceding sections, the Court shall order him or her to be detained in safe custody, in such place and manner as the Court thinks fit, until Her Majesty's pleasure shall be known.

(2) The Judge shall immediately report the finding of the jury and the detention of the accused to the Governor-General, who shall order him or her to be dealt with as a lunatic under the laws of this state for the time being in force for the care and custody of lunatics, or otherwise as he or she may think proper.

PART VI

Capital Punishment

TITLE XX

Procedure Relating to Capital Punishment

183. Judge's notes

No day shall be fixed by the Court for any sentence of death; and so soon as conveniently may be after such sentence has been pronounced the presiding Judge shall forward to the Governor-General his or her notes of the evidence taken at the trial, with a report in writing containing any recommendation or observations on the case which he or she may think fit to make.

184 Immateriality of time and place of execution mentioned in sentence

Nothing in any law or usage in the State shall be held to constitute either the time or the place of execution an essential part of any sentence of death pronounced by the Court upon any person, so as to render the sentence spent or vacated by reason that the person was not executed at the time or place appointed by the Court.

185. Persons to be present

Sentence of death shall be executed under the direction of the Chief of Police or of such other officer as the Governor-General may appoint; and the gaoler, medical officer, and such other officers of the prison as the Chief of Police or other officer appointed as aforesaid shall require, shall, and such minister of religion as the Governor-General may approve, may be present at the execution.

186. Others who may be present

Any Justice of the Peace and such relatives of the prisoner or other persons as the Governor-General may deem it proper to admit within the prison for the purpose, may also be present at the execution.

187. Medical officer to certify death, etc.

As soon as may be after sentence of death has been executed on the offender, the medical officer of the prison shall examine the body of the offender, and shall ascertain the fact of death, and shall sign a certificate thereof and deliver the same to the Chief of Police. The Chief of Police, gaoler, and such other persons present, if any, as may be required or allowed as aforesaid, shall also sign a declaration to the effect that sentence of death has been executed on the offender.

188. Coroner's inquest on body

(1) The Coroner of the district to which the prison belongs wherein sentence of death is executed shall within twenty-four hours after the execution hold an inquest on the body of the offender; and the jury at the inquest shall inquire into and ascertain the identity of the body, and whether sentence of death was duly executed on the offender, and the inquisition shall be in duplicate, and one of the originals shall be delivered to the Registrar.

(2) No officer of the prison or prisoner confined therein shall in any case be a juror on the inquest.

189. Burial of body

The Governor-General shall, by writing under his or her hand, appoint some fit place for the burial of offenders executed, and the body of every offender executed shall be buried in such place.

190. Governor-General may make rules, etc., to be observed on execution of sentence of death

The Governor-General shall, from time to time, make such rules and regulations to be observed on the execution of sentence of death in the prison as he or she may deem expedient for the purpose, as well of guarding against any abuse in the execution, as also of giving greater solemnity to the same, and of making known without the prison walls the fact that the execution is taking place.

191. Rules to be laid before Parliament

All such rules and regulations shall be laid upon the table of the House of Representatives within six weeks after the making thereof, or if the Parliament be not then sitting, within fourteen days after its next meeting.

192. Penalty for signing false certificate, etc.

If any person knowingly and wilfully signs any false certificate or declaration required by this Title, he or she shall be liable to imprisonment for two years, with or without hard labour.

193. Certificate, etc., to be sent to Governor-General and exhibited

Every certificate and declaration and duplicate of the inquisition required by this Title shall in each case be sent with all convenient speed by the Registrar to the Governor-General and printed copies of the same several instruments shall as soon as possible be exhibited, and shall for twenty-four hours at least be kept exhibited, on or near the principal entrance of the prison.

194. Saving clause as to legality of execution

The omission to comply with any provision of this Title shall not make the execution of a sentence of death illegal in any case where it would otherwise have been legal.

195. Carrying sentence into effect

Sentence of death to be executed on a person sentenced by the Court, shall be carried into effect, within the walls of the prison in which he or she shall be confined at the time of execution, on a date to be fixed by the Governor-General, and under authority of a warrant to be signed by him or her. Except and in so far as is hereby provided, sentence of death shall be carried into effect in the same manner as if this Code had not been passed.

196. Enforcement of commuted sentence

When any person is sentenced to death and it is Her Majesty's pleasure to extend to him or her Her Royal clemency, on condition of his or her undergoing some other lawful punishment less than death, it shall be lawful for the Governor-General to give all such directions and to do all such things as may be necessary to enforce such other punishment as aforesaid.

PART VII

Miscellaneous Provisions

TITLE XXI

Miscellaneous Matters

197. Perpetuating testimony against absconding criminal

The Judge may, if he or she is satisfied that any person accused of or committed for trial for any indictable offence has absconded for the purpose of avoiding trial or punishment, order that the evidence of any witnesses against him or her shall be taken as the Judge directs; and if he or she at any time subsequently appears or is arrested, the evidence so taken of any witness may be used upon any preliminary inquiry or upon the trial, if it is proved, to the satisfaction of the Magistrate or the Judge—

(*a*)that the deponent is dead; or

(*b*)that there is no reasonable probability that the deponent will ever be able to travel or to give evidence; and

(*c*)if the deposition purports to be signed by the Magistrate before whom it purports to be taken.

198. Admissibility of deposition as evidence in certain cases

(1) A deposition taken against or for an accused person may be produced and given in evidence at his or her trial if it is proved, to the satisfaction of the Judge—

(*a*)that the deponent is dead, or so ill as not to be able to travel, although there may be a prospect of his or her recovery;

(*b*)that the deponent is kept out of the way by the prosecutor or the accused;

(*c*)that the deponent is too mad to testify; or

(*d*)that the deponent is beyond the jurisdiction of the Court; and if—

(i)the deposition purports to be signed by the Magistrate before whom it purports to have been taken, and

(ii)it is proved by the person who offers it as evidence that it was taken in the presence of the accused person or the prosecutor, as the case may be, and that he or she, or his or her counsel, had a full opportunity of cross-examining the witness; or, in cases where the deposition was taken after committal, that notice of the examination was given, as provided in this Code, to the party against whom the deposition is proposed to be given in evidence.

(2) If the deposition purports to be signed as aforesaid, it will be presumed, in the absence of evidence to the contrary, to have been duly taken, read, and signed.

(3) If it is made to appear to the Judge that the witness who made the deposition may, within a reasonable time, be capable of attending to give evidence, and that the ends of justice require that the witness should be examined personally before the jury, the Court may postpone the trial on such terms as may seem proper.

199. Procedure on charge of or trial for treason

The practice and procedure in respect of any charge of or trial for treason, misprision of treason, or treason felony, shall be, as nearly as possible, the same as the practice and procedure in respect of a charge of or trial for a like offence for the time being in force in England.

200. Counsel to be assigned in capital cases

If, on a trial for an offence for which the punishment is death, it appears that the accused has no money wherewith to retain counsel, the Court shall assign counsel for him or her; and the fees and expenses necessarily incurred in the defence shall be paid out of the public revenue.

Schedule

CRIMINAL PROCEDURE CODE

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CRIMINAL PROCEDURE CODE

FORM 1

General Heading

[Section 67.]

Grenada

In the Supreme Court of Grenada and the West Indies Associated States

(High Court of Justice)

(Criminal)

The Queen v. C.D.;

or,

In the Magistrate's Court,

District,

A.B., Complainant,

And

C.D., Defendant.

CRIMINAL PROCEDURE CODE

FORM 2

Complaint without Oath

[Section 70.]

A.B., of

comes before me, the undersigned Magistrate,

and complains against *C.D.*, of

that the said *C.D.*,

on the

day of

, 20

,

at

[*state the complaint concisely*] and the said *A.B.* prays that the said *C.D.*

may be summoned to answer the said complaint.

Complainant

Made before me this

day of

at

Magistrate of the

District

CRIMINAL PROCEDURE CODE

FORM 3

Complaint on Oath

[Section 74.]

The information of *A.B.*, of

who says on his or her oath

[*or affirmation*] that *C.D.*, of

on the

day of

at

, etc.

Add, for summons or arrest of defendant:

And the said *A.B.* prays that the said *C.D.* may be summoned to answer the said complaint [*or may be apprehended for the said offence and dealt with according to law*].

Add, for arrest of witness:

And he or she further says that *E.F.*, of

can give material

evidence but is not likely to attend voluntarily [*or and is keeping out of the way of service of summons*].

Add, for sureties of the peace:

And he or she makes this information for the safety of his or her person and property and not from malice or revenge.

Add, where informant is to be bound to prosecute or give evidence:

And he or she binds himself or herself to attend at

on the

day of

at

o'clock in the

noon to prosecute [*or*, *give evidence against*] the said *C.D.*, for the said offence, or

otherwise to forfeit to the Queen the sum of

dollars.

.

Complainant

Taken before me at

this

day of

, 20

Magistrate of the

District (*or Justice of the Peace*).

CRIMINAL PROCEDURE CODE

FORM 4

Summons for Defendant or Witness

[Sections 23 and 71.]

To

of

Whereas a complaint has been made to me that

This is to command you to appear as a defendant [*or witness*] on the hearing of the said complaint at

on

day, the

day of

, 20

, at

o'clock

a.m/p.m., before me or such Justice as shall be there.

Dated this

day of

, 20

Magistrate of the

District

CRIMINAL PROCEDURE CODE

FORM 5

Warrant of Arrest

[Sections 74, 94, 97 and 98.]

To *M.N.*, Police Constable, and all other Constables.

Whereas a complaint has been made on oath and in writing that, etc.

Or, where defendant has disobeyed summons (*section 73*):

Whereas on the

of

, 20

,

complaint was made before, etc., that *C.D.*, etc.; and whereas the said *C.D.* has neglected to appear in obedience to a summons.

Or, where witness has disobeyed summons (*section 29*):

Whereas on the

of

, 20

,

complaint was made before, etc., that *C.D.*, etc.; and whereas I duly issued a summons to *E.F.* requiring him or her to appear as a witness on the hearing of the said complaint

at

on the

of

, 20

; and whereas the

said *E.F.* has neglected to appear at the time and place appointed by the summons, and no just excuse has been offered for his or her neglect; and whereas proof has been made before me on oath of the summons having been duly served on the said *E.F.*

Or, where person bailed has absconded (*section 48*):

Whereas *C.D.*, of

, was admitted to bail to appear

at

on

day, the

day of

, 20

, at

o'clock in the

noon, and has made default therein.

This is to command you to whom this warrant is addressed to arrest the said and to bring him or her before me or some other Justice to answer [*or, to testify what he or she knows concerning*] the said complaint.

Dated this

day of

, 20

Magistrate of the

District

FORM 6

Search Warrant

[Section 15.]

To *M.N.*, Police Constable, and all other Constables.

Whereas it appears on the oath of *A.B.*, of

that the following things, viz.—

have been stolen, etc., and that there is reason to suspect that the said things are concealed in

at

This is to command you to enter

between the hours of

and

into the said

premises and to search for the said things and to bring them and the persons in whose possession they are found before me or some other Justice.

Dated this

day of

, 20

Magistrate of the

District

CRIMINAL PROCEDURE CODE

FORM 7

Warrant to Commit or Detain for Trial, or on Adjournment, etc.

To all Police Constables and to the Keeper of the Prison—

Whereas a complaint was made on the

day of

,

20

, on the oath of *A.B*. that, etc.:

And whereas the said *C.D*. has been committed for trial on the said charge;

Or

And whereas the hearing of the said complaint has been adjourned to the of;

Or

And whereas the said *C.D*. has been brought before me under a warrant of arrest, and the said complaint is to be heard on the

of;

; *or*

And whereas *M.N*., a material witness, has without just excuse refused to make oath as a witness [*or*, *to answer certain questions, or, to enter into a recognisance to give evidence on the trial of the said C.D.*]

This is to command you to lodge the said *C.D*. [*or M.N*.] in the prison there to be imprisoned until his or her trial on the said charge or until he or she shall be discharged by due course of law [*or until the above time of adjournment, or hearing, when you shall have him or her at the above place; or, until the trial of the said C.D. unless he or she shall in the meantime enter into such recognisance as required, or, until the*

day of

unless he or she

shall in the meantime consent to answer as required].

Dated this

day of

, 20

Magistrate of the

District

FORM 8

Warrant of Commitment on Conviction where the Punishment is by Imprisonment

Grenada.

In the Magistrate's Court,

District.

A.B.

Complainant,

v.

C.D.

Defendant.

To

Police [*or other*] Constable, and to the Keeper of the Prison.

Whereas *C.D*. [*hereinafter called the Defendant*] was this day convicted before the said Court for that he or she, on the

day of

,

20

, (1)

And it was thereby adjudged that the Defendant for

his or her said offence should be imprisoned in the

(2)

for the term of

This is to command you, the said Constable, to take the

Defendant and him or her safely to convey to

and there to deliver him or her

to the Keeper of the Prison, together with this warrant; And I hereby command you, the said Keeper of the Prison, to receive the defendant into your custody for the term of

and there to imprison him or her (3) for the term of

; And for your so doing, this

shall be your sufficient warrant.

Dated this

day of

, 20

Magistrate of the

District

(1)

State the complaint concisely, as in the conviction

(2)

Add, if it be so (*and there kept to hard labour*)

(3)

Add, if it be so, (*and keep him or her to hard labour*)

CRIMINAL PROCEDURE CODE

FORM 9

Warrant of Commitment on Conviction for a Penalty in the First Instance

Grenada,

In the Magistrate's Court of the

District.

A.B.

Complainant,

v.

C.D.

Defendant.

To

Police [*or other*] Constable, and to the Keeper of the Prison.

Whereas *C.D*. [*hereinafter called the Defendant*] was this day convicted before the said Magistrate's Court for that he or she, on the

day of

,

20

, at

(1)

And it was thereby

adjudged that the Defendant for his or her offence should forfeit and pay the sum of

[*etc., as in the conviction*] and should pay to the said *A.B*. the sum of

for his or her costs in that behalf: And it was further adjudged that if the said several sums should not be paid forthwith (2) the Defendant should be imprisoned in the

(3) for

the term of

unless the said several sums [*and the costs and charges*

of the complaint] should be sooner paid: And whereas the time by the said conviction appointed for the payment of the said several sums has elapsed, but the Defendant has not paid the same, or any part thereof, but therein has made default. This is to command you, the said Constable to take the Defendant, and, unless the said several sums [*and the costs and charges of the commitment, amounting to the further sum of*

] shall be sooner paid, him or her

safely to convey to

and there to deliver him or her to the Keeper of the Prison,

together with this Warrant; And I hereby command you, the said Keeper of the Prison, to receive the Defendant into your custody in the said

, and there to imprison him or her

for the term of

(4) unless the said several sums [*and the costs and charges of the*

commitment as aforesaid] shall be sooner paid; And for your so doing, this shall be your sufficient warrant.

Dated this

day of

, 20

Magistrate of the

District

(1)

State the complaint as in the conviction

(2)

Or (*on or before the day of* 20

)

(3)

Add, if it be so, (*and there kept to hard labour*)

(4)

Specify term of imprisonment.

CRIMINAL PROCEDURE CODE

FORM 10

Warrant of Distress

[Section 35.]

To

Police and all other Constables.

Whereas C.D. [*hereinafter called the Defendant*] was on the

day of

convicted before the said Court for, etc. And it was ordered that the

Defendant for his or her offence should pay, etc., and should also pay to the said *A.B*.

the sum of

for his or her costs; and that if the said sums should not be paid forthwith [*or, on or*

before the

day of

] they should be levied by

distress and sale of the movable property of the Defendant; And whereas the defendant has not paid the said sums; This is to command you forthwith to make distress of the movable property of the Defendant [*except the wearing apparel and bedding of him or her and his or her family and, to the value of twenty-four dollars the tools and implements of his or her trade*], and if within three days after the distress the said sums, together with the reasonable charges of taking and keeping the distress, are not paid, then to sell the said property and pay the money arising there from to

in order that it may be applied according to law.

Dated this

day of

, 20

Magistrate of the

District

CRIMINAL PROCEDURE CODE

FORM 11

Recognisance

[Sections 46 and 108.]

Whereas [*state complaint, with time and place*]; The undersigned principal party hereby binds himself or herself to perform the following obligation, namely—

To attend the

Court at

, on the

day of

, and there to prosecute [*or answer*]

the said complaint; *or* to surrender himself or herself and plead to any indictment filed against him or her and take his or her trial; *or* to give evidence upon an indictment filed against the said *C.D.*; *or*

To keep the peace and be of good behaviour towards all Her Majesty's subjects and particularly towards *A.B.* for the space of

months.

And the principal party together with the undersigned sureties hereby acknowledge themselves bound to forfeit to the Crown the sums following, namely— the principal party the sum of $

, and the sureties the sum of $

each, in case the principal party fails to

perform the above obligation.

Principal Party Sureties

Taken before me this

day of

, 20

Magistrate (*or Justice, etc.*)

CRIMINAL PROCEDURE CODE

FORM 12

Declaration of Forfeiture of Recognisance

[Section 46.]

The above-named principal party not having appeared in accordance with this recognisance, this Court declares that this recognisance is forfeited.

Dated this

day of

, 20

Magistrate (*or Judge*)

CRIMINAL PROCEDURE CODE

FORM 13

Summons to Surety to show cause why Recognisance should not be declared forfeited

[Section 46.]

To

You are hereby summoned to appear at

at

o'clock

on the

day of

before

to show

cause why the recognisance entered into on the

day of

whereby

you are bound to pay the sum of $

should not be adjudged to be forfeited

and why you should not be adjudged to pay that sum.

Dated this

day of

, 20

Magistrate (*or Judge*)

CRIMINAL PROCEDURE CODE

FORM 14

Consent to Bail (*endorsed on warrant of commitment*)

[Section 54.]

I consent to the within-named C.D. being bailed by recognisance, himself or herself in $

and

sureties in $

each.

Dated this

day of

, 20

Magistrate of the

District

CRIMINAL PROCEDURE CODE

FORM 15

Consent to Bail (*on separate paper*)

[Section 54.]

Whereas *C.D.* was on the

day of

committed by me to

prison charged with, etc.

I consent to the said *C.D.* being bailed by recognisance, himself or herself in $

and

sureties in $

each.

Dated this

day of

, 20

Magistrate of the

District

CRIMINAL PROCEDURE CODE

FORM 16

Gaoler's Receipt for Prisoner

[Section 53.]

Date	I hereby certify that I have this day received from Police Constable No.
Name of Prisoner	
Name of Escort	the body of together with a
Time Escort left	warrant signed by and the
Time Escort returned	articles mentioned on the other side being the property of the prisoner
	Date
Certified	Time

(*Signature*)

N.C.O. *Superintendent or Matron of Prison*

DESCRIPTION OF PRISONER'S PROPERTY

No.	Article
	Hat or Cap
	Coat
	Waistcoat
	Trousers
	Shirts
	Pocket Handkerchief
	Neckerchief
	Boots or Shoes
	Flannel
	Drawers
	Belt
	Collars
	Braces
	Socks
	Money
	Other articles

CRIMINAL PROCEDURE CODE

FORM 17

Deposition of Witness

[Sections 102 and 108.]

The deposition of *M.N.*, of

taken in the presence and hearing of

C.D., who stands charged that

The deponent on his or her oath says as follows—

[*deposition as nearly as possible in the words of the witness, and to be signed by him or her if he or she will*.]

Add, if required:

And the deponent binds himself or herself to attend at

on

or at the first sitting of the Court after that date to give evidence against [*or for*] the said *C.D*. on the said charge, or otherwise to forfeit to the Crown the sum of $

Deponent

Taken before me this

day of

, 20

Magistrate of the

District

CRIMINAL PROCEDURE CODE

FORM 18

Statement of Accused

[Section 103.]

A charge having been made against *C.D*. before the undersigned Magistrate that [*charge, with time and place*];

And the charge having been read to the said *C.D*. and the witnesses for the prosecution having been examined in his or her presence, and the said *C.D*. having been first duly cautioned that he or she was not obliged to say anything but that whatever he or she did say might be given in evidence against him or her upon his or her trial, the said *C.D*. says as follows—

[*Statement of accused in his or her very words or as nearly so as possible, and to be signed by him or her if he or she will*.]

Taken before me this

day of

, 20

Magistrate of the

District

CRIMINAL PROCEDURE CODE

FORM 19

Notice of intention to take Deposition of Witness

[Section 111(4).]

To A.B., of

Take notice that, whereas it has been proved upon the oath of

of

before

that *M.N.*, of

is able to give evidence tending to prove the guilt [or innocence] of the accused, the examination of the said

will be taken at

on

day, the

day of

, 20

, at

o'clock,

a.m/p.m., on which occasion, if you think proper, you, or your counsel,

may attend and cross-examine the said *M.N.*; and take notice that, whether you attend or not, the deposition then taken may be given in evidence at the trial, notwithstanding your absence from the examination.

Dated this

day of

, 20

CRIMINAL PROCEDURE CODE

FORM 20

Indictment

[Sections 128 and 129.]

Her Majesty's Attorney-General for the said State presents that *C.D.*, of

,

labourer [*or, as the case may be*] at

on the

day

of

, 20

, murdered *E.F.*; or,

stole a sack of flour from the ship called, etc.; *or*

obtained by false pretences from *E.F.* a horse and cart; *or*,

committed perjury, with intent to procure the conviction of *B.* for an offence punishable with imprisonment with hard labour for more than three years, namely robbery, by swearing, on the trial of *B.* for the robbery of *C.* at the sitting of the Supreme Court held at St. George on the

day of

first, that he or she, *C.D.*, saw *B.*

at

on the

day of

; secondly,

that *B*. asked him or her, *C.D*., to lend *B.* money on a watch belonging to *E*.; thirdly, etc.; *or*, committed perjury on the trial of *B*. at a Magistrate's Court held at

on the

day of

, for an assault alleged to have been

committed by the said *B*. on *E*. at

on the

day of

, by swearing to the effect that the said *E.* could not have

been at

at the time of the alleged assault, in as much as he or she, the said *C.D*.,

had seen him or her at that time in

; *or*,

with

intent to cause grievous harm to *B*., *or*, with intent to hinder the lawful arrest or detention of *C.D*., intentionally and unlawfully caused harm to *B*.; *or*,

published

an intentional libel on *B*. in a certain newspaper called

which

libel was contained in an article headed or commencing [*describe with so much detail as is sufficient to give the accused reasonable information as to the part of the publication to be relied on against him or her*], and which libel was written in the sense of imputing that the said *B*. was [*as the case may be*].

CHAPTER 72B
CRIMINAL PROCEDURE CODE