

Question—put and agreed to.

Bill read a second time.

Council in Committee on the Bill.

On Council resuming, the Attorney General reported that the Bill had passed through Committee without amendment and moved that it be read a third time.

The Colonial Secretary seconded.

Question—put and agreed to.

Bill read a third time and passed.

14. *Companies Bill.*—The Attorney General moved that clause 123 of the Bill be recommitted to Committee in order to insert three words which had fallen out of the marginal note.

The Colonial Secretary seconded.

Question—put and agreed to.

Council in Committee on the clause.

The words “Contents of balance” were inserted before the word “sheet” in the marginal note.

On Council resuming, the Attorney General reported the clause 123 had passed through Committee with an immaterial amendment and moved that the Bill be read a third time.

The Colonial Secretary seconded.

Question—put and agreed to.

Bill read a third time and passed.

ADJOURNMENT.

15. The Council then adjourned until Thursday, the 8th day of December, 1932, at 2.30 p.m.

W. PEEL,  
*Governor.*

Confirmed this 8th day of December, 1932.

R. A. C. NORTH,  
*Deputy Clerk of Councils.*

No. 777.—His Excellency the Governor has given his assent, in the name and on behalf of His Majesty the KING, to the following Ordinances passed by the Legislative Council:—

Ordinance No. 40 of 1932.—An Ordinance to amend and consolidate the law relating to Summary Offences.

Ordinance No. 41 of 1932.—An Ordinance to consolidate and amend the law relating to the jurisdiction of magistrates and the procedure and practice before magistrates in relation to offences punishable on summary conviction and to indictable offences and for other purposes.

Ordinance No. 42 of 1932.—An Ordinance to consolidate and amend the law relating to the Registration of United Kingdom Patents.

Ordinance No. 43 of 1932.—An Ordinance to amend the Protection of Women and Girls Ordinance, 1897.

HONG KONG.

No. 40 OF 1932.

I assent.

(L.S.)

W. PEEL,  
Governor.

9th December, 1932.

An Ordinance to amend and consolidate the law relating to Summary Offences.

[9th December, 1932.]

BE it enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as the Summary Offences Ordinance, 1932. Short title.

2. In this Ordinance:—

Inter-pretation.

(a) "Lawful authority" extends to and denotes any permission which may be lawfully given by a public officer or department or by a private person.

(b) Where no specific description is given of the ownership of any property, the word "property" shall be taken to apply to all such property of the kinds specified, whether owned by the Crown, by a public department or by a private person.

(c) "Public officer," or "Public department," extends to and includes the Governor and every officer or department invested with or performing duties of a public nature, whether under the immediate control of the Governor or not.

(d) "Public place" includes all piers, thoroughfares, streets, roads, lanes, alleys, courts, squares, archways, water-passages, paths, ways and places to which the public have access either continuously or periodically, whether the same are the property of the Crown or of private persons.

*Nuisances, trespasses and similar offences.*

3. Every person shall be liable to a fine not exceeding two hundred and fifty dollars who without lawful authority or excuse:— Nuisances committed in public places, etc.

(1) throws or lays, or causes or knowingly permits to be thrown or laid, any carrion, dirt, soil, straw or dung, or any other filth, rubbish or noisome or offensive matter whatsoever, on any public place, or on any Government property unless with the consent of a public officer, or on any private property unless with the consent of the owner and of the occupier (if any), of such private property; or into any well, stream, watercourse, ford or reservoir, or into any drain or

sewer; or permits or suffers any such noisome or offensive substance as aforesaid to remain exposed in any drain, sewer or elsewhere, opposite to or in the immediate neighbourhood of his house; or allows any accumulation of filth or offensive substances within the premises occupied by him, or in any manner defiles or pollutes any well, stream or watercourse used by any of the inhabitants of the Colony or for the supplying with water of ships resorting thereto;

(2) obeys any call of nature on any road or in any public, exposed, or other improper place;

(3) sets out or leaves, or causes to be set out or left, any matter or thing which obstructs, incommodes or endangers, or may obstruct, incommode or endanger, any person or vehicle in any public place;

(4) exposes anything for sale in or upon, or so as to hang over, any street, road or footway, or on the outside of any house, shop or other building; or sets up or continues any pole, blind, awning, line or other projection from any window, parapet or other part of any house, shop or other building so as to cause any annoyance or obstruction in any public place;

(5) encroaches on any public place or Crown land by erecting any building, either on or projecting over the same, or constructs any spout which projects water thereon,

(6) being the occupier or owner of any house, building or other erection, neglects to repair or remove the same when in a ruinous or unsafe state, and when it endangers or may endanger the passers-by in any public place;

(7) rides or drives on any foot-path without obvious necessity; or in any public place rides or drives recklessly or negligently or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case; or, when passing or meeting another ridden or driven animal or vehicle, does not keep to the customary side of the road;

(8) leads any horse or other large animal, or draws or propels any vehicle, truck or barrow upon any footpath; or fastens any horse or other large animal so that it can stand across or upon any footpath; or allows any horse or cattle to wander upon or into any public place;

(9) in any public place, to the annoyance of the inhabitants or passers-by, kills or slaughters or exposes for show or sale (except in a market lawfully appointed for that purpose), or feeds or fodders, any horse or other animal; or shoes, bleeds or farries any horse or other animal (except in case of accident); or turns loose, cleans, dresses, exercises, trains or breaks any horse or other animal; or cleans, makes or repairs any part of any vehicle, except in case of accident where repair on the spot is necessary;

(10) keeps any dog accustomed to annoy neighbours or passers-by by barking or otherwise; or suffers to be at large any unmuzzled ferocious dog or other animal; or sets on or urges any dog or other animal to attack, worry or put in fear any person or animal; or keeps any animal or bird which is a source of annoyance to any neighbour by reason of any noise made by such animal or bird;

(11) upon any public footway rolls or carries any barrel, cask, butt or other thing calculated to annoy or incommode passers-by, except for the purposes of housing it or of loading any vehicle on the other side of the footway;

(12) in, near or adjoining any public place wantonly or unnecessarily blows any horn, beats any gong or drum or makes any other noise calculated to annoy or alarm any person or to frighten any horse or other animal;

(13) wantonly or negligently discharges any firearm, or throws or discharges any stone or other missile, or makes any bonfire, or throws or sets fire to any firework, to the damage or danger of any person;

(14) kindles, discharges or lets off any firework without the permission of the Secretary for Chinese Affairs or a District Officer; unless it be in accordance with permission given by the Governor signified by a Notification published in the Gazette;

(15) in any public street or road plays any musical instrument or beats any drum or gong without the permission of the Secretary for Chinese Affairs or a District Officer; unless it be in accordance with permission given by the Governor signified by a Notification published in the Gazette. This paragraph is not to apply to music reasonably performed in connection with funerals or marriages, or to music performed in connection with their duties by members of the naval, military, air, volunteer, police or police reserve forces;

(16) in any public place organises, equips or takes part in any procession without the permission of the Secretary for Chinese Affairs or a District Officer; unless it be in accordance with permission given by the Governor signified by a Notification published in the Gazette. This paragraph is not to apply to funeral or marriage processions or to processions undertaken in connection with their duties by members of the naval, military, air, volunteer, police or police reserve forces or of the Boy Scouts or Girl Guides Organizations: Provided always that every procession shall conform to the regulation of traffic by any police officer on duty;

(17) in any public place posts up or exhibits, or causes to be posted up or exhibited, any notice or proclamation in the Chinese language without the permission of the Secretary for Chinese Affairs or a District Officer. This paragraph is not to apply to Government notices;

(18) organises or takes part in any public meeting, not being a meeting solely for religious worship, held without the permission of the Inspector General of Police;

(19) disturbs any inhabitant by pulling or ringing any door-bell, or by knocking or striking at any door without lawful excuse; or extinguishes the light of any lamp;

(20) plays at any game or pastime to the annoyance of the inhabitants or passers by; or plays at any game or loiters in any public place, so as to obstruct the same or create a noisy assembly therein;

(21) indecently exposes his person by bathing or otherwise near any public place or dwelling-house: Provided that no person who in the opinion of the magistrate is under the age of 16 years shall be guilty of an offence under this paragraph by reason only of his bathing unclothed;

(22) uses, exercises or follows, in or upon any premises, or any part of any premises, held under a lease from the Crown, in breach of any covenant in such lease, the trade or business of a brazier, glass-blower, slaughterman, soap-maker, sugar-baker, fellmonger, melter of tallow, oilman, butcher, distiller, victualler or tavern-keeper, blacksmith, nightman, scavenger, or any other noisy, noisome or offensive trade or business whatever, without the previous licence of His Majesty signified in writing by the Governor or other person duly authorised in that behalf;

(23) wilfully or negligently in or near any public place drops or allows to fall any building material or other thing to the damage or danger of any person;

(24) forms any trench, opening or other obstruction in any public place, or fails to fence off and properly watch and light any trench, opening or other obstruction in any public place;

(25) does any act whereby injury or obstruction, whether directly or consequentially, may accrue to a public place or to the shore of the sea, or to navigation, mooring or anchorage, transit or traffic;

(26) trespasses or allows any beast to trespass upon or in any messuage, tenement, cemetery or land vested in or under the control or management of any public officer or department whatsoever;

(27) deposits any earth, stones or other materials on Crown land without a permit from the Director of Public Works or from a District Officer;

(28) rakes or picks over any refuse deposited in or upon any public place, vacant land or refuse depot, or in any dust bin, dust box, dust basket or dust cart standing in or upon any public place, vacant land or refuse depot, or removes any portion of any refuse so deposited.

Offences by  
carriers of  
night-soil  
and pigwash.

4.—(1) Every person shall be liable to a fine not exceeding fifty dollars who within any district to which any Scavenging and Conservancy By-laws apply:—

(a) places in or upon or conveys along or across any public place any excretal matter except between the hours of midnight and 6 a.m. and except in strong substantial buckets with closely fitting covers and of such pattern as may be approved by the Sanitary Board;

(b) places in or upon or conveys along or across any public place any pigwash except between midnight and 9 a.m. and except in strong substantial buckets with closely fitting covers and of such pattern as may be approved by the Sanitary Board; or conveys such pigwash in any boat or vessel except in such buckets or, if in bulk, in water-tight tarred holds with closely fitting hatches;

(c) empties, discharges, deposits or places any excretal matter or pigwash in, over or upon any gully, drain, sewer or any inlet thereto;

(d) empties, discharges, deposits or conveys any excretal matter in or to any place other than a conservancy boat;

(e) brings any excretal matter from any premises or place situated outside any district to which this section applies to any premises or place situated within any such district;

(f) after removal of any pigwash from any premises empties, discharges, places or conveys it in or to any place except a licensed pigsty.

(2) In this section "excretal matter" shall include urine and nightsoil.

5. Every person shall be liable to a fine not exceeding two hundred and fifty dollars who, in any public place or in any place adjacent thereto, contrary to any regulations made by the Governor in Council, rough-dresses or causes to be rough-dressed granite or any other stone whatever for the erection of any building or for any other purpose.

Dressing stone.

6. Every person shall be liable to a fine not exceeding twenty-five dollars who uses or utters cries for the purpose of buying or selling any article whatsoever, or who makes any noise whatsoever with the object of disposing of or attracting attention to his goods, wares or trade, except in any district or place in which licensed hawkers are not prohibited by regulation of the Governor in Council from so doing.

Street cries for buying or selling.

7. Every person shall be liable to a fine not exceeding two hundred and fifty dollars who:—

Other offences against good order.

(1) erects any shed or house of matting or other inflammable material so as in case of fire to endanger any neighbouring building;

(2) without the consent of the owner or occupier affixes any poster or other paper against or upon any building, wall, fence or paling; or writes upon, soils, defaces or marks any building, wall, fence or paling with chalk or paint or in any other way whatsoever; or wilfully breaks, destroys or damages any part of any building, wall, fence or paling, or any fixture or appendage thereof;

(3) keeps a house or other building for the occupation or resort of prostitutes, to the annoyance of any person inhabiting or residing near thereto;

(4) assembles together with other persons in the night-time without lawful excuse; or seeing any such illegal assemblage, or knowing or having reason to suspect that such assemblage has taken place or is about to take place, does not give immediate notice thereof to the nearest police station or to some officer of police;

(5) being employed as a private guard or watchman, sleeps on his post or is negligent, remiss or cowardly in the execution of his duty; or

(6) wantonly or cruelly ill-uses or causes suffering to any animal or bird, domestic or otherwise.

Other  
nuisances  
in the  
nature of  
trespass  
or damage.

8. Every person shall be liable to a fine not exceeding two hundred and fifty dollars or to imprisonment for any term not exceeding three months who, without lawful authority or excuse :—

(a) fells, cuts, uproots, breaks, injures or destroys any standing or growing tree, sapling, shrub, underwood, plant, fruit, vegetable, grass-sod or turf, wherever growing and whether the same is the property of the Crown or of any private person (except in any case where such offence is proved to have been committed with felonious intent);

(cf. secs.  
23—28 of  
No. 5 of  
1865.)

(b) cuts, breaks, throws down or in any wise destroys or damages any fence, paling, stile, gate or bridge, or any part thereof, or any wall or bank or any part thereof, other than such walls and banks as are specified in section 25 of the Malicious Damage Ordinance, 1865.

Ord. No. 6  
of 1865.

Occupying  
etc. Crown  
land without  
a licence.

9.—(1) No person shall, except under and in accordance with a current licence or permit from the Director of Public Works or from a District Officer, occupy or continue to occupy, or erect or maintain any structure whatsoever upon, or place or maintain any thing upon or in, any land which is not held under lease from the Crown.

(2) Upon the conviction of any person of an offence against the provisions of sub-section (1), it shall be lawful for a magistrate, in lieu of or in addition to any penalty which he may impose, by order to authorise the forcible eviction of any person from the land and the demolition of any structure erected thereon and the removal of any thing placed thereon or therein.

(3) If the offender cannot be ascertained or cannot be found or does not appear, it shall be lawful for a magistrate, upon proof of any contravention of the provisions of sub-section (1), to make any such order as he might have made upon the conviction of the offender.

(4) Every person who contravenes any of the provisions of this section shall be liable to a fine not exceeding two hundred and fifty dollars, and shall also be liable to pay the cost of the demolition of any structure or the removal of any thing demolished or removed under an order made under this section.

Alteration  
of ship  
with a  
view to  
smuggling,  
etc.

10.—(1) Every person who alters in any way the construction of any ship or of any part thereof or any fittings therein, with a view to the unlawful possession, storage or conveyance of arms, ammunition, opium, dangerous drugs or any other article or substance, shall be liable to a fine not exceeding one thousand dollars and to imprisonment for any term not exceeding one year.

(2) Every person who without lawful authority or excuse alters in any way the construction of any ship or of any part thereof or any fittings therein, shall, until the contrary is proved, be deemed to have done so with a view to the unlawful possession, storage and conveyance of some article.

(3) It shall be sufficient in any prosecution under this section to allege that the accused altered the construction of the ship or of some part thereof or of some fitting therein with a view to the unlawful possession, storage or conveyance of some article, without specifying any particular article or substance.

11. Every female who being in any public place or place of public resort, or being on any verandah or at any window or doorway over or opening on to any public place, solicits any person for any immoral purpose or behaves indecently shall be liable to a fine not exceeding two hundred and fifty dollars or to imprisonment for any term not exceeding three months.

Females soliciting for immoral purpose. (cf. s. 17 of No. 4 of 1897).

12.—(1) No person shall utter any shouts or cries or make other noises while playing the game known as "Chai-Mui" within the hours prescribed for any district or place by regulation of the Governor in Council.

Shouts while playing Chai-Mui.

(2) Every person who contravenes the provisions of this section shall be liable to a fine not exceeding ten dollars: Provided that, where such contravention takes place in any restaurant or common lodging-house, the keeper or other person having or appearing to have the care or management thereof, either alone or with others, shall be liable to the same penalty.

13.—(1) No person shall, between sunset and 6 a.m., make or cause or permit to be made or caused any noise whatsoever calculated to disturb or interfere with the public tranquillity or calculated to disturb or annoy any person: Provided always that in the case of funerals and marriages it shall be lawful to play ceremonial music of a moderately quiet character from which the reed-pipe, cymbals and other specially noisy instruments are excluded, but in no case shall such music be played between the hours of midnight and 6 a.m.

Making noise at night calculated to disturb public tranquillity.

(2) Every person who contravenes any of the provisions of this section shall be liable to a fine not exceeding one hundred dollars.

(3) If it appears to the magistrate that the person so offending acted as watchman or servant of the proprietor or occupier of any dwelling-house, warehouse, or other out-house, office or premises, or of the inhabitant or person in charge thereof, or by or with the direction, knowledge, sanction, sufferance or permission of such proprietor or occupier or of such inhabitant or person in charge as aforesaid, it shall be lawful for the magistrate to dismiss the charge as against the watchman or servant or person acting as such and to summon forthwith before him the proprietor or occupier, or inhabitant or person in charge aforesaid, and being satisfied that he did so direct, sanction, suffer or permit the making of the said noise, to impose a fine on such proprietor or occupier, or inhabitant or person in charge aforesaid, not exceeding one hundred dollars.

Watchman or servant making noise by direction of proprietor of dwelling-house, etc.

(4) When such noise as aforesaid is made in or upon any dwelling-house or premises, if it is impracticable or difficult to apprehend, discover or identify the person so making it, it shall be lawful for a magistrate, on information thereof, to summon before him the proprietor or occupier, or inhabitant or person in charge, of such dwelling-house or premises, and if it appears that such noise was made by the direction or with the knowledge, sanction, sufferance or permission of the proprietor, occupier, inhabitant or person in charge, to impose on him a fine not exceeding one hundred dollars.

Liability of proprietor of dwelling-house.



(5) This section shall not apply to such districts or areas as the Governor in Council may direct by notification in the Gazette.

Destruction  
of rabid  
dogs and  
animals.

**14.**—(1) It shall be lawful for any officer of police to destroy any dog or other animal reasonably suspected to be in a rabid state, or which has been bitten by any dog or animal reasonably suspected to be in a rabid state

(2) The owner of any such dog or animal who permits the same to go at large, after having information or reasonable ground for believing it to be in a rabid state, or to have been bitten by a dog or other animal in a rabid state, shall be liable to a fine not exceeding two hundred and fifty dollars or to imprisonment for any term not exceeding three months.

Firing near  
dwelling-  
house or  
road.

**15.** Every person who without lawful authority or excuse discharges any cannon or firearm within two hundred yards of any dwelling house or any motor road to the annoyance of any inhabitant or passer by, and who, after being warned of such annoyance, again so discharges any such weapon shall be liable to a fine not exceeding one hundred dollars.

Offences  
relating to  
vessels,  
seamen and  
merchandise.

**16.** Every person shall be liable to a fine not exceeding two hundred and fifty dollars or to imprisonment for any term not exceeding three months who :—

(1) knowingly takes in exchange from any seaman or other person, not being the owner or master of any vessel, anything belonging to any vessel or any part of the cargo of any such vessel, or any stores or articles in charge of the owner or master of any such vessel;

(2) for the purposes of protecting or preventing anything whatsoever from being lawfully seized on suspicion of its being stolen or otherwise unlawfully obtained, or of preventing the same from being produced or made to serve as evidence concerning any felony or misdemeanor committed or supposed to have been committed frames or causes to be framed any bill of parcels containing any false statement in regard to the name or abode of any alleged vendor, the quantity or quality of any such thing, the place whence or the conveyance by which the same was furnished, the price agreed upon or charged for the same or any other particular, knowing such statement to be false; or fraudulently produces such bill of parcels, knowing the same to have been fraudulently framed;

(3) hores, pierces, breaks, cuts open or otherwise injures any cask, box or package containing wine, spirits or other liquors on board any ship, boat or vessel, or in or upon any warehouse, wharf, quay or bank, with intent feloniously to steal or otherwise unlawfully obtain any part of the contents thereof; or unlawfully or with intent to destroy evidence of any offence drinks or wilfully spills or allows to run to waste any part of the contents thereof; or

(4) wilfully causes to be broken, pierced, started, cut, torn or otherwise injured any cask, chest, bag or other package containing any goods, while on board of any barge, lighter or other craft, or at any quay, creek, wharf or landing-

place adjacent to the same, or on the way to or from any warehouse, with intent that the contents of such package or any part thereof may be spilled or dropped from such package.

17. Every person who without lawful authority or excuse removes or carries away any stone or stake driven into the ground as a land-mark or for the purpose of defining or marking the boundaries of any lot or parcel of ground, shall be liable to a fine not exceeding two hundred and fifty dollars or to imprisonment for any term not exceeding three months.

Removing land-mark.

18. Every person who has in his possession any spear, bludgeon or other offensive weapon, or any crowbar, pick-lock, skeleton-key or other instrument fit for unlawful purposes, with intent to use the same for any such unlawful purpose, or is unable to give a satisfactory account of his possession thereof, shall be liable to a fine not exceeding two hundred and fifty dollars or to imprisonment for any term not exceeding three months.

Possession of offensive weapon, etc., with intent.

19. Every person who behaves in a riotous, noisy or disorderly manner, or uses any profane or indecent language or any threatening, abusive or insulting words or behaviour, with intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned, or who makes any speech tending directly or indirectly, whether by inference, suggestion, allusion, metaphor, implication or otherwise, to encourage or incite any person to interfere with the maintenance of law and order, shall be liable to a fine not exceeding two hundred and fifty dollars or to imprisonment for any term not exceeding three months.

Behaving riotously or provoking breach of peace.

20. Every person, not being an officer of police, who :—

(1) has in his possession any article being part of the clothing, accoutrements or appointments supplied to any officer of police and is not able satisfactorily to account for his possession thereof; or

Improper possession of arms or clothing or assumption of character of police officer.

(2) puts on the dress, or takes the name, designation or character of any officer of police for the purpose of thereby obtaining admission into any house or other place, or of doing or procuring to be done any act which any such officer would be entitled to do or procure to be done of his own authority, or for any other unlawful purpose, shall, in addition to any other punishment to which he may be liable for such offence, be liable to a fine not exceeding two hundred dollars.

21. Every person shall be liable to a fine not exceeding two hundred and fifty dollars or to imprisonment for any term not exceeding three months who :—

Suspected persons and loiterers.

(1) is found between sunset and 6 a.m. loitering in any highway, yard or other place, and who cannot give a satisfactory account of himself;

(2) is found at any time in or upon any dwelling-house, warehouse, stable, garage, outhouse, private enclosure or garden for any unlawful purpose; or

5 Geo. 4, c. 83, s. 4.

34 & 35 Vict.  
c. 112, s. 15.

54 & 55 Vict.  
c. 59, s. 7.

(3) being a suspected person or reputed thief is found at any time loitering in, at or upon, or frequenting, any river, navigable stream, dock or basin, or any quay, wharf or warehouse near or adjoining thereto, or any public place or place of public resort, or any street or highway or any place adjacent to a street or highway, with intent to commit felony: Provided that in proving intent to commit felony under this paragraph it shall not be necessary to show that the person suspected was guilty of any particular act or acts tending to show his purpose or intent, and he may be convicted if, from the circumstances of the case and from his known character as proved to the magistrate before whom he is brought, it appears to such magistrate that his purpose was to commit felony.

Power to  
apprehend  
in certain  
cases.

22. Every person found committing any offence punishable under this Ordinance may be apprehended by the owner of the property on or with respect to which the offence is committed, or by his servant or any person authorised by him, and may be detained until he can be delivered into the custody of an officer of police to be dealt with according to law.

Drunken-  
ness.

23.—(1) Every person shall be liable to a fine not exceeding twenty-five dollars who is found drunk in any public place or on any premises licensed under any Ordinance relating to liquor licences.

(2) Every person shall be liable to a fine not exceeding one hundred dollars or to imprisonment for any term not exceeding two months who while drunk behaves in a riotous or disorderly manner in any public place.

(3) Every person shall be liable to a fine not exceeding one hundred dollars or to imprisonment for any term not exceeding two months who is found drunk while in charge of any vehicle (other than a motor vehicle), or of any horse, in any public road or street.

(4) Every person shall be liable to a fine not exceeding two hundred and fifty dollars and to imprisonment for any term not exceeding six months who is found drunk while driving or being otherwise in charge of any motor vehicle.

(5) For the purposes for sub-sections (3) and (4) a person shall be deemed to have been drunk if he was so much under the influence of alcohol as to have lost control of his faculties to such an extent as to render him unable to execute safely the occupation on which he was engaged at the time in question.

(6) Every person shall be liable to a fine not exceeding two hundred and fifty dollars and to imprisonment for any term not exceeding six months who is found drunk while in possession of any loaded firearm or of any firearm and any ammunition therefor. For the purposes of this sub-section a person shall be deemed to have been drunk if he was so much under the influence of alcohol as to have lost control of his faculties to such an extent as to render him unable to handle a firearm safely at the time in question.

24. Every person who is brought before a magistrate charged with having in his possession or conveying in any manner anything which may be reasonably suspected of having been stolen or unlawfully obtained, and who does not give an account, to the satisfaction of the magistrate, how he came by the same, shall be liable to a fine not exceeding two hundred and fifty dollars or to imprisonment for any term not exceeding three months.

Persons suspected of having or conveying stolen property.  
2 & 3 Vict. c. 71, s. 24.

25. Where any offence under paragraphs (1), (3), (13) or (14) of section 3 is committed at, on or from any premises, the person in actual occupation of such premises shall be liable to the same penalty as the actual offender, unless the actual offender shall first have been prosecuted to conviction: Provided that if a dwelling-house is let out in flats nothing in this section shall have the effect of imposing liability on any person other than the occupier of the flat at, on or from which the offence was committed.

Liability of occupier in the case of certain offences.

26.—(1) It shall be lawful for the Inspector General of Police to require any person whose duty it may be to remove any filth or obstruction, or to do any other matter or thing required to be done by this Ordinance, to do so within a certain time to be then fixed by the said officer, and, in default of such requisition being complied with, the officer shall cause to be removed such filth or obstruction or do or cause to be done such other matter or thing as aforesaid.

Removal of filth, etc., and recovery of expenses.

(2) It shall be lawful for the magistrate by whom any person has been convicted of an offence in respect of any such filth or obstruction to order such offender, in addition to the penalties hereinbefore imposed, to pay such sum of money for defraying the expenses of such removal, or of doing such other matter or thing, as to the magistrate may seem just and reasonable; and the sum so ordered shall be recoverable in the manner hereinafter provided for the recovery of penalties imposed by this Ordinance.

27. All summary proceedings under this Ordinance may be had on the information of any complainant.

Summary Proceedings.

28. Nothing in this Ordinance shall be construed to prevent any person from being indicted or from being proceeded against by indictment or information for any offence made punishable on summary conviction by this Ordinance, or to prevent any person from being liable to be proceeded against by action for any hurt or damage caused by him: Provided, nevertheless, that no person be punished twice for the same offence, and provided that no compensation has been awarded for such hurt or damage.

Saving of liability of offender to indictment or action.

29. Nothing in this Ordinance shall operate to the restraint or punishment of any act or thing done under or sanctioned by lawful authority, but in every case the proof of such lawful authority shall lie on the person alleging the same.

Acts done by lawful authority.

30. Every offence against the provisions of this Ordinance or of any Regulation made thereunder shall be punishable on summary conviction; and the penalties imposed by this Ordinance or by any Regulation made thereunder shall be recoverable according to the provisions of any Ordinance regulating the summary jurisdiction of magistrates.

Recovery of penalties.

## Regulations.

**31.**—(1) The Governor in Council may make regulations for the issue of permits under section 3, for the dressing of stone under section 4, for the control of noises under sections 12 and 13 and generally for the better carrying out of the provisions of this Ordinance.

(2) All regulations made under this Ordinance shall be laid on the table of the Legislative Council at the first meeting thereof held after the publication in the Gazette of the making of such regulations, and if a resolution be passed at the first meeting of the Legislative Council held after such regulations have been laid on the table of the said Council resolving that any such regulation shall be rescinded or amended in any manner whatsoever, the said regulation shall, without prejudice to anything done thereunder, be deemed to be rescinded or amended, as the case may be, as from the date of publication in the Gazette of the passing of such resolution.

Repeal of Ordinances No. 1 of 1845, No. 10 of 1924, No. 22 of 1930, No. 15 of 1931, and certain sections of No. 6 of 1865.

**32.** The Summary Offences Ordinance, 1845, the Summary Offences Amendment Ordinance, 1924, the Summary Offences Amendment Ordinance, 1930, and the Summary Offences Amendment Ordinance, 1931, and sections 19, 20, 21, 22, 23 and 24 of the Malicious Damage Ordinance, 1865, are repealed.

## Commencement.

**33.** This Ordinance shall come into force on the first day of January, 1933.

Passed the Legislative Council of Hong Kong, this 8th day of December, 1932.

R. A. C. NORTH,  
*Deputy Clerk of Council's.*

HONG KONG.

No. 41 OF 1932.

I assent.

L.S.

W. PEEL,  
Governor.

9th December, 1932.

An Ordinance to consolidate and amend the law relating to the jurisdiction of magistrates and the procedure and practice before magistrates in relation to offences punishable on summary conviction and to indictable offences and for other purposes.

[9th December, 1932.]

BE it enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as the Magistrates Short title. Ordinance, 1932.

*Preliminary.*

2. In this Ordinance,

(a) "Appellant" means the party appealing under Part VI from a decision of a magistrate. Interpretation.

(b) "Civil debt" means any sum of money claimed to be due which is recoverable before a magistrate on complaint and not on information.

(c) "Counsel" means any barrister, advocate or solicitor having the right of audience before any court in the Colony.

(d) "The court" means the Supreme Court.

(e) "Fine" includes any pecuniary penalty or pecuniary forfeiture or pecuniary compensation payable under a conviction or order.

(f) "Indictable offence" means any crime or offence for which a magistrate is authorised or empowered or required to commit the accused person to prison for trial before the court.

(g) "Indictment" includes an information in the court.

(h) "Magistrate" includes two magistrates where two magistrates sit together.

(i) "The magistrates' clerk" includes (where there is more than one) either or any of such clerks or such other person as a magistrate directs to do anything required by this Ordinance to be done by the magistrates' clerk. 42 & 43 Vict. c. 49, s. 48.

(j) "Party" includes the Crown and also any person aggrieved within the meaning of section 100 or section 105.

(k) "Prescribed" means prescribed or provided by any enactment which relates to any offences, penalties, fines, costs, sums of money, orders, proceedings or matters to the punishment, recovery, making or conduct of which this Ordinance expressly or impliedly applies or may be applied. 42 & 43 Vict. c. 49, s. 49.

cf. Ord.  
31 of 1911,  
s. 39 B (14),  
and the  
Prisons  
Ordinance,  
1932, ss. 2  
and 3.

(l) "Prison" includes any place or building or portion of a building set apart, or hereafter to be set apart, for the purpose of a prison under any Ordinance relating to prisons.

(m) "The Registrar" means the Registrar of the Supreme Court.

(n) "Respondent" means the opposite party whose interest conflicts with the interest of any person appealing within the meaning of section 100 or section 105.

(o) "Sum adjudged to be paid by a conviction" and "sum adjudged to be paid by an order", respectively, include any costs adjudged to be paid by the conviction or order, as the case may be, of which the amount is ascertained by such conviction or order.

Saving of  
special  
procedure.

3. Nothing in this Ordinance shall affect any special procedure provided in any Ordinance not hereby repealed.

Use of  
forms.  
First  
Schedule.

4.—(1) The forms in the First Schedule or forms to the like effect, with such variations or additions as circumstances may require, shall be deemed good, valid and sufficient in law.

(2) Reference to the forms in the said Schedule is made in connexion with the subjects to which they respectively relate by the insertion in the margin of references to the said forms.

## PART I.

### CONSTITUTION OF MAGISTRATES.

Police  
magistrates.

5.—(1) There shall be either one or more magistrates, who shall be justices of the peace by virtue of their office, and shall have and exercise all such powers and jurisdiction as were vested in police magistrates before the commencement of this Ordinance, except as altered or repealed by this or any other Ordinance; and whenever by any past Ordinance or statute in force in the Colony any proceeding, act or thing is authorised to be taken or done by a justice or justices of the peace, the same may be taken or done by one magistrate.

(2) The Governor may appoint magistrates from time to time and any such magistrate so appointed shall be capable of exercising all the powers and jurisdiction of a magistrate even though he has been appointed to some other office subsequently to his appointment as such magistrate.

Marine  
magistrates.

6. The Harbour Master, the Deputy Harbour Master and the Assistant Harbour Master shall each of them be a marine magistrate, who, without prejudice to any other jurisdiction, power or authority possessed by a marine magistrate, shall have the power and authority of a magistrate to hear and determine cases of assault and assault and battery where there is no intent to commit a felony; and the provisions of this Ordinance in relation to the procedure before a magistrate in such cases shall apply *mutatis mutandis* to cases before a marine magistrate.

Powers of  
justices of  
the peace,  
etc.

7.—(1) In every case where a magistrate may issue a warrant for the apprehension of any person, it shall be lawful for a justice of the peace, on the application of a police officer and on oath being made before him substantiating the matter of the information to his satisfaction, to issue such warrant in order that such person may be brought before a magistrate to be dealt with according to law.

(2) It shall be lawful for the Governor as occasion may require to direct that any two justices of the peace, sitting together, shall have the powers and jurisdiction that a magistrate has by this Ordinance, and thereupon all the provisions of this or any other enactment relating to proceedings before a magistrate shall apply *mutatis mutandis* to the proceedings before such justices. Such direction shall name a place where the said justices are to sit.

PART II.

PROCEDURE IN RESPECT OF SUMMARY OFFENCES.

8.—(1) In every case where a complaint is made to or an information laid before a magistrate in respect of which the magistrate has power to convict summarily or to make an order for the payment of money or otherwise, it shall be lawful for the magistrate to issue his summons to the person against whom the complaint has been made or information laid, stating shortly the matter of the complaint or information and requiring him to appear at a certain time and place before a magistrate to answer to the complaint or information and to be further dealt with according to law.

Issue of summons to defendant and mode of service thereof. 11 & 12 Vict. c. 43, s. 1.

First Schedule. Form No. 1.

(2) Every such summons shall be served by a constable, usher or other officer in a magistrate's court on the person to whom it is so directed by delivering the same to him personally or by leaving the same with some person for him at his last or most usual place of abode; and the constable or other officer who serves the same shall attend before a magistrate at the time and place mentioned in the summons to depose, if necessary, to the service of the summons: Provided always that nothing herein contained shall oblige a magistrate to issue a summons in any case where the defendant appears voluntarily or upon his recognizance or is in the custody of the police or charged on the charge sheet, and that it shall be lawful for a magistrate in any such event to hear and determine the case in all respects as if the defendant had appeared in answer to a summons.

9.—(1) If the person so served with a summons does not appear before a magistrate at the time and place mentioned in the summons, and it is made to appear to the magistrate by oath that the summons was so served within what is deemed by the magistrate to be a reasonable time before the time therein appointed for appearing to the same, then it shall be lawful for the magistrate to issue his warrant to apprehend the person so summoned, and to bring such person before him or another magistrate to answer to the said complaint or information and to be further dealt with according to law; or, on such information being laid as aforesaid, the magistrate before whom the information has been laid may, on oath being made before him substantiating the matter of the information to his satisfaction, instead of issuing such summons as aforesaid, issue in the first instance his warrant for apprehending the person against whom the information has been laid, and for bringing him before a magistrate to answer to the said information and to be further dealt with according to law.

Issue of warrant in case of disobedience to summons or in first instance.

First Schedule. Form No. 2.

First Schedule. Form No. 3.

(2) In any case where a summons is so issued as aforesaid, if, on the day and at the place appointed in and by the summons for the appearance of the party so summoned, such party fails to appear accordingly in obedience to the summons,



then and in every such case, if it is proved upon oath to a magistrate that the summons was duly served on such party a reasonable time before the time so appointed for his appearance as aforesaid, it shall be lawful for the magistrate to proceed *ex parte* to the hearing of the complaint or information, and to adjudicate thereon as fully and effectually to all intents and purposes as if such party had personally appeared before him in obedience to the summons.

Manner of making complaint or laying information.  
11 & 12 Vict. c. 43, s. 10.

**10.**—(1) Every complaint and every information under this Part, unless some Ordinance or statute otherwise requires, may respectively be made or laid without any oath being made of the truth thereof; except in case of an information where the magistrate receiving the same thereupon issues his warrant in the first instance to apprehend the defendant as aforesaid; and in every such case where the magistrate issues his warrant in the first instance the matter of the information shall be substantiated by the oath of the informant, or of some witness on his behalf, before any such warrant shall be issued.

(2) Every such complaint shall be for one matter of complaint only, and not for two or more matters of complaint; and every such information shall be for one offence only, and not for two or more offences.

(3) Every such complaint or information may be made or laid by the complainant or informant in person or by his counsel or other person authorised in that behalf.

Place and manner of hearing.  
11 & 12 Vict. c. 43, s. 12.

**11.**—(1) The room or place in which a magistrate sits to hear and try any complaint or information shall be deemed an open and public court, to which the public generally may have access, so far as the same can conveniently contain them, unless the magistrate otherwise directs where the evidence is of an indecent character, in which case he shall make a note on the depositions of the direction which he has given.

(2) The party against whom the complaint is made or information laid shall be admitted to make his full answer and defence thereto and to have the witnesses examined and cross-examined by counsel on his behalf; and every complainant or informant in any such case shall be at liberty to conduct the complaint or information respectively and to have the witnesses examined and cross-examined by counsel on his behalf.

Non-appearance and appearance of parties, and procedure thereon.  
11 & 12 Vict. c. 43, s. 13.

**12.**—(1) If, at the time and place appointed in and by the summons aforesaid for hearing and determining the complaint or information as aforesaid, the defendant against whom the same has been made or laid does not appear when called, the constable or officer who has served him with the summons in that behalf shall then declare upon oath in what manner he served the summons, and if it appears, to the satisfaction of the magistrate, that he duly served the summons, the magistrate may proceed to hear and determine the case in the absence of the defendant, or the magistrate, on the non-appearance of the defendant as aforesaid, may issue his warrant in manner hereinbefore directed, and shall adjourn the hearing of the complaint or information until the defendant is apprehended; and when the defendant is afterwards apprehended under the warrant, he shall be brought before a magistrate, who shall thereupon either by his warrant commit the defendant to prison or some other place of security or, if he thinks fit, verbally to the custody of the police officer who

First Schedule.  
Form No. 12.

has apprehended him or to such other safe custody as he may deem fit, and order the defendant to be brought up at a certain time and place before a magistrate, of which said order the complainant or informant shall have due notice.

(2) If, at the time and place so appointed, the defendant attends voluntarily in obedience to the summons in that behalf served on him or is brought before a magistrate by virtue of any warrant, then, if the complainant or informant, having had such notice as aforesaid, does not appear by himself or his counsel, the magistrate shall dismiss the complaint or information, unless for some reason he thinks proper to adjourn the hearing of the same unto some other day, on such terms as he may think fit, in which case he may commit the defendant in the meantime to prison or some other place of security or to such custody as the magistrate may think fit, or may discharge him on his entering into a recognizance, with or without a surety or sureties, at the discretion of the magistrate, conditioned for his appearance at the time and place to which the hearing is so adjourned.

First  
Schedule.  
Form No. 5.

(3) If the defendant does not afterwards appear at the time and place mentioned in the recognizance, the magistrate then present shall certify on the back of the recognizance the non-appearance of the defendant, and may declare the same to be forfeited in manner hereinafter provided, and may also issue his warrant for the apprehension of the defendant.

First  
Schedule.  
Form No. 7.

(4) If both parties appear, either personally or by their respective counsel, before a magistrate who is to hear and determine the complaint or information, then the magistrate shall proceed to hear and determine the same.

13.—(1) Where the defendant is present at the hearing the substance of the complaint or information shall be stated to him, and he shall be asked if he has any cause to show why he should not be convicted or why an order should not be made against him, as the case may be, and if he thereupon admits the truth of the complaint or information and shows no cause or no sufficient cause why he should not be convicted or why an order should not be made against him, as the case may be, then the magistrate shall convict him or make an order against him accordingly; but if he does not admit the truth of the complaint or information as aforesaid, then the magistrate shall proceed to hear upon oath the complainant or informant and such witnesses as may be produced in support of the complaint or information, and also to hear the defendant and such evidence as may be adduced in defence; and also to hear and examine such other witnesses as the complainant or informant may examine in reply, if the defendant or his counsel has examined any witnesses or given any evidence other than as to the defendant's general character.

Proceedings  
at hearing.  
11 & 12 Vict.  
c. 43, s. 14.

(2) The magistrate, having heard what each party has to say and the witnesses and evidence so adduced, shall consider the whole matter and determine the same, and shall convict or make an order against the defendant or dismiss the complaint or information, as the case may be.

First  
Schedule.  
Form No. 25.

(3) If the magistrate convicts the defendant or makes an order against him, a minute or memorandum thereof shall then be made (for which no fee shall be paid), and the conviction or order shall afterwards be drawn up by the magistrate in

proper form under his hand and seal, and he shall cause the same to be lodged with the magistrates' clerk, who shall register the same as hereinafter provided

First  
Schedule  
Form No. 39.

(4) If the magistrate dismisses the complaint or information, it shall be lawful for him, if he thinks fit, on being required to do so, to make an order of dismissal of the complaint or information, and he shall give the defendant in that behalf a certificate thereof, which said certificate shall be a bar to any subsequent complaint or information for the same matters respectively against the same party.

Adjourn-  
ment of  
hearing and  
procedure  
thereon.  
11 & 12 Vict.  
c. 43, s. 16.

**14.**—(1) Before or during the hearing of any complaint or information as aforesaid, it shall be lawful for a magistrate in his discretion to adjourn the hearing of the same to a certain time and place to be then appointed and stated in the presence and hearing of the party or parties, or their respective counsel, and in the meantime the magistrate granting and making such adjournment may suffer the defendant to go at large, or may commit him to prison or some other place of security or to such other safe custody as the magistrate may think fit, or may discharge the defendant on his entering into a recognizance, with or without a surety or sureties, at the discretion of the magistrate, conditioned for his appearance at the time and place to which the hearing or further hearing is adjourned: Provided always that in every case where a defendant is discharged on recognizance as aforesaid, and does not afterwards appear at the time and place mentioned in the recognizance, the magistrate then present shall certify on the back of the recognizance the non-appearance of the defendant, and may declare the same to be forfeited in manner hereinafter provided, and may forthwith issue his warrant for the apprehension of the defendant.

First  
Schedule.  
Forms  
Nos. 4 and 5.

First  
Schedule.  
Form No. 7.

(2) If, at the time and place to which the hearing or further hearing is so adjourned, the complainant or informant does not appear, either personally or by counsel, the magistrate then present may dismiss the complaint or information, with or without costs, as to the magistrate may seem fit; and if, at the time and place aforesaid, the defendant does not appear, either personally or by counsel, the magistrate may issue his warrant for the apprehension of the defendant, and may adjourn the proceedings for such time as he may think requisite.

#### *General.*

Provisions  
as to  
witnesses.  
11 & 12 Vict.  
c. 43, s. 7.

First  
Schedule.  
Form No. 8.

**15.**—(1) If it is made to appear to a magistrate, by the oath of any credible person, that any person within the Colony is likely to give material evidence on behalf of the complainant or informant or defendant, and will not voluntarily appear for the purpose of being examined as a witness at the time and place appointed for the hearing of the complaint or information as aforesaid, the magistrate shall issue his summons to such person, under his hand and seal, requiring him to be and appear at a time and place mentioned in the summons before a magistrate to testify what he knows concerning the matter of the complaint or information.

(2) If any person so summoned refuses or neglects to appear at the time and place appointed by the summons and no just excuse is offered for such refusal or neglect, then, after proof upon oath that the summons was served on such

person, either personally or by leaving the same for him with some person at his last or most usual place of abode, and that a reasonable sum (where, in the opinion of the magistrate, necessary) was paid or tendered to him for his costs or expenses in that behalf, it shall be lawful for the magistrate before whom such person should have appeared to issue a warrant, under his hand and seal, to bring and have such person at a time and place to be therein mentioned before a magistrate to testify as aforesaid.

First  
Schedule.  
Form No. 9.

(3) If the magistrate is satisfied, by evidence upon oath, that it is probable that such person will not attend to give evidence without being compelled to do so, then, instead of issuing a summons, it shall be lawful for him to issue his warrant in the first instance.

First  
Schedule.  
Form No. 10.

(4) If any person having come before a magistrate whether voluntarily or in obedience to a summons or having been brought before him by warrant or otherwise shall refuse to be sworn or having been sworn shall without just excuse refuse to answer such questions as shall be put to him concerning the premises, the magistrate may, by warrant under his hand and seal, order him to be imprisoned, without hard labour, for any time not exceeding two months unless he in the meantime shall consent to be sworn and to answer concerning the premises, or he may impose upon such person a fine not exceeding twenty dollars.

Provisions  
as to  
witness  
refusing to  
be sworn  
or answer.  
First  
Schedule.  
Form No. 11.

16. The powers contained in sections 15 and 72 enabling a magistrate to issue a summons to any witness to attend to give evidence before a magistrate shall be deemed to include the power to summon and require a witness to produce to such magistrate books, plans, papers, documents, articles, goods and things likely to be material evidence on the hearing of any charge, information or complaint, and the provisions of those sections relating to the neglect or refusal of a witness, without just excuse, to attend to give evidence, or to be sworn, or to give evidence, shall apply accordingly, and a magistrate shall have power to vary or add to the forms in the First Schedule accordingly.

Power to  
order  
production  
of docu-  
ments.  
4 & 5 Geo. 5,  
c. 58, s. 29.

First  
Schedule.  
Forms  
Nos. 8, 9,  
10 and 11.

17.—(1) In every case of an information for any offence punishable on summary conviction any variance between the information and the evidence adduced in support thereof as to the time at which the offence or act is alleged to have been committed shall not be deemed material, if it is proved that such information was in fact laid within the time limited by law for laying the same; and any variance between the information and the evidence adduced in support thereof as to the place in which the offence or act is alleged to have been committed shall not be deemed material, provided that the offence or act is proved to have been committed within the jurisdiction of the magistrate by whom the information is heard and determined.

Variance  
between  
information  
and evidence.  
11 & 12 Vict.  
c. 43, s. 9.

(2) If any such variance, or any variance in any other respect between the information and the evidence adduced in support thereof, appears to the magistrate present and acting at the hearing to be such that the party charged by the information has been thereby deceived or misled, it shall be lawful for the magistrate, on such terms as he may think fit, to adjourn the hearing of the case to some future day, and in the meantime to commit the defendant to prison or some

First  
Schedule.  
Form No. 5.

place of security or to such other custody as the magistrate may think fit, or to discharge him on his entering into a recognizance, with or without a surety or sureties, at the discretion of the magistrate, conditioned for his appearance at the time and place to which the hearing is so adjourned:

First  
Schedule.  
Form No. 7.

Provided always that in every case in which a defendant is so discharged on recognizance as aforesaid and does not afterwards appear at the time and place mentioned therein, the magistrate then present shall certify on the back thereof the non-appearance of the defendant, and may declare the same to be forfeited in the manner hereinafter provided, and may also forthwith issue a warrant for the apprehension of the defendant.

Description  
of property  
of partners  
in complaint  
or information

11 & 12 Vict.  
c. 43, s. 4.

**18.**—(1) In any complaint or information or the proceedings thereon in which it is necessary to state the ownership of any property belonging to or in the possession of partners, joint tenants, parceners or tenants in common, it shall be sufficient to name one of such persons and to state the property to belong to the person so named and another or others, as the case may be; and whenever in any complaint or information or the proceedings thereon it is necessary to mention for any purpose whatsoever any partners, joint tenants, parceners or tenants in common, it shall be sufficient to describe them in manner aforesaid.

(2) Whenever in any complaint or information or the proceedings thereon it is necessary to state the ownership of any public work or building maintained or repaired at the public expense or any materials or tools provided for the repair of public highways, roads, buildings, gates, bridges, lamps, boards, stones, posts, fences or other things erected or provided for such highways, roads, buildings, gates, bridges, lamps, boards, stones, posts and fences, or of any reservoirs, conduits, sewers, drains or other public works or property of whatsoever description, it shall be sufficient to describe such property as the property of the Crown.

Complaint  
for order to  
pay money  
need not be  
in writing.

11 & 12 Vict.  
c. 43, s. 8.

**19.** In any case of a complaint upon which a magistrate may make an order for payment of money or otherwise, it shall not be necessary that such complaint shall be in writing unless it is required to be so by the Ordinance or statute upon which such complaint is framed.

Limit of  
time for  
complaint or  
information.

11 & 12 Vict.  
c. 43, s. 11.

**20.** In any case of an offence other than an indictable offence where no time is limited by any Ordinance or statute for making any complaint or laying any information in respect of such offence, such complaint shall be made or such information laid within six months from the time when the matter of such complaint or information respectively arose.

Prohibition  
of objection  
for want of  
form.

11 & 12 Vict.  
c. 43, s. 1.

**21.** No objection shall be taken or allowed to any complaint, information or summons for any alleged defect therein in substance or in form, or for any variance between such complaint, information or summons and the evidence adduced in support thereof, and the adjudicating magistrate shall in all cases give judgment upon the substantial merits and facts of the case as proved before him, and convict the defendant of any offence of which he may appear to have been guilty; but if any such variance appears to the magistrate to be such that the party so summoned and appearing has been thereby deceived or misled, it shall be lawful for the magistrate, on such terms as he may think fit, to adjourn the hearing of the case to some future day.

**22.—(1)** In every case of a conviction where no particular form of such conviction is given by the Ordinance or statute creating the offence or regulating the prosecution for the same, and in every case of a conviction upon any past Ordinance or statute, whether any particular form of conviction is therein given or not, it shall be lawful for the magistrate who so convicts to draw up his conviction in such one of the forms of convictions in the First Schedule as may be applicable to such case or to the like effect.

Form of conviction and order.  
11 & 12 Vict. c. 43, s. 17.  
First Schedule. Forms Nos. 14-21.

(2) Where an order is made, and no particular form of order is given by the Ordinance or statute giving authority to make such order, and in every case of an order to be made under the authority of any past Ordinance or statute, whether any particular form of order is therein given or not, it shall be lawful for the magistrate by whom such order is to be made to draw up the same in such one of the forms of orders in the First Schedule as may be applicable to such case or to the like effect.

First Schedule. Forms Nos. 22-32.

**23.** In a proceeding before a magistrate, without prejudice to any other mode of proof, service on a person of any summons, notice, process or document required or authorised to be served, and the handwriting and seal of a magistrate or other officer or person on any warrant, summons, notice, process or document, may be proved by a solemn declaration taken before a justice of the peace; and any declaration purporting to be so taken shall, until the contrary is proved, be sufficient proof of the statements contained therein, and shall be received in evidence in any court or legal proceedings without proof of the signature or official character of the person or persons taking or signing the same.

Proof by declaration of service of process and of handwriting, etc.  
42 & 43 Vict. c. 49, s. 41.  
First Schedule. Forms Nos. 36 and 37.

**24.—(1)** Every warrant to apprehend a defendant in order that he may answer to any complaint or information shall be under the hand and seal of the magistrate issuing the same, and may be directed either to any constable by name or generally to all the constables within the Colony.

Form and execution of warrant, etc.  
11 & 12 Vict. c. 43, s. 3.

(2) It shall state shortly the matter of the complaint or information on which it is founded, and shall name or otherwise describe as far as practicable the person against whom it has been issued, and it shall order the person to whom it is directed to apprehend the defendant and to bring him before a magistrate to answer to the complaint or information, and to be further dealt with according to law.

(3) It shall not be necessary to make the warrant returnable at any particular time, but the same may remain in full force until it is executed.

(4) The warrant may be executed by apprehending the defendant at any place within the Colony or the waters thereof; in every case where the warrant is directed to all constables within the Colony, it shall be lawful for any constable to execute the warrant in like manner as if it were directed specially to such constable by name: Provided always that no objection shall be taken or allowed to any warrant to apprehend a defendant so issued on any such complaint or information as aforesaid under or by virtue of this Ordinance for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the complainant or informant; but if any such variance appears to the magistrate at the hearing to be such that the party apprehended has been thereby deceived or misled, it shall be

First  
Schedule.  
Form No. 5.

lawful for the magistrate, on such terms as he may think fit, to adjourn the hearing of the case to some future day, and in the meantime to commit the defendant to prison or some place of security or to such other custody as the magistrate may think fit, or to discharge him on his entering into a recognizance, with or without a surety or sureties, at the discretion of the magistrate, conditioned for his appearance at the time and place to which the hearing is so adjourned: Provided also that in every case where a defendant is discharged on recognizance as aforesaid and does not afterwards appear at the time and place mentioned therein, the magistrate then present shall certify on the back thereof the non-appearance of the defendant and may declare the same to be forfeited, and may also forthwith issue a warrant for the apprehension of the defendant.

First  
Schedule.  
Form No. 7.

Non-avoidance of summons or warrant by death of magistrate.  
42 & 43 Vict.  
c. 49, s. 37.

25. Any warrant or summons issued by a magistrate under this or any other Ordinance or statute shall not be avoided by reason of the magistrate who signed the same dying or ceasing to hold office.

Bail of person arrested without warrant.  
42 & 43 Vict.  
c. 49, s. 38.

26. A person taken into custody for an offence without a warrant shall be brought before a magistrate as soon as practicable after he is so taken into custody, and if it is not or will not be practicable to bring him before a magistrate within forty-eight hours after he is so taken into custody, a superintendent or inspector of police or other officer in charge of any police station shall inquire into the case, and, except where the offence appears to such superintendent, inspector or officer to be of a serious nature, shall discharge the prisoner, on his entering into a recognizance, with or without sureties, for a reasonable amount, to appear before a magistrate at the day, time and place mentioned therein.

First  
Schedule.  
Form No. 5.

Provisions as to proceedings, etc.

11 & 12 Vict.  
c. 43, s. 14;  
42 & 43 Vict.  
c. 49, s. 39.

27. The following provisions shall apply to proceedings before magistrates:—

(1) the description of any offence in the words of the Ordinance or statute or any order, by-law, regulation or other document creating the offence, or in similar words, shall be sufficient in law;

(2) any exception, exemption, proviso, excuse or qualification, whether it does or does not accompany in the same section the description of the offence in the Ordinance or statute, order, by-law, regulation or other document creating the offence, may be proved by the defendant, but need not be specified or negatived in the complaint or information, 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 or informant;

(3) a warrant of commitment shall not be held void by reason of any defect therein, if it is alleged that the offender has been convicted or 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 conviction or order to sustain the same;

(4) a warrant of distress shall not be deemed void by reason only of any defect therein, if it is therein alleged that

a conviction or order has been made, and there is a good and valid conviction or order to sustain the same, and a person acting under a warrant of distress shall not be deemed a trespasser *ab initio* 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; and

(5) all goods forfeited by order of a magistrate may be sold in such manner as the magistrate may direct.

28.—(1) In all proceedings under this Part the magistrate at the hearing shall take or cause to be taken in writing a full minute, so far as circumstances permit, of the following matters :—

Minute of proceedings.  
First Schedule.  
Form No. 13.

(a) the nature of the complaint or information;

(b) the names of the complainant, informant or prosecutor, and of the defendant, and of the respective witnesses on either side;

(c) the evidence or depositions of the witnesses;

(d) objections to the admissibility of evidence and whether the same have been allowed or disallowed; and

(e) the fines, if any, paid into court.

(2) The minute shall, immediately after the close of the case, be handed to the magistrates' clerk for safe custody.

29.—(1) The magistrates' clerk shall keep a register of the minutes or memoranda of all the convictions and orders of the magistrate and of such other proceedings as are directed by the rules in the Second Schedule to be registered, and shall keep the same in Form No. 60 in the First Schedule and with the particulars prescribed in the said rules or form.

Register of cases.  
42 & 43 Vict.  
c. 49, s. 29.  
Second Schedule.  
First Schedule.  
Form No. 60.

(2) The register, and also any extract from the register certified by the clerk keeping the same to be a true extract, shall be *prima facie* evidence of the matters entered therein for the purpose of informing a magistrate, but nothing in this section shall dispense with the legal proof of a previous conviction for an offence when required to be proved against a person charged with another offence.

(3) The entries relating to each minute, memorandum or proceeding shall contain the name of the magistrate before whom the conviction, order or proceeding referred to therein was made or had.

(4) Every sum paid to the magistrates' clerk in accordance with this Ordinance, and the appropriation of such sum, shall be entered and authenticated in the manner directed by the rules in the Second Schedule.

(5) Every such register shall be open for inspection, without fee or reward, by a magistrate or by any person authorised in that behalf by a magistrate or by the Governor or Colonial Secretary.



*Special provisions.*

Power to discharge defendant without punishment if offence trifling.

42 & 43 Vict. c. 49, s. 16.

First Schedule. Forms Nos. 26 and 45.

**30.** If, on the hearing of a charge for any offence punishable on summary conviction, the magistrate thinks that, though the charge is proved, the offence was in the particular case of so trifling a nature that it is inexpedient to inflict any punishment, or any other than a nominal punishment:—

(1) he may, without proceeding to conviction, dismiss the complaint or information, and may order the defendant to pay such damages, not exceeding twenty dollars, and such costs of the proceeding, or either of them, as he may think reasonable; or he may order the defendant to enter into a recognizance, with or without sureties, to be of good behaviour or to keep the peace, in a sum not greater than five hundred dollars and for a term not to exceed twelve months; or

(2) he may, on convicting the defendant, discharge him conditionally on his giving security, with or without sureties, to appear for sentence when called upon or to be of good behaviour or to keep the peace, and either without payment of damages and costs or subject to the payment of such damages and costs, or either of them, as he may think reasonable: Provided that the security required shall not exceed five hundred dollars and the time during which the defendant may be called upon to appear for sentence or during which he is to be of good behaviour or is to keep the peace shall not exceed twelve months.

(3) The magistrate may order the defendant in default of compliance with any order made under this section to be imprisoned without hard labour for any term not exceeding six months.

First Schedule. Forms Nos. 5 and 21.

Reduction of imprisonment on part payment of fine.

4 & 5 Geo. 5, c. 58, s. 3(1).

**31.—(1)** Subject to the provisions of sub-sections (2) and (3), where a term of imprisonment is imposed by a magistrate 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 to any person authorised by a magistrate to receive it, 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.

(2) Notwithstanding the provisions of sub-section (1), no person who has been sentenced to imprisonment in default of payment of a sum adjudged to be paid by a conviction or order shall be entitled to be discharged on the first day of his imprisonment except upon the payment in full of the sum in respect of which the sentence of imprisonment was imposed.

(3) Notwithstanding the provisions of sub-section (1), where any person who has been sentenced to imprisonment in default of payment of a sum of money adjudged to be paid by a conviction or order earns under the Prison Rules any remission of the sentence, the term of his imprisonment shall for the purposes of sub-section (1) be deemed, at any given time, to have been reduced by such period of remission as may at the time stand to his credit.

**32.** Where a defendant is fined a sum not exceeding twenty-five dollars and the same is not forthwith paid, the magistrate may order the defendant to be searched, and if on being searched he is found to have on his person money equal to the amount of his fine, it shall be lawful for the magistrate, upon oath made to him of the fact by any person who was present when the defendant was searched, to order that so much of the money as may be sufficient to satisfy the fine be forfeited, and that the defendant be thereupon discharged from custody. A similar order may be made where sufficient money to satisfy the fine has been found on the defendant as the result of a previous search by the police.

Appropriation of money found on defendant for payment of fine not exceeding twenty-five dollars.

**33.** Where in the case either of imprisonment or a fine there is prescribed a requirement for the offender to enter into his recognizance and to find sureties for keeping the peace and observing some other condition, or to do any of such things, the magistrate may dispense with any such requirement or any part thereof.

Recognizance may be dispensed with.

**34.**—(1) Where a power is given by any future enactment to a magistrate of requiring any person to do or to abstain from doing any act or thing, other than the payment of money, or of requiring any act or thing to be done or left undone, other than the payment of money, and no mode is prescribed of enforcing such requisition, a magistrate may exercise such power by an order and may annex thereto any conditions as to time or mode of action which he may think just, and may suspend or rescind any such order on such undertaking being given or condition being performed as he may think just, and generally may make such arrangements for carrying into effect such power as to him may seem meet.

Summary Order.  
42 & 43 Vict.  
c. 49, s. 34.

(2) A person making default in complying with any such order shall be punished in the prescribed manner, or, if no punishment is prescribed, may be ordered to pay a sum not exceeding five dollars for every day during which he is in default, or to be imprisoned, without hard labour, until he has remedied his default: Provided that a person shall not, for non-compliance with the requisition of a magistrate, whether made by one or more orders, to do or to abstain from doing any act or thing, be liable under this section to imprisonment for any term or terms amounting in the aggregate to more than three months or to payment of any sums exceeding in the aggregate two hundred dollars.

**35.**—(1) The magistrate by whose conviction or order any sum is adjudged to be paid may do all or any of the following things:—

Provision as to mode of payment of sum adjudged to be paid.  
42 & 43 Vict.  
c. 49, s. 7.

(a) allow time for the payment of the sum;

(b) direct payment to be made of the sum by instalments; and

(c) direct that the person liable to pay the sum shall be at liberty to give, to the satisfaction of a magistrate or such person as may be specified by the magistrate adjudging the money to be paid, security, with or without a surety or sureties, for the payment of the sum or of any instalment thereof, and such security may be given and enforced in manner provided by this Ordinance.

(2) Where a sum is directed to be paid by instalments and default is made in the payment of any one instalment, the same proceedings may be taken as if default had been made in payment of all the instalments then remaining unpaid.

(3) A magistrate directing the payment of a sum or of an instalment of a sum may direct such payment to be made at such time and in such place and to such person as may be specified by the magistrate, and every person, not being the magistrates' clerk, to whom any such sum or instalment is paid shall as soon as may be account for and pay over the same to such clerk.

First  
Schedule.  
Forms Nos.  
15-18, 20  
and 21.

Return by  
magistrate's  
order of  
property  
taken from  
defendant.  
42 & 43 Vict.  
c. 49, s. 44.

**36.** Where any property has been taken from a person charged before a magistrate with an offence punishable either on indictment or on summary conviction, a report shall be made by the police on the charge sheet to the magistrate of the fact of such property having been taken from the accused or defendant and of the particulars thereof, and the magistrate may, if he is of opinion that the property or any portion thereof can be returned consistently with the interests of justice and with the safe custody of the accused or defendant, direct such property or any portion thereof to be returned to the accused or defendant or such other person as he may direct.

Prosecution  
and punish-  
ment of  
aider or  
abettor.  
11 & 12 Vict.  
c. 43, s. 5.  
(cf. No. 3  
of 1865).

**37.** Every person who aids, abets, counsels or procures the commission of any offence punishable by a magistrate on summary conviction shall be liable to be proceeded against and convicted for the same, either together with the principal offender or before or after his conviction, and shall be liable to the same punishment and penalties as such principal may by law be liable.

Rule as to  
cumulative  
sentences  
for assault.  
42 & 43 Vict.  
c. 49, s. 18.

**38.** A magistrate shall not, by cumulative sentences of imprisonment (other than for default of finding sureties) to take effect in succession in respect of several assaults committed on the same occasion, impose on any person imprisonment for the whole exceeding six months; but nothing in this section shall be deemed to affect the provisions contained in section 86.

Search war-  
rant for  
thing stolen  
or unlawfully  
obtained.

**39.** If information is given upon oath to any magistrate or justice of the peace that there is reasonable cause for suspecting that any thing stolen or unlawfully obtained is concealed or lodged in any dwelling-house or other place, it shall be lawful for the magistrate or justice, by special warrant under his hand directed to any officer of police, to cause every such dwelling-house or place to be entered and searched at any time of the day or by night, if power for that purpose is given by such warrant; and the magistrate or justice may empower such officer, with such assistance as may be found necessary (such officer having previously made known such his authority), to use force for effecting such entry, whether by breaking open doors or otherwise; and if, on search thereupon made, any such thing is found, then to convey the same before a magistrate, or to guard the same on the spot until the offender is taken before a magistrate, or otherwise to dispose thereof in some place of safety, and moreover to take into custody and carry before a magistrate every person found in such house or place who appears to have been privy to the deposit of any such thing, knowing or having reasonable cause to suspect the same to have been stolen or otherwise unlawfully obtained.

**40.**—(1) When any person is brought before any magistrate charged with having or conveying any thing reasonably suspected of having been stolen or unlawfully obtained, and declares that he received the same from some other person, or that he was employed as a carrier, agent or servant to convey the same for some other person, the magistrate is hereby authorised and required to cause every such person, and also if necessary every former or pretended purchaser or other person into whose possession the same has passed, to be brought before him and examined, and to examine witnesses upon oath touching the same.

Examination of person from whom stolen thing received.

(2) If it appears to the magistrate that any person has had possession of such thing, and had reasonable cause to believe the same to have been stolen or unlawfully obtained, every such person shall be deemed guilty of an offence and to have had possession of such thing at the time and place when and where the same has been found and seized (and the possession of a carrier, agent or servant shall be deemed to be the possession of the person who has employed such other person to convey the same), and shall be liable to a fine not exceeding two hundred and fifty dollars or to imprisonment for any term not exceeding three months.

**41.**—(1) If any goods are stolen or unlawfully obtained from any person, or, having been lawfully obtained, are unlawfully deposited, pledged, sold or exchanged, and complaint is made thereof to a magistrate, and that such goods are in the possession of any broker, dealer in marine stores or other dealer in second-hand property, or of any person who has lent money upon the credit of such goods, it shall be lawful for the magistrate to issue a summons or warrant for the appearance of such broker, dealer or lender and for the production of such goods to be delivered up to the owner thereof, either without payment or on payment of such sum and at such time as the magistrate may think fit.

Order for delivery of goods stolen or fraudulently obtained and in possession of dealer in second-hand property.

(2) Every broker, dealer or lender who, having been so ordered, refuses or neglects to deliver up the goods, or who disposes of or makes away with the same after notice that such goods were stolen or unlawfully obtained as aforesaid, shall forfeit to the owner of the goods the full value thereof: Provided always that no such order shall bar any such broker, dealer or lender from recovering possession of such goods by action from the person into whose possession they may come by virtue of the magistrate's order, provided that such action is commenced within six months next after such order has been made.

(3) Nothing in this section shall affect pawnbrokers.

**42.**—(1) It shall be lawful for a magistrate to order that any goods brought before him which have been unlawfully pledged or exchanged, and the ownership of which is established to his satisfaction, shall be delivered up to the owner by the person with whom they were so unlawfully pledged or exchanged, either without compensation or with such compensation to that person as he may think fit.

Restoration of property unlawfully pledged, etc.

(2) Nothing in this section shall affect pawnbrokers.

**43.**—(1) Where any property has come into the possession of the police in connection with any criminal offence whether committed in the Colony or not, a magistrate may, on application either by an officer of police or by a claimant of the property, make an order for the delivery of the property to the person appearing to the magistrate to be

Power to make orders with respect to property in possession of police.

60 & 61 Vict. c. 30, s. 1.

the owner thereof, or, if the owner cannot be ascertained, make such order in respect to the property as to the magistrate may seem meet: Provided that, in the case of property the owner of which is unknown, no order for forfeiture to the Crown shall be made under this section until after the expiration of twelve months from the time when such property came into the possession of the police.

(2) An order under this section shall not affect the right of any person to take within six months from the date of the order legal proceedings against any person in possession of property delivered to him by virtue of such order, but on the expiration of those six months the right shall cease.

Penalty on common informer for compounding without permission of magistrate.

44. In case any person lays any information before a magistrate for any offence alleged to have been committed, by which he was not personally aggrieved, and afterwards directly or indirectly receives, without the permission of a magistrate, any sum of money or reward for compounding, delaying or withdrawing the information, it shall be lawful for a magistrate to issue his warrant or summons, as he may deem best, for bringing before him the person charged with such compounding, delay or withdrawal; and if such offence is proved by the confession of the said informer or by the oath of any credible witness, he shall be liable to a penalty not exceeding two hundred dollars.

*Distress and committal warrants.*

Warrant of distress.  
11 & 12 Vict.  
c. 43, s. 19.  
First  
Schedule.  
Form  
No. 15.

First  
Schedule.  
Forms Nos.  
40 and 41.

45. Where a conviction adjudges a fine to be paid or where an order requires the payment of a sum of money and by the enactment authorising such conviction or order such fine or sum of money is to be levied on the goods and chattels of the defendant by distress and sale thereof, and also in cases where by the enactment in that behalf no mode of raising or levying such fine or sum of money or of enforcing the payment of the same is stated or provided, it shall be lawful for a magistrate to issue his warrant of distress for the purpose of levying the same, which shall be in writing under his hand and seal: Provided always that whenever it appears to the magistrate to whom application is made for any such warrant that the issuing thereof would be ruinous to the defendant and his family, or whenever it appears to the magistrate, by the confession of the defendant or otherwise, that he has no goods or chattels whereon to levy the distress, or whenever in the opinion of the magistrate it is inexpedient to issue such warrant, then and in every such case it shall be lawful for the magistrate, instead of issuing the warrant of distress, to commit the defendant to prison, with or without hard labour, for such time and in such manner as by law the defendant might be so committed in case such warrant had issued and no goods or chattels could be found whereon to levy such fine or sum and costs aforesaid.

Allowing defendant to go at large until return made to warrant, etc.  
11 & 12 Vict.  
c. 43, s. 20.  
First  
Schedule.  
Form  
No. 54.

46. Where a magistrate issues any such warrant of distress it shall be lawful for him to suffer the defendant to go at large, or, by a written warrant in that behalf or verbally, to order the defendant to be kept and detained in safe custody until return is made to the warrant, unless the defendant gives sufficient security, by recognizance or otherwise, to the satisfaction of the magistrate, for his appearance before a magistrate at the time and place appointed for the return of the warrant: Provided always that in any case where a defendant gives security by recognizance as aforesaid, and does not after-

wards appear at the time and place mentioned therein, the magistrate then present may forthwith declare the same to be estreated in manner hereinafter provided.

47. If at the time and place appointed for the return of any such warrant of distress the constable or other officer who has had the execution of the same returns that he could find no goods or chattels or no sufficient goods or chattels whereon he could levy the sum or sums therein mentioned, together with the costs of or occasioned by the levying of the same, it shall be lawful for the magistrate before whom the same is returned to issue his warrant of commitment under his hand and seal, directed to the same or any other constable or other officer, reciting the conviction or order shortly, the issuing of the warrant of distress, and the return thereto, and requiring such constable or other officer to convey the defendant to prison, and there to deliver him to the Superintendent of Prisons, and requiring the said Superintendent to receive the defendant and to imprison him, or to imprison him and keep him to hard labour, in such manner and for such time as the enactment on which the conviction or order mentioned in the warrant of distress is founded directs, unless the sum or sums adjudged to be paid, and all costs and charges of the distress (the amount thereof being ascertained and stated in the commitment) shall be sooner paid.

Commitment in default of sufficient distress.  
11 & 12 Vict. c. 43, s. 21.

First Schedule. Forms Nos. 49 and 53.

48. Whenever it is returned to a warrant of distress issued for the recovery of a fine or sum of money ordered to be paid under a conviction or order that no sufficient goods of the party against whom such warrant has been issued can be found, and by the enactment under the provisions of which such conviction or order was made no further remedy or punishment is provided for the non-payment of such fine or sum of money, it shall nevertheless be lawful for a magistrate, if he thinks fit, by his warrant as aforesaid, to commit the defendant to prison, with or without hard labour, for such period as may be in accordance with the scale provided by section 62, unless the fine or sum adjudged to be paid, and all costs and charges of the distress (the amount thereof being ascertained and stated in the commitment), shall be sooner paid.

Commitment of defendant where no remedy or punishment in default of sufficient distress.  
11 & 12 Vict. c. 43, s. 22.

First Schedule. Form No. 53.

49. Where the enactment by virtue of which a conviction for a fine or an order for the payment of money is made makes no provision for such fine or sum being levied by distress, but directs that, if the same be not paid forthwith or within a certain time therein mentioned or to be mentioned in the conviction or order, the defendant shall be imprisoned, or imprisoned and kept to hard labour, for a certain time, unless such fine or sum shall be sooner paid, in every such case such fine or sum shall not be levied by distress; but if the defendant does not pay the same, together with costs, if awarded, forthwith, or at the time specified in the conviction or order for the payment of the same, it shall be lawful for a magistrate to issue his warrant of commitment under his hand and seal, requiring the constable to whom the same is directed to take and convey the defendant to prison and there to deliver him to the Superintendent of Prisons, and requiring the said Superintendent to receive the defendant and to imprison him, or to imprison him and keep him to hard labour, as the case may be, for such time as the enactment on which the conviction or order is founded as aforesaid directs, unless the fine or sum adjudged to be paid shall be sooner paid.

Commitment of defendant in first instance.  
11 & 12 Vict. c. 43, s. 23.

First Schedule. Forms Nos. 51 and 52.

Commitment for disobedience of order to do some act, etc., not being payment of money.

11 & 12 Vict. c. 43, s. 24.

First Schedule. Forms Nos. 55 and 56.

50.—(1) Where a conviction does not order the payment of any fine but that the defendant be imprisoned, or imprisoned and kept to hard labour, or where an order is not for the payment of money but for the doing of some other act, and directs that, in case of the defendant's refusal or neglect to do such act, he shall be imprisoned, or imprisoned and kept to hard labour, and the defendant refuses or neglects to do such act, in every such case it shall be lawful for a magistrate to issue his warrant of commitment under his hand and seal, requiring the constable to whom the same is directed to take and convey the defendant to prison and there to deliver him to the Superintendent of Prisons, and requiring the said Superintendent to receive the defendant and to imprison him, or to imprison him and keep him to hard labour, as the case may be, for such time as the Ordinance or statute on which the conviction or order is founded as aforesaid directs.

First Schedule. Forms Nos. 42, 43 and 57.

(2) In any such case, where by the conviction or order any sum for costs is adjudged to be paid by the defendant to the complainant or informant, such sum may, if the magistrate thinks fit, be levied by warrant of distress in manner aforesaid, and, in default of distress, the defendant may be also committed to prison there to be kept for any time not exceeding one month, with or without hard labour, to commence at the termination of the imprisonment which he is then undergoing, unless such sum for costs and all costs and charges of the distress shall be sooner paid.

Consecutive sentences of imprisonment.

4 & 5 Geo. 5, c. 58, s. 18.

51. Where a term of imprisonment is imposed by a magistrate, either in the first instance or in respect of the non-payment of any sum of money adjudged to be paid by a conviction or order, the magistrate may order that the said term shall commence at the expiration, in whatever manner, of any other term of imprisonment which has previously been imposed by any court: Provided that where two or more terms of imprisonment imposed by a magistrate or magistrates are ordered to run consecutively the aggregate of the said terms of imprisonment shall not exceed twelve months.

On payment of fine and expenses distress not to be levied, or party, if imprisoned, to be discharged.

11 & 12 Vict. c. 43, s. 28.

52. Where any person against whom a warrant of distress issues as aforesaid pays or tenders to the constable or other officer having the execution of the same the sum mentioned in the warrant, together with the amount of the expenses of the distress up to the time of such payment or tender, such constable or other officer shall cease to execute the same; and where any person is imprisoned as aforesaid for non-payment of any fine or other sum he may pay or cause to be paid to the Superintendent of Prisons the sum mentioned in the warrant of commitment, together with the amount of the costs therein mentioned, and the said Superintendent shall receive the same, and shall thereupon discharge such person if he is in his custody for no other matter.

Provisions as to warrants of distress.

42 & 43 Vict. c. 49, s. 43.

53. The following provisions shall apply with respect to warrants of distress issued by a magistrate under this Ordinance:—

(1) a warrant of distress shall be executed by or under the direction of a constable or other officer;

(2) save in so far as the person against whom the distress is levied otherwise consents the distress shall be sold by public auction, and five clear days at the least shall intervene between

the making of the distress and the sale, unless the goods distrained are perishable, and when consent is so given as aforesaid the sale may be made in accordance with such consent;

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

(4) subject to any directions to the contrary given by the warrant of distress, when the distress is levied on household goods, the goods shall not, except with the consent in writing of the person against whom the distress is levied, be removed from the house until the day of sale, but so much of the goods shall be impounded as are, in the opinion of the person executing the warrant, sufficient to satisfy the distress, by affixing to the articles impounded a conspicuous mark; and every person removing any goods so marked or defacing or removing the said mark shall upon summary conviction be liable to a fine not exceeding twenty-five dollars;

(5) where a person charged with the execution of a warrant of distress wilfully retains from the produce of any goods sold to satisfy the distress or otherwise exacts any greater costs and charges than those to which he is for the time being entitled by law or makes any improper charge, he shall upon summary conviction be liable to a fine not exceeding twenty-five dollars;

(6) a written account of the costs and charges incurred in respect of the execution of any warrant of distress shall be sent by the constable or other officer charged with the execution of the warrant as soon as practicable to the magistrates' clerk; and it shall be lawful for the person on whose goods the distress was levied, within one month after the levy of the distress, to inspect such account without fee or reward, at any reasonable time to be appointed by a magistrate, and to take a copy of such account;

First  
Schedule.  
Form  
No. 50.

(7) a constable or other officer charged with the execution of a warrant of distress shall cause the distress 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 render to the owner the surplus, if any, after retaining the amount for which the warrant was issued and the proper costs and charges of the execution of the warrant;

(8) where a person pays or tenders to the constable or other officer charged with the execution of a warrant of distress the sum mentioned in the warrant or produces the receipt for the same of the magistrates' clerk, and also pays the amount of the costs and charges of the distress up to the time of such payment or tender, the constable or other officer shall not execute the warrant; and

(9) where a claim is made to or in respect of property taken in execution under this section by any person other than the party against whom such execution issued, such claim shall be heard and determined by the magistrate upon a summons calling before him as well such claimant as the party on whose behalf such execution issued, and the decision of the magistrate upon such claim shall be final.



Special provisions as to warrant of commitment for non-payment of money and as to warrant of distress.  
42 & 43 Vict. c. 49, s. 21.

54.--(1) A magistrate to whom application is made either to issue a warrant of distress for any sum adjudged to be paid by a conviction or order, or to issue a warrant for committing a person to prison for non-payment of a sum of money adjudged to be paid by a conviction or, in the case of a sum not a civil debt, by an order, or for default of sufficient distress to satisfy any such sum, may, if he deems it expedient to do so, postpone the issue of such warrant until such time and on such conditions, if any, as to him may seem just.

(2) The wearing apparel and bedding of a person and his family and, to the value of twenty-five dollars, the tools and implements of his trade shall not be taken under a distress issued by a magistrate.

(3) Where, on application made to a magistrate to issue a warrant for committing a person to prison for non-payment of a sum adjudged to be paid by a conviction or, in the case of a sum not a civil debt, by an order, or for default of sufficient distress to satisfy any such sum, it appears to the magistrate to whom the application is made that, either by payment of part of the said sum, whether in the shape of instalments or otherwise, or by the net proceeds of the distress, the amount of the sum so adjudged has been reduced to such an extent that the unsatisfied balance, if it had constituted the original amount adjudged to be paid by the conviction or order, would have subjected the defendant to a maximum term of imprisonment less than the term of imprisonment to which he is liable under such conviction or order, the magistrate shall, by his warrant of commitment revoke the term of imprisonment, and order the defendant to be imprisoned for a term not exceeding such less maximum term instead of the term originally mentioned in the conviction or order.

First Schedule. Forms Nos. 24 and 59.

*Recognizances, etc.*

Exercise on complaint of power to bind over to keep the peace.  
42 & 43 Vict. c. 49, s. 25.

55.—(1) The power of a magistrate, on complaint of any person, to adjudge a person to enter into a recognizance and find sureties to keep the peace or to be of good behaviour towards such first-mentioned person shall be exercised by an order upon complaint, and the provisions of this Ordinance shall apply accordingly, and the complainant and defendant and witnesses may be called and examined and cross-examined, and the complainant and defendant shall be subject to costs, as in the case of any other complaint.

First Schedule. Forms Nos. 27 and 28.

(2) The magistrate may order the defendant, in default of compliance with such last-mentioned order, to be imprisoned, without hard labour, for any term not exceeding six months.

Power to reduce or vary security.  
42 & 43 Vict. c. 49, s. 26.

Second Schedule. First Schedule. Forms Nos. 32 and 33.

56. Where a person has been committed to prison by a magistrate for default in finding sureties, a magistrate may, on application made to him in manner directed by the rules in the Second Schedule by such person or by some one acting on his behalf, inquire into the case of the person so committed, and if, on new evidence produced to the magistrate or proof of a change of circumstances, the magistrate thinks, having regard to all the circumstances of the case, that it is just to do so, he may reduce the amount for which it is proposed the sureties or surety should be bound, or dispense with the sureties or surety, or otherwise deal with the case as he may think just.

57. When a magistrate has fixed, as respects any recognizance, the amount in which the principal and the sureties, if any, are to be bound, the recognizance, notwithstanding anything in this or any past enactment, need not be entered into before such magistrate, but may, subject to the rules in the Second Schedule, be entered into by the parties before another magistrate or before the magistrates' clerk or before a superintendent or inspector of police or, where any of the parties is in prison, before the Superintendent of Prisons; and thereupon all the consequences of law shall ensue and the provisions of this Ordinance with respect to recognizances taken before a magistrate shall apply as if the recognizance had been entered into before a magistrate as heretofore by law required.

Recognizance taken out of court.  
42 & 43 Vict. c. 49, s. 42.

Second Schedule.

58.—(1) A person shall give security under this Part, whether as principal or surety, either by the deposit of money with the magistrates' clerk or by an oral or written acknowledgment of the undertaking or condition by which and of the sum for which he is bound, and evidence of such security may be provided by the entry thereof in the register of the proceedings of the magistrates.

Mode of giving security and enforcement thereof.  
42 & 43 Vict. c. 49, s. 23.  
First Schedule. Forms Nos. 5 & 34.

(2) Any sum which may become due in pursuance of a security under this Part from a surety shall be recoverable summarily in manner directed by this Ordinance with respect to a civil debt on complaint by a constable or by the magistrates' clerk or by some other person authorised for the purpose by a magistrate.

(3) A magistrate may enforce payment of any sum due by a principal in pursuance of a security under this Part which appears to him to be forfeited, in like manner as if that sum were adjudged to be paid as a fine, if the security was given for a sum adjudged by a conviction, and in any other case in like manner as if it were a sum adjudged to be paid as a civil debt: Provided that, before a warrant of distress for the sum is issued, notice of the forfeiture shall be served on the said principal in manner prescribed by the rules in the Second Schedule.

First Schedule. Forms Nos. 6, 7 and 48.

Second Schedule.

(4) Any sum paid by a surety on behalf of his principal in respect of a security under this Part, together with all costs, charges and expenses incurred by such surety in respect of that security, shall be deemed a civil debt due to him from the principal, and may be recovered before a magistrate in manner directed by this Ordinance with respect to the recovery of a civil debt which is recoverable summarily.

(5) Where security is given under this Part for payment of a sum of money, the payment of such sum shall be enforced by means of such security in substitution for other means of enforcing such payment.

59.—(1) Where a recognizance is conditioned for the appearance of a person before a magistrate or for his doing some other matter or thing to be done before or by order of a magistrate or in a proceeding before a magistrate, such magistrate, if the recognizance appears to him to be forfeited, may declare the recognizance to be forfeited and enforce payment of the sum due under it in the same manner as if the sum were a fine adjudged by a magistrate to be paid and the amount of the same were ascertained by a conviction: Provided that, at any time before the sale of goods under a warrant

Enforcing recognizance for appearance.  
42 & 43 Vict. c. 49, s. 9.  
First Schedule. Forms Nos. 5, 31, 35 and 46.

of distress for the said sum, a magistrate may cancel or mitigate the forfeiture on the person liable applying and giving security, to the satisfaction of the magistrate, for the future performance of the condition of the recognizance, and paying or giving security for payment of the costs incurred in respect of the forfeiture, or on such other conditions as the magistrate may think just.

First  
Schedule.  
Form  
No. 28.

(2) Where a recognizance conditioned 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 a magistrate, any magistrate, on proof of the conviction of the person bound as principal by the recognizance of any offence which is in law a breach of the condition of the same, may by conviction adjudge the recognizance to be forfeited, and adjudge the persons bound thereby, whether as principal or sureties, or any of such persons, to pay the sums for which they are respectively bound.

First  
Schedule.  
Forms  
Nos. 29, 30  
and 47.

(3) All sums paid in respect of a recognizance declared or adjudged by a magistrate in pursuance of this section to be forfeited shall be paid to the magistrates' clerk, and shall be paid and applied by him in such manner as the Colonial Treasurer may direct.

#### *Civil debts.*

Recovery of  
civil debts  
and costs.  
42 & 43 Vict.  
c. 49, s. 6.

60. A civil debt may be recovered on summons and enforced in the manner hereinafter provided; and the payment of any costs ordered to be paid by the complainant or defendant in the case of any such complaint shall be enforced in like manner as such civil debt and not otherwise.

First  
Schedule.  
Form  
No. 61.

Enforcing  
civil debt.  
42 & 43 Vict.  
c. 49, s. 35.

61.—(1) Any sum of money recoverable summarily as a civil debt within the meaning of this or any other Ordinance, or in respect of the recovery of which jurisdiction is given by such Ordinance to a magistrate, shall be deemed to be a sum for payment of which a magistrate has authority by law to make an order on complaint under this Ordinance: Provided as follows:—

First  
Schedule.  
Forms  
Nos. 62-69.

(a) a warrant shall not be issued for apprehending any person for failing to appear to answer any such complaint; and

(b) an order made by a magistrate for the payment of any such civil debt as aforesaid or of any instalment thereof or for the payment of the costs in the matter of any such complaint, whether ordered to be paid by the complainant or the defendant, shall not, in default of distress or otherwise, be enforced by imprisonment, unless it is proved, to the satisfaction of a magistrate, that the person making the default in payment of such civil debt, instalment or costs either has, or has had since the date of the order, the means to pay the sum in respect of which he has made default and has refused or neglected or refuses or neglects to pay the same, and in any such case the magistrate shall have power to imprison the defendant for any period not exceeding three weeks, unless the same shall be sooner paid.

(2) Proof of the means of the person making default may be given in such manner as the magistrate to whom application is made for commitment to prison may think just.

*Scale of imprisonment for non-payment of money, etc.*

62. Unless in any enactment it is otherwise provided, the period of imprisonment, with or without hard labour, which may be imposed by a magistrate exercising summary jurisdiction, in respect of the non-payment of any sum of money adjudged to be paid by a conviction, whether it be a fine or in respect of the property the subject of the offence, or in respect of the injury done by the offender, or in respect of the default of a sufficient distress to satisfy any such sum, shall be such period as, in the opinion of the magistrate, will satisfy the justice of the case, but shall not exceed in any case the maximum fixed by the following scale:—

Scale of imprisonment for non-payment of money adjudged to be paid, etc. 42 & 43 Vict. c. 49, s. 5. (cf. ss. 48, 94 & 95).

Where the amount—	the period of imprisonment shall not exceed—
does not exceed \$1 .....	7 days
exceeds \$ 1 but does not exceed \$ 5 .....	14 „
„ \$ 5 „ \$ 10 .....	1 month
„ \$ 10 „ \$ 50 .....	2 months
„ \$ 50 „ \$150 .....	3 „
„ \$150 .....	6 „

Where the fine or other sum adjudged to be paid is imposed by a sentence in addition to a term of imprisonment, the imprisonment imposed under this section or any other enactment shall commence from the expiration of the term of imprisonment imposed by the sentence.

This section shall apply to fines imposed by a marine magistrate under the Merchant Shipping Ordinance, 1899. (cf. No. 10 of 1899.)

*Costs.*

63.—(1) In every case of summary conviction or of an order made by a magistrate, except as provided in section 65, it shall be lawful for the magistrate making the same to award and order in and by the conviction or order that the defendant shall pay to the complainant or informant respectively such costs as to him may seem just and reasonable in that behalf, but not in any case exceeding five dollars; and in any case where the magistrate, instead of convicting or making an order as aforesaid, dismisses the complaint or information, it shall be lawful for him, in and by his order of dismissal, to award and order that the complainant or informant respectively shall pay to the defendant such costs as to him may seem just and reasonable, but not in any case exceeding five dollars.

Power to award costs and recovery thereof by distress. 11 & 12 Vict. c. 43, s. 18.

(2) The sum so allowed for costs shall in every case be specified in the conviction or order or order of dismissal as aforesaid, and the same shall be recoverable in the same manner and under the same warrants as a fine or a sum of money adjudged to be paid in and by such conviction or order is to be recoverable, and in any case where there is no such fine or sum to be thereby recovered, then such costs shall be recoverable by distress and sale of the goods and chattels of the party or by imprisonment for any term not exceeding fourteen days, unless such costs shall be sooner paid.

64. Where a complaint or information is dismissed with costs, the sum awarded for costs in the order for dismissal may be levied by distress on the goods and chattels of the complainant or informant, and, in default of distress or payment, the complainant or informant may be committed to prison,

Procedure for compelling prosecutor to pay costs. 11 & 12 Vict. c. 43, s. 26.

First  
Schedule.  
Forms  
Nos. 44  
and 58.

without hard labour, for any term not exceeding fourteen days, unless such sum, and all costs and charges of the distress, (the amount thereof being ascertained and stated in the commitment), shall be sooner paid.

Costs where  
fine does  
not exceed  
two dollars.  
42 & 43 Vict.  
c. 49, s. 8.  
(cf. s. 63).

65.—(1) Where a fine adjudged by a conviction by a magistrate to be paid does not exceed two dollars, then, except so far as the magistrate may think fit expressly to order otherwise, an order shall not be made for payment by the defendant to the complainant or informant of any costs; and the magistrate shall, except so far as he thinks fit expressly to order otherwise, direct all fees payable or paid by the complainant or informant to be remitted or repaid to him.

(2) The magistrate may also order the fine or any part thereof to be paid to the complainant or informant in or towards the payment of his costs.

### PART III.

#### INDICTABLE OFFENCES.

Procedure on  
information  
being laid.  
11 & 12 Vict.  
c. 42, s. 1.

First  
Schedule.  
Form No. 3.

First  
Schedule.  
Form No. 1.

First  
Schedule.  
Form No. 2.

66.—(1) In every case where a charge or complaint is made to a magistrate that any person has committed or is suspected to have committed any treason, felony or indictable misdemeanor or other indictable offence over which the magistrate has jurisdiction, then, if the accused is not then in custody, it shall be lawful for the magistrate to issue his warrant to apprehend the accused and to cause him to be brought before a magistrate to answer to the charge or complaint and to be further dealt with according to law; but in any case it shall be lawful for the magistrate to whom the charge or complaint is preferred, if he so thinks fit, instead of issuing his warrant in the first instance to apprehend the accused, to issue his summons directed to the accused requiring him to appear before a magistrate at a time and place to be therein mentioned: and if, after being served with the summons in manner hereinafter mentioned, he fails to appear at such time and place in obedience to such summons, then and in every such case any magistrate may issue his warrant to apprehend the accused and to cause him to be brought before a magistrate to answer to the charge or complaint and to be further dealt with according to law.

(2) Nothing in this section shall prevent a magistrate from issuing the warrant hereinbefore first mentioned at any time before or after the time mentioned in the summons for the appearance of the accused.

Warrant to  
apprehend  
for offence  
committed  
on high  
seas, etc.  
11 & 12 Vict.  
c. 42, s. 2.

67. In every case of felony or misdemeanor committed on the high seas, or in foreign parts, or in any creek, harbour, haven or other place within the jurisdiction of the Admiralty for which an indictment may be preferred by the Attorney General, it shall be lawful for any magistrate, if the accused resides or is supposed to reside or be within the Colony or the waters thereof, to issue his warrant to apprehend the accused and to cause him to be brought before a magistrate to answer to the charge and to be further dealt with according to law.

68.—(1) Where an indictment is filed by the Attorney General against any person who is then at large, and whether such person has been bound by recognizance to appear to answer to the same or not, the Registrar, on the application of the prosecutor or of any person on his behalf (if the person against whom the indictment has been filed has not already appeared and pleaded to the indictment), shall grant to him a certificate of such indictment having been filed.

Warrant to apprehend where indictment is filed by Attorney General and accused is at large. 11 & 12 Vict. c. 42, s. 3.

(2) On the production of such certificate to a magistrate, it shall be lawful for him, and he is hereby required, to issue his warrant to apprehend the accused and to cause him to be brought before him to be dealt with according to law; and afterwards, if such person is apprehended and brought before a magistrate, the magistrate, on its being proved upon oath before him that the person so apprehended is the same person who is charged and named in the indictment, shall without further inquiry or examination commit him for trial or admit him to bail in manner hereinafter mentioned.

First Schedule. Form No. 3.

(3) If the person against whom an indictment is so filed by the Attorney General as aforesaid is confined in prison for any other offence than that charged in the indictment at the time of such application and production of the said certificate to a magistrate, it shall be lawful for the magistrate, and he is hereby required, on its being proved before him upon oath that the accused and the person so confined in prison are the same person, to issue his warrant directed to the Superintendent of Prisons commanding him to detain the accused in his custody until by a writ of *habeas corpus* he shall be removed therefrom for the purpose of being tried upon the indictment or until he shall otherwise be removed therefrom or discharged out of his custody by due course of law.

69. In every case where a charge or complaint for any indictable offence is made before a magistrate, if it is intended to issue a warrant in the first instance against the accused, an information and complaint thereof in writing upon the oath of the informant or of some witness in that behalf shall be laid before the magistrate: Provided always that in every case where it is intended to issue a summons instead of a warrant in the first instance, it shall not be necessary that such information and complaint shall be in writing or be sworn to in manner aforesaid, but in every such case such information and complaint may be by parol merely and without any oath whatever to support or substantiate the same: Provided also that no objection shall be taken or allowed to any information or complaint for any alleged defect therein in substance or in form or for any variance between it and the evidence adduced on the part of the prosecution before the magistrate who takes the examination of the witnesses in that behalf as hereinafter mentioned.

Information to lead warrant in first instance to be in writing and upon oath. 11 & 12 Vict. c. 42, s. 8.

70. The provisions with reference to summonses contained in Part II in relation to offences punishable on summary conviction shall apply equally, *mutatis mutandis*, to summonses under this Part.

Service of summonses. 11 & 12 Vict. c. 42, s. 9.

71. The provisions with reference to the form of warrants, the directions to be contained therein and the execution thereof contained in Part II in relation to offences punishable on summary conviction shall apply equally, *mutatis mutandis*, to warrants under this Part.

Form, etc., of warrants. 11 & 12 Vict. c. 42, s. 10.

Summons or  
warrant for  
witness, etc.  
11 & 12 Vict.  
c. 42, s. 16.

72.—(1) If it is made to appear to a magistrate, by the oath of any credible witness, that any person is likely to give material evidence on the part of the prosecution and will not voluntarily appear at the time and place appointed for the examination of the witnesses against the accused, the magistrate may enforce the attendance of such person in the manner provided in Part II for the enforcing the attendance of a witness under the summary jurisdiction of such magistrate.

First  
Schedule.  
Form  
No. 11.

(2) If, on the appearance of such person so summoned, he refuses to be examined upon oath concerning the matter of the information or complaint, or refuses to take such oath or having taken such oath refuses to answer such questions concerning the premises as may then be put to him, the magistrate may, by warrant under his hand and seal, commit such person to prison there to remain and be imprisoned for any term not exceeding two months, unless he shall in the meantime consent to be examined and to answer concerning the premises.

Power to  
remand  
accused.  
11 & 12 Vict.  
c. 42, s. 21.  
First  
Schedule.  
Forms  
Nos. 12  
& 75.

73.—(1) If, on the hearing of an information or charge for an indictable offence, from the absence of witnesses or from any other reasonable cause, it becomes necessary or advisable to defer the examination or further examination of the witnesses for any time, it shall be lawful for the magistrate before whom the accused appears or is brought up by his warrant from time to time to remand the accused for such time as by the magistrate, in his discretion, may be deemed reasonable, not exceeding eight clear days, to prison or some place of security; or, if the remand is for a time not exceeding three clear days, it shall be lawful for the magistrate verbally to order the constable or other person in whose custody the accused may then be, or any other constable or person to be named by the magistrate in that behalf, to continue and keep the accused in his custody and to bring him before the same magistrate at the time appointed for continuing the examination: Provided always that the magistrate may order the accused to be brought before himself or another magistrate at any time before the expiration of the time for which the accused is so remanded, and the gaoler or officer in whose custody he then is shall duly obey such order: Provided also that, instead of detaining the accused in custody during the period for which he is so remanded, a magistrate before whom the accused so appears or is brought as aforesaid may discharge him, on his entering into a recognizance, with or without a surety or sureties, at the discretion of the magistrate, conditioned for his appearance at the time and place appointed for the continuance of the examination.

First  
Schedule.  
Forms  
Nos. 76  
and 77.

(2) If the accused does not afterwards appear at the time and place mentioned in the recognizance, the magistrate then present may, on certifying the non-appearance of the accused on the recognizance, declare the same forfeited, and proceed to enforce the same in the manner hereinbefore provided for enforcing recognizances in the cases of offences punishable on summary conviction; and may forthwith issue his warrant for the apprehension of the accused.

Place where  
examination  
taken not  
an open  
court.  
11 & 12 Vict.  
c. 42, s. 19.

74. The room or building in which a magistrate hears an information or charge for an indictable offence shall not be deemed an open court for that purpose; and it shall be lawful for the magistrate hearing the case, in his discretion, to order that no person shall have access to or be or remain in such

room or building without the consent or permission of the magistrate, if it appears to him that the ends of justice will be best answered by so doing.

75.—(1) On the hearing of an information or charge for an indictable offence where the accused is present at the hearing, the magistrate shall, before committing the accused to prison for trial or before admitting him to bail to take his trial, in the presence of the accused proceed to take evidence for and on behalf of the prosecutor and his witnesses in the same manner as is hereinbefore provided for the taking of the evidence of the complainant or informant and his witnesses on a complaint or information for an offence punishable on summary conviction.

Taking of evidence at hearing.  
11 & 12 Vict. c. 42, s. 17.

First Schedule. Form No. 13.

(2) The accused or his counsel shall be at liberty to put questions to any witnesses produced against him, and further the depositions or evidence of the prosecutor and his witnesses shall, in the presence of the accused, be read over to and signed respectively by the witnesses who have been so examined, and shall also be signed by the magistrate taking the same.

76.—(1) After the examination of all the witnesses on the part of the prosecution has been completed the magistrate hearing the case shall, if desired by the accused, without requiring the attendance of the witnesses, read or cause to be read to the accused, or when necessary cause to be interpreted, the depositions taken against him, and shall inform him that he has the right, if he so desires, to give evidence on his own behalf. If the accused desires to give evidence, his evidence shall be taken upon oath and shall be subject to cross-examination as in the case of the evidence of any other witness. If the accused does not desire to give evidence on his own behalf, the magistrate shall say to him these words or words to the like effect or cause the same to be interpreted to him:—

Reading over depositions, and caution to accused.  
11 & 12 Vict. c. 42, s. 18.

“Having heard the evidence, do you wish to say anything in answer to the charge? You are not obliged to say anything unless you desire to do so, but whatever you say will be taken down in writing and may be given in evidence upon your trial.”

(2) Whatever the accused then says in answer thereto shall be taken down in writing and read over to him, and shall be signed by the magistrate and kept with the depositions of the witnesses, and shall be transmitted with them as hereinafter mentioned: Provided always that the magistrate, before the accused makes any statement, shall state or cause to be interpreted to him and give him or cause him clearly to understand that he has nothing to hope from any promise of favour and nothing to fear from any threat which may have been holden out to him to induce him to make any admission or confession of his guilt, but that whatever he shall then say may be given in evidence on his trial notwithstanding such promise or threat.

First Schedule. Form No. 70.

(3) Any statement which purports to have been taken down and signed as provided in sub-section (2) shall be admissible in evidence against the accused in any court if it is produced out of the proper custody without further proof of the matters above mentioned, unless it is proved that such statement was not duly taken down or was not in fact signed by the magistrate or officer aforesaid purporting to sign the same.



(4) Provided nevertheless that nothing herein contained shall prevent the prosecutor in any case from giving in evidence any admission or confession or other statement of the accused made at any time which by law would be admissible as evidence against him.

Examination  
of witnesses  
for accused.  
30 & 31 Vict.  
c. 35, s. 3.

77. If the accused gives evidence or makes any such statement or is unwilling to do so, the magistrate hearing the case shall then demand and require of the accused or his counsel whether he desires to call any witness or evidence, and if he so calls or desires to call any witness or evidence, the magistrate shall in the presence of the accused take such evidence upon oath, both examination and cross-examination, of the witnesses who may be called by the accused or his counsel and who know anything relating to the facts or circumstances of the case or anything tending to prove the innocence of the accused, and shall put the same into writing, and the depositions of such witnesses shall be read over to and signed respectively by the witnesses so examined and shall also be signed by the magistrate taking the same.

Binding over  
of prosecutor  
and witnesses.  
11 & 12 Vict.  
c. 42, s. 20;  
30 & 31 Vict.  
c. 35, s. 3.  
First  
Schedule.  
Form  
No. 71.

78.—(1) On the hearing of an indictable offence as aforesaid, it shall be lawful for the magistrate to bind by recognizance the prosecutor and his witnesses or any of them to appear at the criminal session of the court at which the accused is to be tried then and there to prosecute, or to prosecute and give evidence, or to give evidence alone, as the case may be, against the accused; and the recognizance shall particularly specify the profession, art or trade of every such person entering into or acknowledging the same, together with his Christian or other name and surname.

(2) Such witnesses for the accused as may be called and examined as aforesaid, not being witnesses as to the character of the accused merely, who, in the opinion of the magistrate, give evidence in any way material to the case or tending to prove the innocence of the accused shall be bound by recognizance to appear and give evidence at the criminal session of the court at which the accused is to be tried in the same manner as the prosecutor and his witnesses.

First  
Schedule.  
Form  
No. 72.  
First  
Schedule.  
Form  
No. 73.

First  
Schedule.  
Form  
No. 74.

(3) The said recognizance, being duly acknowledged by the person entering into the same, shall be subscribed by the magistrate before whom the same is acknowledged, and a notice thereof, signed by the said magistrate, shall at the same time be given to the person bound thereby: Provided always that if any such witness for the prosecution or defence refuses to enter into or acknowledge such recognizance as aforesaid, it shall be lawful for the magistrate, by his warrant, to commit him to prison there to be safely kept until after the trial of the accused, unless in the meantime such witness duly enters into such recognizance as aforesaid before a magistrate: Provided nevertheless that if afterwards, from want of sufficient evidence in that behalf or other cause, the magistrate before whom the accused has been brought does not commit him or hold him to bail for the offence with which he is charged, it shall be lawful for a magistrate, by his order in that behalf, to order and direct the Superintendent of Prisons to discharge such witness from prison, and the said Superintendent shall thereupon forthwith discharge him accordingly: Provided further that all such recognizances so taken, together with the written information, if any, or sum-

mons, the depositions on either side and the statement of the accused, if any, shall be kept together until the close of the case before the magistrate, and if the accused is then committed for trial shall be transmitted by the magistrate, or he shall cause the same to be transmitted, to the Crown Solicitor for the use of the Attorney General.

(cf. No. 9 of 1899, s. 11.)

79. When all the evidence offered on the part of the prosecution against the accused has been heard, if the magistrate is of opinion that it is not sufficient to put the accused upon his trial for any indictable offence, the magistrate shall forthwith order the accused, if in custody, to be discharged as to the information then under inquiry; but if, in the opinion of the magistrate, such evidence is sufficient to put the accused upon his trial for an indictable offence, or if the evidence given raises a strong or probable presumption of the guilt of the accused, then the magistrate shall, by his warrant, commit him to prison to be there safely kept until he shall be there delivered by due course of law or admit him to bail as hereinbefore mentioned.

Discharge or committal of accused.

11 & 12 Vict. c. 42, s. 25.

80.—(1) If the magistrate commits the accused to prison for trial on any day between the 1st and 9th days, both inclusive, of any month, he shall inform or cause the accused to be informed thereof in the words or to the effect following:—

Informing accused of committal.

“A.B., you stand committed to prison until the Criminal Session of the Supreme Court to be holden in or for this month there to take your trial.”

(2) If the magistrate commits the accused to prison for trial on any other day of the month he shall inform or cause the accused to be informed thereof in the words or to the effect following:—

“A.B., you stand committed to prison until the Criminal Session of the Supreme Court to be holden in or for next month there to take your trial.”

(3) Notwithstanding any such committal the court may, of its own motion or on the application of the Crown or of the accused, order the accused to be tried on any such date after his committal as the court may appoint.

81.—(1) The following documents, together with a certified copy thereof, shall, as soon as may be after the committal of the accused person, be transmitted by the magistrate to the Crown Solicitor for the use of the Attorney General, that is to say, the depositions of the witnesses, the documentary exhibits thereto, the statement of the accused person, and the record of his evidence, if any, and the recognizances entered into.

Depositions and exhibits after committal.

(2) A certified copy of all such documents shall, either at the same time or as soon as possible thereafter, be transmitted by the magistrate to the Registrar for the use of the court.

(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.

(4) At any time before the first day of the criminal session of the court at which any accused committed for trial is to be tried the accused or his counsel may require from the magistrates' clerk copies of the depositions together with copies of any such statements or evidence as aforesaid, on payment of fifteen cents for each folio of seventy-two words.

Procedure on charge of indictable offence against corporation.  
15&16 Geo. 5, c. 86, s. 33.

**82.**—(1) When a corporation is charged, whether alone or jointly with some other person, with an indictable offence, the magistrate may, if he be of the opinion that the evidence offered on the part of the prosecution is sufficient to put the accused corporation upon trial, order the documents specified in section 81 (1) which relate to the case to be transmitted to the Crown Solicitor for the use of the Attorney General and such order shall be deemed to be a committal for trial.

(2) If the corporation appears before the magistrate by a representative appointed in writing by the corporation to represent it for the purpose of this section, any question or statement required by any enactment to be put or made to the accused may be put or made to such representative, and any such question may be answered on behalf of the corporation by such representative, but if the corporation does not so appear it shall not be necessary to put or make the questions or statements, and the magistrate may, notwithstanding, make an order under this section.

(3) Nothing in this section shall have the effect of taking away from a magistrate any power which he may possess of dealing with a charge summarily.

PART IV.

SUMMARY TRIAL OF INDICTABLE OFFENCES.

Saving as to Ordinances relating to women and girls.  
(cf. No. 4 of 1897.)

**83.** Nothing in this Part shall affect the powers conferred upon magistrates by any Ordinance relating to the protection of women and girls.

Indictable offences which may be dealt with summarily.  
Third Schedule.

First Schedule Form No. 82.

**84.**—(1) Whenever any person is accused before a magistrate of any indictable offence, except an offence specified in the Third Schedule, the magistrate, instead of committing the accused for trial before the court, may deal with the case and convict the accused summarily, and on conviction may sentence the accused to imprisonment for any term not exceeding six months or to a fine not exceeding two hundred and fifty dollars: Provided that nothing in this section shall affect any greater punishment specifically provided in any other Ordinance.

(2) The magistrate may nevertheless, if he thinks fit, commit any such accused for trial before the court.

(3) Nothing in this section shall affect the provisions of section 86.

85. Where an indictable offence is triable summarily:—

Procedure as to indictable offences triable summarily. 42 & 43 Vict. c. 49, s. 27.

(1) the procedure shall, until the magistrate assumes the power to deal with the offence summarily, be the same in all respects as if the offence were to be dealt with throughout as an indictable offence, but when and so soon as the magistrate assumes the power to deal with the offence summarily, the procedure shall be the same from and after that period as if the offence were an offence punishable on summary conviction and not on indictment, and the provisions of this Ordinance relating to offences punishable on summary conviction shall apply accordingly;

(2) the evidence of any witness taken before the magistrate has assumed the said power need not be taken again, but every such witness shall, if the defendant so requires, be recalled for the purpose of cross-examination;

(3) the conviction for any such offence shall be of the same effect as a conviction for the offence on indictment before the court, and the magistrate may make the like order for the restitution of property as might have been made by the court; and

First Schedule. Forms Nos. 38 and 82.

(4) the order of dismissal shall be filed by the magistrates' clerk in like manner as the conviction is hereby required to be filed, and together with the order of dismissal or the conviction, as the case may be, there shall be filed by such clerk in each case the written charge, the depositions of the witnesses and the statement, if any, of the accused.

First Schedule. Form No. 83.

86. Where any person is accused of stealing from the person or of any offence within the meaning of either of sections 44 and 45 of the Offences against the Person Ordinance, 1865, it shall be lawful for a magistrate to hear the case and convict the accused summarily and to sentence him to imprisonment for any term not exceeding one year, or to commit the accused for trial before the court; and it shall also be lawful for two magistrates to sit together to hear the case, and they may, if they think fit, summarily convict the accused and sentence him to imprisonment for any term not exceeding two years, or they may commit the accused for trial before the court.

Special powers for summary trial of certain indictable offences. Ordinance No. 2 of 1865. (cf. ss. 38 and 84).

PART V.

SPECIAL POWERS.

*Miscellaneous.*

87. In all proceedings before two magistrates sitting together upon any complaint or information, it shall be lawful for one magistrate to receive such complaint or information, and to grant a summons or warrant to compel the attendance of any witnesses, and to do all other necessary acts and matters preliminary to the hearing, even in cases where by the Ordinance or statute in that behalf such complaint or information must be heard and determined by two magistrates sitting to-

Issue of process by one magistrate though hearing before two magistrates. 11 & 12 Vict. c. 43, s. 29.

gether, and after the case has been so heard and determined one magistrate may issue all warrants of distress or commitment thereon: Provided always that in any case where any such complaint or information is heard and determined by two magistrates, or a conviction or order is made by two magistrates, such magistrates must be present and acting together during the whole of the hearing and determination of the case.

Procedure where two magistrates disagree.

88. If in any case where two magistrates sit together they are unable to agree in their decision whether the defendant or accused is guilty or not guilty, he shall be committed for trial before the court.

Flogging.

89. Whenever any male offender is convicted by a magistrate:—

Ordinance No. 2 of 1865.

(1) under the provisions of either section 44 or section 45 of the Offences against the Person Ordinance, 1865, or

Ordinance No. 2 of 1865.

(2) under section 52 of the Offences against the Person Ordinance, 1865, of committing an act of gross indecency with another male person under the age of thirteen, or

Ordinance No. 5 of 1865.

(3) under section 29 of the Larceny Ordinance, 1865, of stealing any ornament or other chattel from the person of any woman or child, or

Ordinance No. 30 of 1915.

(4) under the provisions of section 53 of the Asiatic Emigration Ordinance, 1915, or

Ordinance No. 4 of 1897.

(5) under the provisions of either section 4 or section 7 of the Protection of Women and Girls Ordinance, 1897, or

Ordinance No. 3 of 1924.

(6) under the provisions of the Stowaways Ordinance, 1924,

(cf. No. 3 of 1903).

the magistrate may, in addition to the punishment awarded for such offence, direct that the offender be flogged.

Power to sentence juvenile to be whipped for certain offences.

Ordinances Nos. 10 of 1866 and 3 of 1903.

Third Schedule.

90. Whenever any offender whose age appears to the magistrate not to exceed sixteen years is convicted of any offence other than the offences specified in the Third Schedule, the magistrate may, in lieu of any other punishment to which the offender is liable, and notwithstanding anything to the contrary in the Peace Preservation Ordinance, 1886, or in the Flogging Ordinance, 1903:—

(a) order such offender to be discharged after due admonition; or

(b) order such offender to be delivered to his parent or to his guardian or nearest adult relative or, in the case of the offender being an apprentice or servant, to his master or mistress or, in the case of the offender being a schoolboy or school-girl, to the person in charge of the school at which the offender is attending, on such parent, guardian, relative, master, mistress or person in charge of a school executing a bond with or without a surety or sureties that he or she will be responsible for the good behaviour and also, if the magistrate thinks it necessary, for the proper education of the offender for any period not exceeding twelve months; or

(c) order such offender if a male to be whipped with not more than twelve strokes of a light cane or rattan within the court premises and in the presence, if they desire to be present, of the parent, guardian, relative, master, mistress or person in charge of such offender.

Provided that, if the offender is convicted of larceny or of any offence which now or at any time hereafter is by law deemed or declared to be simple larceny or punishable as simple larceny or of any assault occasioning actual bodily harm or of any indecent assault, the magistrate may make the order specified in paragraph (c) in addition to any other punishment to which the offender is liable.

91. When a magistrate has authority under any enactment to impose imprisonment of any description for an offence, and has not authority to impose a fine for that offence, a magistrate may notwithstanding, if he thinks that the justice of the case will be better met by a fine than by imprisonment, impose a fine not exceeding two hundred and fifty dollars: Provided that the magistrate shall not impose on the offender, in default of payment of the fine, any greater term of imprisonment than that to which such offender would have been liable under the enactment authorising the said imprisonment.

Power to fine in all cases.  
42 & 43 Vict. c. 49, s. 4.

92. On the conviction of any person of any offence by which injury or loss to person or property has accrued, the convicting magistrate may order the offender to pay to the person aggrieved reasonable compensation, not exceeding one hundred dollars, in addition to any fine or punishment to which he is sentenced.

Power to award compensation in addition to punishment.

93. If any person behaves in an insulting manner or uses any threatening or insulting expression to or concerning or in the presence of a magistrate when acting in the discharge of any magisterial duty, the magistrate may summarily sentence the offender to imprisonment for any term not exceeding two months or to a fine not exceeding fifty dollars.

Power to sentence person using insulting language to or concerning magistrate.

94. If it appears to a magistrate:—

Power to award compensation or penalty for malicious prosecution or false testimony.

(1) that any charge or complaint was maliciously preferred without reasonable or probable cause, the magistrate may, on the application of the person against whom the charge or complaint was made, order the complainant to pay to such person reasonable compensation not exceeding one hundred dollars: Provided that the award of any such compensation shall be a bar to any civil proceeding for damages by reason of such charge or complaint having been made; or

(2) that any witness, (which shall include a defendant who gives evidence on his own behalf), has wilfully given false testimony, the magistrate may order him to pay a fine not exceeding one hundred dollars.

Provided always that:—

(a) before making any order under sub-section (1) the magistrate shall first give the complainant an opportunity of showing cause why the order should not be made, and shall,

if so requested by the complainant, adjourn the proceedings in order to enable him to instruct counsel on his behalf;

(b) before making any order under sub-section (2) the magistrate shall first clearly inform the witness of the specific words which appear to the said magistrate to constitute the false testimony and shall give the witness an opportunity of showing cause why the order should not be made, and shall, if so requested by the said witness, adjourn the proceedings in order to enable him to instruct counsel on his behalf; and

(c) if the compensation or fine is not forthwith paid, the magistrate may commit the person against whom the order is made to prison in accordance with the provisions of section 62.

Imprisonment for non-payment of fine under Ordinance.

95. Whenever a magistrate awards a pecuniary penalty or amends for any offence under the Summary Offences Ordinance, 1932, and the same is not forthwith paid, the magistrate may commit the offender to prison, with or without hard labour, in accordance with the scale in section 62.

Forfeiture of articles in certain cases.

96. Whenever any person is found by the police hawking without a licence, or committing any offence against any Ordinance relating to markets, or causing any obstruction by hawking in a public thoroughfare, the police are hereby empowered to convey or cause to be conveyed all the articles being hawked and sold before a magistrate, who shall thereupon have power, on conviction of the offender, to order the forfeiture of the said articles or any of them, in addition to or substitution for any other fine or punishment which he may by law impose.

#### Bail.

Provisions relating to bail

97.—(1) No magistrate or justice of the peace shall admit any person to bail for treason or murder, nor shall such person be admitted to bail except by order of a judge.

(2) Where a person is charged with felony, or with assault with intent to commit a felony, or with an attempt to commit a felony, or with obtaining or attempting to obtain property by false pretences, or with a misdemeanor in receiving stolen property or property obtained by false pretences, or with perjury or subornation of perjury, or with concealing the birth of a child by secret burying or otherwise, or with wilful or indecent exposure of the person, or with riot or assault upon a police officer in the execution of his duty or upon any person acting in his aid, or with an assault in pursuance of a conspiracy to raise the rate of wages, a magistrate may in his discretion admit the accused to bail, on his procuring or producing such surety or sureties as, in the opinion of the magistrate, will be sufficient to ensure the appearance of the accused at the time and place when and where he is to be tried for such offence; and thereupon the magistrate shall take the recognizance of the accused and his surety or sureties conditioned for the appearance of the accused at the time and place of trial and that he will then surrender and take his trial and will not depart the court without leave.

First Schedule. Forms Nos. 78 and 79.

(3) Where a person is charged with an indictable misdemeanor other than those mentioned in sub-section (2), he shall be entitled to be admitted to bail in the manner mentioned in the said sub-section.

(4) It shall be lawful for a magistrate, on issuing a warrant for the apprehension of any person charged with a bailable offence, to certify on the warrant his consent to the accused being bailed, and thereupon it shall be lawful for an inspector of police to admit the accused to bail, taking his recognizance and that of his surety or sureties, if any, conditioned for the appearance of the accused at the time and place of hearing and that he will then surrender and take his trial and will not depart the court without leave.

(5) In every case where a person charged with any bailable indictable offence is committed to prison to take his trial for the same before the court, it shall be lawful, at any time afterwards and before the first day of the criminal session at which he is to be tried or before the day to which such session is adjourned, for the magistrate who has signed the warrant for his commitment, in his discretion, to admit the accused to bail in manner aforesaid; or if the committing magistrate is of opinion that for any of the offences mentioned in sub-section (2) the accused ought to be admitted to bail, such magistrate shall, in such case and in every other case of a misdemeanor committed for trial before the court, certify on the warrant of commitment his consent to the accused being bailed, stating also the amount of bail which ought to be required and whether with a surety or sureties; and it shall be lawful for a magistrate or for the magistrates' clerk, or for a justice of the peace attending at or visiting the prison where the accused is in custody, on production of such certificate, to admit the accused to bail in manner aforesaid.

First  
Schedule.  
Form  
No. 80.

(6) In every case where the accused in custody is admitted to bail by a magistrate other than the committing magistrate or by a justice of the peace as aforesaid, such magistrate or justice of the peace shall forthwith transmit the recognizance of bail to the committing magistrate to be transmitted with the depositions.

(7) Where two magistrates sit together either of them may exercise the powers hereinbefore mentioned.

98.—(1) In every case where a magistrate admits to bail any person who is then in prison charged with the offence for which he is so admitted to bail, the magistrate shall send to or cause to be lodged with the Superintendent of Prisons a warrant of deliverance, under his hand and seal, requiring the said Superintendent to discharge the person so admitted to bail, if he is detained for no other offence, and, on such warrant of deliverance being delivered to or lodged with the said Superintendent, he shall forthwith obey the same.

Warrant of  
deliverance  
where  
accused is in  
prison when  
bail granted.  
11 & 12 Vict.  
c. 42, s. 24.  
First  
Schedule.  
Form  
No. 81.

(2) Where, however, the bail of the person in prison is taken by the magistrates' clerk or a justice of the peace in pursuance of section 97 (5), a written certificate, signed by such magistrates' clerk or justice, that the bail has been duly given shall be a good authority to the said Superintendent to discharge the person so bailed from custody forthwith, unless he is also in custody for some other cause.



*Rehearing.*

Review of  
decision by  
magistrate.

99.—(1) Within seven clear days after the determination in any manner by a magistrate of any matter which he has power to determine in a summary way it shall be lawful for either party thereto to apply to the magistrate to review his decision in the matter.

(2) Any such application may be made by the party himself in person, or may be made by his counsel in open court whether the party himself be present or not.

(3) If either party to the said matter is in the custody of the Superintendent of Prisons, the magistrate shall, unless he dismisses the application forthwith, inform the Superintendent of Prisons in writing that an application for a review has been made, and thereafter the Superintendent of Prisons shall produce the said party whenever so required in writing by a magistrate for the purposes of the review or of the application therefor.

(4) It shall be lawful for the magistrate to grant the application for a review at any time provided that the application for the review shall have been duly made in accordance with the provisions of sub-sections (1) and (2).

(5) It shall also be lawful for a magistrate on his own initiative, within seven clear days after the determination in any manner of any matter which he has power to determine in a summary way, to re-open the case, and thereafter, whether within the said period of seven clear days or after its expiration, to review his decision in the matter.

(6) If the magistrate on his own initiative reviews his decision or grants an application for a review, it shall be lawful for him upon the review to re-open and re-hear the case wholly or in part, and to take fresh evidence, and to reverse, vary or confirm his previous decision.

(7) If the magistrate upon the review decides that the case is one which should be re-opened and wholly re-heard and if he is of the opinion that in the interests of justice the case should be re-heard by another magistrate, it shall be lawful for some other magistrate to re-hear and determine the case accordingly.

(8) For the purpose of the review a magistrate shall have all the powers, as to securing the attendance of the parties and witnesses and otherwise, that he would have if the matter were brought before him as an original complaint or information.

(9) No application for a review shall be granted if any proceedings have been commenced by either party with a view to questioning the decision of the magistrate by way of appeal, *mandamus* or *certiorari*, unless such proceedings shall have been abandoned, but any such proceedings shall not debar the magistrate from reviewing his decision on his own initiative, as provided for by sub-section (5).

(10) The refusal of a magistrate to grant a review or his decision upon a review shall for the purposes of sections 100 and 105 be deemed to be the determination of a proceeding which he has power to determine in a summary way.

PART VI

APPEALS.

*Appeal on question of law.*

**100.** Within seven clear days after the hearing and determination by a magistrate of any complaint, information, charge or other proceeding which he has power to determine in a summary way, either party thereto or any person aggrieved thereby who desires to question by way of appeal any conviction, order, determination or other proceeding as aforesaid on the ground that it is erroneous in point of law, or that it is in excess of jurisdiction, may apply in writing to the magistrate to state and sign a case setting forth the facts and the grounds on which the conviction, order or determination was granted and the grounds on which the proceeding is questioned, for the opinion of the Full Court.

Application to state case on point of law. 20 & 21 Vict. c. 43, s. 2; 42 & 43, Vict. c. 49, s. 33. First Schedule. Forms Nos. 84 and 87. (See s. 103 and definitions of "party" and "respondent" in s. 2).

**101.** The appellant shall, within fourteen days after the delivery of the case to him as hereinafter mentioned, transmit the case to the Registrar, first giving notice in writing of such appeal and sending with it a copy of the case to the other party to the proceeding before the magistrate, hereinafter referred to as the respondent, and to the Crown Solicitor.

Transmission of case to Registrar and notice to respondent. 20 & 21 Vict. c. 43, s. 3.

**102.** After the delivery of a case to the appellant as aforesaid but before the commencement of the hearing by the Full Court, it shall be lawful for the magistrate on application by either party and on notice of such application to the other party previously given, to amend the case stated and signed by him in any way he may think fit, provided that if the case is so amended the provisions of sections 101 and 103 shall be complied with in respect of the amended case as if it were the case as originally delivered to the appellant and as if the delivery to the appellant of the amended case were the delivery to him of the original case.

Amendment of case by magistrate.

**103.** When the case has been transmitted to the Registrar as aforesaid, it shall be set down for argument on the request of either party four clear days at least before the day appointed for argument, and shall be heard, save as hereinafter provided, by the Full Court: Provided always that the party setting down the case for argument shall give to the Crown Solicitor and to the opposite party four clear days notice of the day appointed therefor.

Setting down case for argument.

**104.** The Full Court shall have power, if it thinks fit, to cause the case stated for its opinion to be sent back to the magistrate for amendment, and thereupon the same shall be amended accordingly, and judgment shall be delivered after the same has been amended.

Full Court may send case back for amendment. 20 & 21 Vict. c. 43, s. 7.

*Appeal on question of fact.*

Application for leave to appeal on question of fact by way of re-hearing.

**105.** Within seven clear days after the hearing and determination by a magistrate of any complaint, information, charge or other proceeding which he has power to determine in a summary way, either party thereto or any person aggrieved thereby who desires to question any conviction, order, determination or other proceeding as aforesaid on the ground that it is erroneous in point of fact, or on the ground that there was no evidence on which the magistrate could properly convict or make the order or give the determination or take the proceeding in question, as the case may be, may apply to the magistrate for leave to appeal to the Full Court by way of a re-hearing, and if such leave is granted the magistrates' clerk shall, subject to the provisions of section 108, deliver to the appellant a certificate to that effect, and shall forward the original depositions in the case to the Registrar, or, if the party or person desiring to appeal consents thereto, the magistrate may order the case to be re-heard before him.

First Schedule. Form No. 85.

Filing of motion in the Full Court.

**106.** Within ten days after the receipt of such certificate the appellant shall file the same with the Registrar, together with a motion for a re-hearing before the Full Court, setting forth shortly the grounds therefor, and such motion shall be served on the respondent and on the Crown Solicitor, and the Full Court, on the hearing thereof, may allow or dismiss the appeal, with or without costs, or may grant a re-hearing subject to such terms as to costs or otherwise as it may think fit.

Procedure on re-hearing.

**107.** On such re-hearing, unless the Full Court otherwise orders, the case shall be heard and the evidence taken *de novo*, and the Full Court may, in its discretion, allow fresh evidence to be given on such re-hearing: Provided that in a case where the evidence is taken *de novo*, if it is proved that a witness who was examined before the magistrate is dead or unable to be present on such re-hearing, the Full Court may, in its discretion, admit the deposition of such witness signed by the magistrate, saving all just exceptions.

*Appeals generally.*

Giving of security by appellant and fees.

First Schedule. Form No. 88.

**108.—(1)** Within three weeks from the making of an application under section 100 or 105, the appellant shall enter into a recognizance before a magistrate, with or without sureties and in such sum as to the magistrate may seem meet, conditioned to prosecute the appeal without delay and to pay such costs as may be awarded by the Full Court: Provided always that, in the case of an appeal touching any fine, the amount of the recognizance shall not be less than the amount of the fine and a sum to cover costs.

First Schedule. Form No. 89.

(2) The appellant, if in custody, may, by order of a magistrate, be brought up for the purpose of entering into the recognizance.

(3) The appellant shall not be entitled to have the case or certificate delivered to him unless he completes the recognizance within the prescribed time, and if he makes default in so doing the appeal shall be deemed to be abandoned.

(4) The appellant shall at the same time, and before he shall be entitled to have the case or certificate delivered to him, pay to the magistrates' clerk or other proper officer, in respect of the said case, certificate and recognizance, the fees following:—

	\$ c.
1. For the recognizance .....	2.00
2. For drawing the case and copy thereof for appellant, if not exceeding 5 folios of 72 words each .....	3.00
3. Or if the case exceeds 5 folios, for every additional folio .....	0.30
4. For the certificate for leave to appeal ...	0.50

(5) The appellant, if then in custody, shall be liberated on the recognizance being further conditioned for his submission to the judgment of the Full Court and for his appearance before a magistrate within ten days after the judgment of the Full Court has been given, to abide such judgment, unless the conviction, order or determination appealed against is quashed, set aside or reserved.

(6) This section shall not apply where the application is made by or under the direction of the Attorney General.

(7) If default is made in performing any part of the condition of the recognizance it shall be lawful for the Full Court upon motion by the respondent to declare the recognizance estreated, and the appeal shall thereupon for the purposes of section 115 be deemed to have been decided in favour of the respondent.

**109.**—(1) Any notice or document required to be given, sent to or served on the respondent by the appellant shall be deemed to have been duly given, sent or served if the same shall have been delivered to the solicitor for the time being representing the respondent. Service and notice.

(2) If there be no solicitor representing the respondent and it shall be proved that it was impracticable to give or send to or serve on the respondent any notice or document required by this Ordinance, the Full Court, in court or in chambers, may direct that the notice or document be advertised or otherwise published and in any event may proceed as though the said notice or document had been duly given or sent to or served on the respondent.

**110.** If the magistrate is of opinion that the application to state or amend a case or for leave to appeal on a question of fact is merely frivolous, but not otherwise, he may refuse to state or amend a case or to grant a certificate for leave to appeal, and shall, on the request of the party or person applying therefor, sign and deliver to him a certificate of such refusal, on payment of the sum of fifty cents: Provided always that the magistrate shall not refuse to state a case or to grant a certificate for leave to appeal where the application therefor is made to him by or under the direction of the Attorney General. Refusal to state case or to grant certificate for leave to appeal. 20 & 21 Vict. c. 43, s. 4. First Schedule. Form No. 86.

Compelling  
magistrate  
to state or  
amend case  
or to grant  
certificate.

20 & 21 Vict.  
c. 43, s. 5.

**111.**—(1) Subject as aforesaid, if the magistrate refuses to state a case, or neglects to state a case within three weeks from the time when the application therefor was granted, or refuses to amend a case, when stated and delivered, on the application of either party within the time limited for such amendment, or refuses a certificate for leave to appeal, it shall be lawful for the party aggrieved by such refusal or neglect to apply to the Full Court, by notice of motion served on the magistrate and on the other party, supported by an affidavit of the facts, for a rule calling upon the magistrate to show cause why such case should not be stated or amended or such leave to appeal granted; and the Full Court may make the same absolute or discharge the same with or without payment of costs by the magistrate or either party, as may seem just.

(2) The magistrate, on being served with such rule absolute, shall state a case, or amend the case stated, or grant a certificate for leave to appeal accordingly.

Depositions  
admissible  
on appeal.

**112.** On any appeal under section 105 or on any application under section 104 for a case stated to be sent back for amendment or on any motion under section 118, the depositions taken before the magistrate, or a certified copy thereof, shall, without prejudice to any other method of proof, be admissible as evidence of the evidence which was given and of the statements which were made before the magistrate, and generally that the proceedings therein recorded took place.

Power to  
the Full  
Court to  
determine  
questions on  
case stated  
or on re-  
hearing.

20 & 21 Vict.  
c. 43, s. 6.

**113.** The Full Court, on the argument of any case stated or on any re-hearing, may reverse or affirm the decision of the magistrate, or may amend or alter such decision by making any order which the magistrate would have had power to make in the matter, or may remit the matter to the magistrate with the opinion of the Full Court thereon, or may make such other order in relation to the matter, and make such orders as to costs, as to the Full Court may seem fit: Provided always that no magistrate who states and delivers a case pursuant to this Ordinance or grants leave to appeal shall be liable to any costs in respect of or by reason of such appeal against his determination.

Enforcing  
determination  
after appeal.

20 & 21 Vict.  
c. 43, s. 9.

**114.**—(1) After the decision of the Full Court in relation to any appeal under this Ordinance, the magistrate shall have authority to enforce any conviction or order which may have been affirmed, amended or made by such court as fully and in the same manner as though it were the original decision of the magistrate.

(2) No action, suit or proceeding whatsoever shall be commenced or had against the magistrate for enforcing such conviction or order.

Issue of  
warrant of  
distress or  
commitment  
for execution  
of conviction  
or order  
after appeal.

11 & 12 Vict.  
c. 43, s. 27.

**115.**—(1) After an appeal has been decided, if the same has been decided in favour of the respondent, any magistrate may issue his warrant of distress or commitment for the execution of such conviction or order as if no such appeal had been brought

(2) If, on any such appeal, the Full Court orders either party to pay costs, such order shall direct such costs to be paid to the Registrar to be by him paid over to the party entitled to the same, and shall state within what time such costs shall be paid, and if the same are not paid within the time so limited, and the party ordered to pay the same is not bound by any recognizance conditioned to pay such costs, the Registrar on the application of the party entitled to such costs or of any person on his behalf, and on payment of a fee of twenty-five cents, shall grant to the party so applying a certificate that such costs have not been paid.

(3) On the production of such certificate to any magistrate it shall be lawful for him to enforce the payment of such costs by warrant of distress in manner hereinbefore provided for enforcing the payment of costs, and, in default of distress, the magistrate may commit the party against whom such warrant has issued in manner hereinbefore mentioned for any time not exceeding three months, unless the amount of such costs, and all costs and charges of the distress, and also the costs of the commitment, if the magistrate thinks fit so to order (the amount thereof being ascertained and stated in the commitment), shall be sooner paid.

First  
Schedule.  
Form  
No. 90.

**116.**—(1) Any judge shall have power to admit to bail any appellant who is in the custody of the Superintendent of Prisons, or such judge may order him to be brought up to the court in custody for the purpose of attending the appeal or any application or proceeding therein.

Treatment  
of appellant,  
etc., pending  
appeal or  
rehearing.

(2) Every person who has applied in writing to a magistrate to state and sign a case, or who has applied to a magistrate for leave to appeal to the Full Court by way of a re-hearing, or who has applied to a magistrate to review his decision or adjudication under the provisions of section 99, shall, if he is in the custody of the Superintendent of Prisons, be treated, pending the determination of such application and of the subsequent appeal or review, if any, in such manner as may be directed by the rules made under the Prisons Ordinance, 1932, for the case of persons awaiting trial.

Ordinance  
No. 38 of  
1932.

(3) The time during which an appellant, pending the determination of his appeal, is admitted to bail, and, subject to any directions which the Full Court may give to the contrary, the time during which the appellant, if in custody, is treated under this section as if he were a person awaiting trial, shall not count as part of any term of imprisonment under his sentence, and any imprisonment under the sentence of the appellant, whether it is the sentence passed by the magistrate or the sentence passed by the Full Court, shall, subject to any directions which may be given by the Full Court, be deemed to be resumed or to begin to run, as the case requires, if the appellant is in custody, as from and including the day on which the appeal is determined, or, if he is not in custody, as from and including the day on which he is received into prison under the sentence.

7 Edw. 7,  
c. 23,  
s. 14 (3).

(4) Sub-sections (1) and (3) shall apply to the case of a person who has applied for a re-hearing under the provisions of section 99, as if he were an appellant, save that references to a judge shall be understood as references to the magistrate by whom the original proceeding was determined, references

to the Full Court shall be understood as references to a magistrate upon the re-hearing, and references to an appeal shall be understood as references to a review.

Provision for absence or illness of one of the judges.  
Ordinance No. 27 of 1912.

**117.** Notwithstanding the provisions of section 5 of the Full Court Ordinance, 1912, in the absence or illness of one of the judges, the powers of the Full Court contained in this Part may be exercised by one judge, if he thinks fit.

Death, absence or incapacity of magistrate.

**118.** If any step in or in connection with any appeal or intended appeal is rendered impossible by the death, absence or incapacity of a magistrate, the Full Court upon motion shall have power for good cause to order that the case be heard *de novo* by the Full Court and the same shall be so heard accordingly.

## PART VII.

### PROTECTION OF MAGISTRATES.

Action against magistrate for act within his jurisdiction.  
11 & 12 Vict. c. 44, s. 1.

**119.** In every action brought against any magistrate for any act done by him in the execution of his duty as such magistrate, with respect to any matter within his jurisdiction as such magistrate, it shall be expressly alleged that such act was done maliciously and without reasonable and probable cause; and if at the trial of any such action the plaintiff fails to prove such allegation, he shall be nonsuit or the judgment or verdict, as the case may be, shall be for the defendant.

Action for act done without or in excess of jurisdiction.  
11 & 12 Vict. c. 44, s. 2.

**120.** For any act done by a magistrate in a matter over which by law he has no jurisdiction or in which he has exceeded his jurisdiction, any person injured thereby, or by any act done under any conviction or order made or warrant issued by the magistrate in any such matter, may maintain an action against the magistrate in the same form and in the same case as he might have done before the commencement of this Ordinance, without making any allegation in his pleadings that the act complained of was done maliciously and without reasonable and probable cause: Provided, nevertheless, that no such action shall be brought for anything done under such conviction or order until after such conviction or order has been quashed, either on appeal to the Full Court or on application to the court, nor shall any such action be brought for anything done under any such warrant which has been issued by the magistrate to procure the appearance of such party, and which has been followed by a conviction or order in the same matter, until after such conviction or order has been so quashed as aforesaid; or if such last-mentioned warrant has not been followed by any such conviction or order, or if it is a warrant on an information for an alleged indictable offence, nevertheless, if a summons was issued previously to the warrant, and such summons was served on such person, either personally or by leaving the same for him with some person at his last or most usual place of abode, and he did not appear according to the exigency of the summons, in such case no such action shall be maintained against the magistrate for anything done under warrant.

**121.** Where a conviction or order is made by one magistrate and a warrant of distress or of commitment is granted thereon by another magistrate *bonâ fide* and without collusion, no action shall be brought against the magistrate who so granted the warrant by reason of any defect in the conviction or order, or for any want of jurisdiction in the magistrate who made the same, but the action, if any, shall be brought against the magistrate who made the conviction or order.

Action to be against convicting magistrate.  
11 & 12 Vict. c. 44, s. 3.

**122.—(1)** In any case where a magistrate refuses to do any act relating to the duties of his office as such magistrate, it shall be lawful for the party requiring such act to be done to apply to the Full Court, on an affidavit of the facts, for a rule calling upon such magistrate, and also the party to be affected by such act, to show cause why such act should not be done; and if, after due service of such rule, good cause is not shown against it, the Full Court may make the same absolute, with or without costs, as may seem meet.

Compelling magistrate to do act, and immunity for doing it.  
11 & 12 Vict. c. 44, s. 5.

(2) The magistrate, on being served with such rule absolute, shall obey the same, and shall do the act required; and no action or proceeding whatsoever shall be commenced or prosecuted against the magistrate for having obeyed such rule and done such act so thereby required as aforesaid.

**123.** In any case where a warrant of distress or warrant of commitment is granted by a magistrate on any conviction or order which, either before or after the granting of such warrant, has been or is confirmed on appeal, no action shall be brought against the magistrate who so granted the warrant for anything which may have been done under the same by reason of any defect in the conviction or order.

After appeal no action for anything done under warrant upon it  
11 & 12 Vict. c. 44, s. 6.

**124.** In any case where by this Ordinance it is enacted that no action shall be brought in particular circumstances, if any such action is brought, it shall be lawful for a judge, on summons taken out by the defendant and on an affidavit of facts, to set aside the proceedings in the action, with or without costs, as to him may seem meet.

Setting aside of action prohibited by the Ordinance.  
11 & 12 Vict. c. 44, s. 7.

**125.** Where any action is brought against any magistrate for any act done by him in a matter over which by law he has no jurisdiction or in which he has exceeded his jurisdiction, or in respect of any alleged neglect or default in the exercise of his jurisdiction, the following provisions shall apply:—

Provisions as to limitation of actions, costs, tender, payment and notice.  
56 & 57 Vict. c. 61, s. 1.

(1) The action shall not lie or be instituted unless it is commenced within six months next after the act, neglect or default complained of, or, in case of a continuance of injury or damage, within six months next after the ceasing thereof.

(2) Whenever in any action a judgment is obtained by the defendant it shall carry costs to be taxed as between solicitor and client.

(3) In any action tender of amends before the action was commenced may, in lieu of or in addition to any other plea, be pleaded. If the action was commenced after the tender, or is proceeded with after payment into court of any money in satisfaction of the plaintiff's claim, and the plaintiff does not recover more than the sum tendered or paid, he shall not recover any costs incurred after the tender or payment, and the defendant shall be entitled to costs, to be taxed as between solicitor and client, as from the time of the tender or payment.



(4) If, in the opinion of the court, the plaintiff has not given the defendant a sufficient opportunity of tendering amends, before the commencement of the action, the court may award to the defendant costs to be taxed as between solicitor and client.

Amount of damages in certain cases.  
11 & 12 Vict. c. 44, s. 13.

**126.** In any case where the plaintiff in any such action is entitled to recover, and he proves the levying or payment of any fine or sum of money under any conviction or order as part of the damages which he seeks to recover, or if he proves that he was imprisoned under such conviction or order, and seeks to recover damages for such imprisonment, he shall not be entitled to recover the amount of such fine or sum so levied or paid, or any sum beyond the sum of five cents as damages for such imprisonment, or any costs of suit whatsoever, if it is proved that he was actually guilty of the offence of which he was so convicted, or that he was liable by law to pay the sum which he was so ordered to pay, and (with respect to such imprisonment) that he had undergone no greater punishment than that assigned by law for the offence of which he was so convicted or for non-payment of the sum which he was so ordered to pay.

### PART VIII.

#### MISCELLANEOUS.

Rules.  
Second Schedule.

**127.** The rules in the Second Schedule shall be observed in carrying into effect this Ordinance.

Regulations as to costs and fees.

**128.—(1)** It shall be lawful for the Governor in Council to make regulations as to the fees to be taken, if any, at the magistrates' court in respect of any proceedings or of the issuing, service or execution of any process or otherwise, and as to the costs, if any, to be allowed for the attendance of witnesses or for legal assistance or otherwise, and to fix a scale of such fees and costs, and by regulation to exempt in any particular class of cases from the payment of such fees and costs or either of them.

(2) A table of the fees and costs in force shall be hung up in some conspicuous part of the magistrates' court.

(3) It shall be lawful for any magistrate to refuse to do any act for which any fee is payable unless such fee has been paid; and if any such act is done and the fee due thereon is not paid, it shall be lawful for any magistrate to summon the person from whom such fee may be due and to recover the same by warrant and distress in manner hereinbefore provided for the recovery of fines.

Repeal of Ordinances No. 3 of 1890, No. 2 of 1926, No. 23 of 1927, No. 16 of 1928 and No. 21 of 1931.

**129.** The Magistrates Ordinance, 1890, the Magistrates Amendment Ordinance, 1926, the Magistrates Amendment Ordinance, 1927, the Magistrates Amendment Ordinance, 1928, and the Magistrates Amendment Ordinance, 1931, are hereby repealed.

Commencement.

**130.** This Ordinance shall come into operation on the first day of January, 1933.

Passed the Legislative Council of Hong Kong, this 8th day of December, 1932.

R. A. C. NORTH,  
*Deputy Clerk of Councils.*

FIRST SCHEDULE.

[s. 4.]

FORMS.

NOTE.—*These forms may be varied or added to as circumstances may require, provided such variations are not inconsistent with the requirements of this Ordinance.*

PART I.

FORMS FOR SUMMARY OFFENCES.

FORM No. 1. [ss. 8 and 66.]

*Summons to the defendant on an information or complaint.*

HONG KONG. IN THE POLICE COURT AT

To C.D., of , [labourer].

Information having this day been laid [or complaint having this day been made, or whereas you have this day been charged] before the undersigned, a magistrate of the said Colony, for that you [here state *shortly the matter of the information, complaint, or charge*]: These are, therefore, to command you, in His Majesty's name to be and appear on day, the day of , 19 at o'clock in the noon, at the said police court, before such magistrate as may then be there, to answer to the said information [or complaint, or charge], and to be further dealt with according to law.

Dated this day of , 19

[L.S.] (Signed.) Magistrate.

FORM No. 2. [ss. 9 and 66.]

*Warrant when summons is disobeyed.*

HONG KONG. IN THE POLICE COURT AT

*To each and all of the constables of the said Colony.*

On the day of , 19 , information was laid, [or complaint was made, or C.D. was charged] before the undersigned, a magistrate of the said Colony, that C.D. [or he, the said C.D.] [as in the summons]; and a summons was then issued by me to the said C.D., commanding him, in His Majesty's name, to be and appear on day, the day of , 19 , at o'clock in the noon, at the said police court, before such magistrate as might then be there, to answer to the said information [or complaint, or charge], and to be further dealt with according to law; and the said C.D. having neglected to be or appear at the time and place so appointed in and by the said summons, although it has been proved to me upon oath [or declaration] that the said summons has been duly served on the said C.D.: These are, therefore, to command you, in His Majesty's name, forthwith to apprehend the said C.D. and to bring him before me or such magistrate as may then be sitting to answer to the said information [or complaint, or charge], and to be further dealt with according to law.

Dated this day of , 19

[L.S.] (Signed.) Magistrate.

FORM No. 3. [ss 9, 66 and 68.]

*Warrant in the first instance.*

HONG KONG. IN THE POLICE COURT AT

*To each and all of the constables of the said Colony.*

Information having this day been laid [or *C.D.* having this day been charged] before the undersigned, a magistrate of the said Colony, for that *C.D.* [or he, the said *C.D.*] [*here state shortly the matter of the information or charge*]; and oath [or declaration] being now made before me substantiating the matter of such information [or charge]: These are, therefore, to command you, in His Majesty's name, forthwith to apprehend the said *C.D.* and to bring him before a magistrate of the said Colony to answer to the said information [or charge], and to be further dealt with according to law.

Dated this . . . day of . . . , 19 . . .

[L.S.] . . . (Signed.) . . . Magistrate.

NOTE.—*When the offence is committed on the high seas [or in foreign parts] the warrant should describe the party injured to have been at the time of the offence "in the peace of the King."*

FORM No. 4. [s. 14.]

*Warrant of committal for safe custody during an adjournment of the hearing.*

HONG KONG. IN THE POLICE COURT AT

*To each and all of the constables of the said Colony and to the Superintendent of Prisons.*

On the . . . day of . . . , 19 . . . , information was laid [or complaint was made, or *C.D.* was charged] before the undersigned, a magistrate of the said Colony for that [or *as in summons*], and the hearing of the same having been adjourned to . . . day, the . . . day of . . . , 19 . . . , at . . . o'clock in the forenoon, it is necessary that the said *C.D.* should in the meantime be kept in safe custody: These are, therefore, to command you, the said constables, in His Majesty's name, forthwith to convey the said *C.D.* to a prison, and there to deliver him to the Superintendent of Prisons, with this precept; and you, the said Superintendent, to receive the said *C.D.* into your custody in a prison, and there safely to keep him until . . . day, the . . . day of . . . , 19 . . . , when you are hereby required to convey and have him at the time and place to which the said hearing is so adjourned as aforesaid, at . . . o'clock in the . . . noon of the same day, before me or such magistrate as may then be there, to answer further to the said information [or complaint, or charge], and to be further dealt with according to law, unless you shall be otherwise ordered in the meantime.

Dated this . . . day of . . . , 19 . . .

[L.S.] . . . (Signed.) . . . Magistrate.

FORM No. 5. [ss. 12, 14, 17, 24, 26, 30, 58 and 59.]

*Recognizance conditioned for appearance or for doing some other thing*

HONG KONG. IN THE POLICE COURT AT

The . . . day of . . . , 19 . . .

We, the undersigned *C.D.*, of . . . , *E.F.*, of . . . , and *G.H.*, of . . . , severally acknowledge ourselves to owe to Our Sovereign Lord the King the several sums following, namely, the

said *C.D.* as principal the sum of \_\_\_\_\_, and the said *E.F.* and *G.H.* as sureties the sum of \_\_\_\_\_ each, to be levied on our several goods, lands, and tenements if the said *C.D.* fails in the condition hereon indorsed.

Signed (*where not taken orally*). *C. D.*  
*E. F.; G. H.*

Taken [orally] before me the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
[L.S.] (Signed.) *Magistrate.*  
[or *Superintendent of Police*  
or *as the case may be.*]

CONDITION INDORSED.

The condition of the within-written recognizance is such that if the within-bounden *C.D.* appears before such magistrate as may then be sitting at the said police court on \_\_\_\_\_ day, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, to answer [further] to the charge made against him by \_\_\_\_\_ and to be [further] dealt with according to law [or appears before such magistrate as may then be sitting at \_\_\_\_\_ for sentence when called upon or as the case may be] then the said recognizance shall be void, but otherwise shall remain in full force.

NOTE.—Where the recognizance is taken orally omit the words "the undersigned" and insert the word "orally" after "taken."

FORM No. 6 [s. 58.]

*Notice of such recognizance to be given to the defendant and his surety.*

HONG KONG. IN THE POLICE COURT AT

Take notice that you *C.D.* have undertaken in the sum of \_\_\_\_\_ and you *E.F.* in the sum of \_\_\_\_\_ that you *C.D.* appear personally on \_\_\_\_\_ day, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, at the said police court, before such magistrate as may then be there, to answer further to a certain information [or complaint] of *A.B.*, the further hearing of which was adjourned to the said time and place [or as the case may be], and unless you *C.D.* appear accordingly, the recognizance entered into by you *C.D.* and by *E.F.* as your surety will be forthwith enforced against you both.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
[L.S.] (Signed.) *Magistrate.*

FORM No. 7. [ss. 12, 14, 17, 24 and 58.]

*Certificate of forfeiture to be indorsed on recognizance.*

The within-named *C.D.* not having appeared [or as the case may be] at the time and place in the said condition mentioned, it is hereby certified that the within-written recognizance is forfeited.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
[L.S.] (Signed.) *Magistrate.*

FORM No. 8. [ss. 15 and 16.]

*Summons to a witness.*

HONG KONG. IN THE POLICE COURT AT

To *E.F.* [address and description.]

Information having been laid [or complaint having been made, or *C.D.* having been charged] before the undersigned, a magistrate of the said Colony, for that [as in the summons to defendant]; and it having been made to appear to me upon oath [or declaration] that you are likely to give material evidence on behalf of the informant [or complaint, or defendant, or accused] in this behalf: These are, therefore, to require you to be and appear on \_\_\_\_\_ day, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, at the said police court, before such magistrate as may then be there, to testify what you shall know concerning the matter of the said information [or complaint, or charge].

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

[L.S.] (Signed.) Magistrate.

NOTE.—The time of service of the summons is to be indorsed thereon.

FORM No. 9. [ss. 15 and 16.]

*Warrant where a witness has not obeyed a summons.*

HONG KONG. IN THE POLICE COURT AT

To each and all of the constables of the said Colony.

Information having been laid [or complaint having been made, or *C.D.* having been charged] before the undersigned, a magistrate of the said Colony, for that [as in the summons to defendant]: and it having been made to appear to me upon oath [or declaration] that *E.F.* of [address and description] was likely to give material evidence on behalf of the informant [or complainant, or defendant, or accused] a summons was duly issued by me to the said *E.F.* requiring him to be and appear on \_\_\_\_\_ day, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, at the said police court before such magistrate as might then be there, to testify what he should know concerning the said *C.D.* or the matter of the said information [or complaint, or charge]; and proof having this day been made before me upon oath [or declaration] of such summons having been duly served on the said *E.F.* and of a reasonable sum having been tendered to him for his costs and expenses in that behalf; and the said *E.F.* having neglected to appear at the time and place appointed by the said summons, and no just excuse having been offered for such neglect: These are, therefore, to command you to take the said *E.F.* and to bring and have him on \_\_\_\_\_ day, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, at the said police court before such magistrate as may then be there, to testify what he shall know concerning the matter of the said information [or complaint, or charge].

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

[L.S.] (Signed.) Magistrate.

FORM No. 10. [ss. 15 and 16.]

*Warrant for a witness in the first instance.*

HONG KONG. IN THE POLICE COURT AT

To each and all of the constables of the said Colony.

Information having been laid [or complaint having been made, or *C.D.* having been charged] before the undersigned, a magistrate of the said Colony, for that [as in the summons to defendant]; and it being made to appear before me upon oath [or declaration] that *E.F.*, of \_\_\_\_\_

[labourer] is likely to give material evidence on behalf of the informant [or complainant, or defendant, or accused] in this matter, and it is probable that the said E.F. will not attend to give evidence without being compelled to do so: These are, therefore, to command you to bring and have the said E.F. on day, the day of , 19 , at o'clock in the noon, at the said police court, before such magistrate as may then be there, to testify what he shall know concerning the matter of the said information [or complaint, or charge].

Dated this day of , 19  
 [L.S.] (Signed.) Magistrate.

FORM No. 11. [ss. 15, 16 and 72.]

*Commitment of a witness refusing to be sworn or to give evidence.*

HONG KONG. IN THE POLICE COURT AT

*To each and all of the constables of the said Colony and to the Superintendent of Prisons.*

Information having been laid [or complaint having been made, or A.B. having been charged] before the undersigned, a magistrate of the said Colony, for that [as in the summons to defendant]; and one E.F. now appearing before me as such magistrate as aforesaid on day, the day of , 19 , at the said police court, and being required by me to make oath [or declaration] as a witness in that behalf now refuses so to do [or being sworn as a witness in the matter of the said information, or complaint, or charge] refuses to answer certain questions, without offering any just excuse for such his refusal: These are, therefore, to command you, the said constables to take the said E.F. and him safely to convey to a prison, and there to deliver him to the Superintendent of Prisons, together with this precept, and you, the said Superintendent, to receive the said E.F. into your custody in a prison, and there imprison him for such his contempt for the space of days, unless he shall in the meantime consent to be examined and to answer concerning the premises; and for your so doing this shall be your sufficient warrant.

Dated this day of , 19  
 [L.S.] (Signed.) Magistrate.

FORM No. 12. [ss. 12 and 73.]

*Warrant to remand a defendant when apprehended.*

HONG KONG. IN THE POLICE COURT AT

*To each and all of the constables of the said Colony and to the Superintendent of Prisons.*

Information having been laid [or complaint having been made, or C.D. having been charged] before the undersigned, a magistrate of the said Colony, for that [as in the summons or warrant]; and the said C.D. being now brought before me as such magistrate as aforesaid under and by virtue of a warrant upon such information [or complaint, or charge]: These are, therefore, to command you, the said constables, in His Majesty's name, forthwith to convey the said C.D. to a prison and there to deliver him to the Superintendent of Prisons, together with this precept and you, the said Superintendent, to receive the said C.D. into your custody in a prison, and there safely to keep him until day, the day of , 19 , when you are hereby commanded to convey and have him at the said police court at o'clock in the noon of the same day, before such magistrate as may then be there, to answer to the said information [or complaint, or charge], and to be further dealt with according to law.

Dated this day of , 19  
 [L.S.] (Signed.) Magistrate.

FORM No. 13. [ss. 28 and 75.]

*Minute and depositions of witnesses.*

HONG KONG. IN THE POLICE COURT AT  
*Re*, on the information [or complaint] of A.B., *versus* C.D., &c.

Before J.P., Esquire, a magistrate of the said Colony, sitting at the said police court.

The examination of E.F., of [merchant], and G.H., of [labourer], taken upon oath [or declaration] this day of , 19 , at the said court before the undersigned, a magistrate of the said Colony, in the presence and hearing of C.D. against whom information is laid [or complaint is made, or who is charged] by A.B. this day before [me], for that he, the said C.D., on the day of , 19 , at [describing the offence as in the information, summons, or warrant of commitment].

This deponent E.F. upon his oath [or declaration] saith as follows: [stating the deposition of the witness as nearly as possible in the words he uses. When his deposition is complete, if the offence is an indictable one, let him sign it].

And this deponent G.H. upon his oath [or declaration] saith as follows: (etc.).

The above depositions of E.F. and G.H. were taken [and sworn] before me at , on the day and year first above mentioned.

[L.S.] (Signed.) Magistrate.

NOTE.—Where a fine is inflicted a memorandum of penalties paid into court shall be added.

FORM No. 14. [s. 22.]

*Conviction for fine, etc., to be levied by distress, and, in default of sufficient distress, imprisonment*

HONG KONG. IN THE POLICE COURT AT

Before J.P., Esquire, a magistrate of the said Colony, sitting at the said police court.

The day of , 19

C.D. (hereinafter called the defendant) is this day convicted before the said court for that he, on the day of , 19 , at [state offence]; and it is adjudged that the defendant for his said offence do forfeit and pay the sum of [state the fine and also the compensation, if any] to be paid and applied according to law and also do pay to the said A.B. the sum of for his costs in this behalf; and if the said several sums be not paid forthwith, [or on or before the day of , 19 ,]\* it is further ordered that the same be levied by distress and sale of the defendant's goods and chattels, and, in default of sufficient distress, \*it is adjudged that the defendant be imprisoned in a prison in the said Colony, [and there kept to hard labour] for the space of unless the said several sums and all costs and charges of the said distress [and of the commitment and conveying of the defendant to a prison], shall be sooner paid.

[L.S.] (Signed.) Magistrate.

\*Or, where the issuing of a distress warrant would be ruinous to the defendant or his family, or it appears that he has no goods whereon to levy a distress, or where, in the opinion of the magistrate, it is inexpedient to issue such warrant of distress, then instead of the words between the asterisks\* say, "then, inasmuch as it has now been made to appear to me that the issuing of a warrant of distress in this behalf would be ruinous to the defendant and his family, [or that the defendant has no goods or chattels whereon to levy the said sums by distress]" or "then inasmuch as I deem it inexpedient to issue such warrant of distress".

FORM No. 15. [ss. 22, 35 and 45.]

*Conviction for fine, to be levied by distress, and, in default of sufficient distress, imprisonment. Payment forthwith or by a given day or by instalments.*

HONG KONG. IN THE POLICE COURT AT

Before J.P., Esquire, a magistrate of the said Colony, sitting at the said police court.

The day of , 19 .

C.D. (hereinafter called the defendant) is this day convicted before the said court for that he, on the day of , 19 , at [state offence]; and it is adjudged that the defendant do for his said offence forfeit and pay to the magistrates' clerk [or other the person to whom payment is to be made] at the sum of [amount of fine] and do also pay to the said A.B. the sum of for compensation [if awarded] and for costs [or without costs.\*]

And it is ordered that the said sums be paid forthwith, [or on the day of , 19 , or by instalments of for every days, the first instalment to be paid forthwith or on the day of , 19 ,] and if default is made in payment according to this adjudication and order, it is ordered that the sums due thereunder be levied by distress and sale of the defendant's goods; and, in default of sufficient distress, it is adjudged that the defendant be imprisoned in a prison in the said Colony [and there kept to hard labour] for the space of , unless the said sum, and all costs and charges of the said distress, shall be sooner paid.

[L.S.] (Signed.) Magistrate.

Where the fine does not exceed two dollars, omit the direction to pay costs, and insert the words "without costs," unless costs are expressly ordered.

FORM No. 16. [ss. 22 and 35.]

*Conviction for fine and, in default of payment, imprisonment.*

HONG KONG. IN THE POLICE COURT AT

Before J.P., Esquire, a magistrate of the said Colony, sitting at the said police court.

The day of , 19 .

C.D. (hereinafter called the defendant) is this day convicted before the said court for that he, on the day of , 19 , at [state offence]; and it is adjudged that the defendant for his said offence do forfeit and pay the sum of [state the fine and the compensation, if any], to be paid and applied according to law, and also do pay to the said A.B. the sum of to be paid for his costs in this behalf; and if the said several sums are not paid forthwith [or on or before the day of , 19 ], it is further adjudged that the defendant be imprisoned in a prison in the said Colony and there kept to hard labour [if so adjudged] for the space of unless the said several sums shall be sooner paid.

[L.S.] (Signed.) Magistrate.

FORM No. 17. [ss. 22 and 35.]

*Conviction for fine, and, in default of payment, imprisonment. Payment forthwith, or by a given day, or by instalments.*

HONG KONG. IN THE POLICE COURT AT

Before J.P., Esquire, a magistrate of the said Colony, sitting at the said police court.



The day of , 19 .

C.D. (hereinafter called the defendant) is this day convicted before the said court for that he, on the day of , 19 , at [state offence]; and it is adjudged that the defendant do for his said offence forfeit and pay to the magistrates' clerk [or other the person to whom payment is to be made] at the sum of [amount of fine], and do also pay to the said A.B. the sum of for compensation [if awarded] and for costs [or without costs.\*]

And it is ordered that the said sums be paid forthwith [or on the day of , 19 , or by instalments of for every days, the first instalment to be paid forthwith or on the day of , 19 ]; and if default is made in payment according to this adjudication and order, it is adjudged that the defendant be imprisoned in a prison in the said Colony [and there kept to hard labour] for the space of unless the said sums shall be sooner paid.

[L.S.] (Signed.) Magistrate.

\*Where the fine does not exceed two dollars, omit the direction to pay costs, and insert the words "without costs" unless costs are expressly ordered.

FORM No. 18. [ss. 22 and 35.]

Conviction when the punishment is by imprisonment. Costs.

HONG KONG. IN THE POLICE COURT AT

Before J.P., Esquire, a magistrate of the said Colony, sitting at the said police court.

The day of , 19 .

C.D. (hereinafter called the defendant) is this day convicted before the said court for that he, on the day of , 19 , at [state offence]; and it is adjudged that the defendant for his said offence be imprisoned in a prison in the said Colony [and there kept to hard labour] for the space of ; and it is also adjudged that the defendant do pay to the said A.B. the sum of for his costs in this behalf, and if the said sum for costs be not paid forthwith [or on or before the day of , 19 ]\*, then it is ordered that the said sum be levied by distress and sale of the goods and chattels of the defendant and, in default of sufficient distress in that behalf,\* it is adjudged that the defendant be imprisoned in a prison [and there kept to hard labour] for the space of to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs and all costs and charges of the said distress shall be sooner paid.

[L.S.] (Signed.) Magistrate.

\*Or, where the issuing of a distress warrant would be ruinous to the defendant or his family, or it appears that he has no goods whereon to levy a distress, then, instead of the words between the asterisks\* say, "inasmuch as it has now been made to appear to me that the issuing of a warrant of distress in this behalf would be ruinous to the defendant and his family, [or that the defendant has no goods or chattels whereon to levy the said sum for costs by distress]".

FORM No. 19. [s. 22.]

Conviction where punishment is by imprisonment. No Costs.

HONG KONG. IN THE POLICE COURT AT

Before J.P., Esquire, a magistrate of the said Colony, sitting at the said police court.

The day of , 19 .

*C.D.* (hereinafter called the defendant) is this day convicted before the said court for that he, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ [state offence]; and it is adjudged that the defendant for his said offence be imprisoned in a prison in the said Colony [and there kept to hard labour] for the space of \_\_\_\_\_

[L.S.]

(Signed.)

Magistrate.

FORM No. 20.

[ss. 22 and 35.]

*Conviction or order where security is to be given for payment.*

HONG KONG.

IN THE POLICE COURT AT

[Proceed as in ordinary conviction or order down to direction as to time of payment inclusive, and then, instead of inserting any direction as to distress or imprisonment, proceed as follows]—

and it is ordered that \_\_\_\_\_ be at liberty to give, to the satisfaction of a magistrate [or such person as may be named], security in the sum of \_\_\_\_\_, with two sureties [or one surety] in the sum of \_\_\_\_\_ [each], for the payment of the said sums as above directed.

[L.S.]

(Signed.)

Magistrate.

FORM No. 21.

[ss. 22, 30 and 35.]

*Conviction where defendant is discharged conditionally on giving security to appear or to be of good behaviour.*

HONG KONG.

IN THE POLICE COURT AT

Before *J.P.*, Esquire, a magistrate of the said Colony, sitting at the said police court.

The \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

*C.D.* (hereinafter called the defendant) is this day convicted before the said court for that he, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ [state offence]; but being of opinion that the said offence was of so trifling a nature that it is inexpedient to inflict any punishment [or any other than a nominal punishment], and the defendant having given security, to my satisfaction [or to the satisfaction of *J.P.*, Esquire, a magistrate, &c.] to appear for sentence when called upon [or to be of good behaviour], he is discharged; and it is ordered that the defendant do pay to the said *A.B.* for damages and \_\_\_\_\_ for costs [if so ordered] forthwith [or on or before the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, or by instalments of \_\_\_\_\_ for every \_\_\_\_\_ days, the first instalment to be paid on or before the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_]; and if default is made [proceed as in conviction to be levied by distress].

[L.S.]

(Signed.)

Magistrate.

FORM No. 22.

[s. 22.]

*Order for payment of money, and, in default of payment, imprisonment.*

HONG KONG.

IN THE POLICE COURT AT

Before *J.P.*, Esquire, a magistrate of the said Colony, sitting at the said police court.

The \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

*A.B.* having made complaint that *C.D.* (hereinafter called the defendant) [state the facts entitling the complainant to the order with the time and place when and where they occurred], and the parties aforesaid having appeared [or the said *A.B.* having appeared but the

defendant, although duly called, not having appeared by himself or his counsel, and it being now satisfactorily proved to me upon oath [or declaration] that the defendant has been duly served with the summons in this behalf, which required him to be and appear here on this day before such magistrate as might now be here; to answer to the said complaint and to be further dealt with according to law]; and now, having heard the matter of the said complaint, it is adjudged and ordered that the defendant do pay to the said A.B. the sum of \_\_\_\_\_ forthwith, [or on or before the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, or as the Ordinance or statute may require], and also do pay to the said A.B. the sum of \_\_\_\_\_ for his costs in this behalf; and if the said several sums are not paid forthwith [or on or before the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_], it is adjudged that the defendant be imprisoned in a prison in the said Colony [and there kept to hard labour] for the space of \_\_\_\_\_ unless the said several sums shall be sooner paid.

[L.S.] (Signed.) Magistrate.

FORM No. 23. [s. 22.]

*Order for payment of money to be levied by distress, and, in default of distress, imprisonment*

HONG KONG. IN THE POLICE COURT AT

Before J.P., Esquire, a magistrate of the said Colony, sitting at the said police court.

The \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

A.B. having made a complaint that C.D. (hereinafter called the defendant) [state the facts entitling the complainant to the order, with the time and place when and where they occurred]; and the parties aforesaid having appeared [or the said A.B. having appeared, but the defendant, although duly called, not having appeared by himself or his counsel, and it being now satisfactorily proved to me upon oath [or declaration] that the defendant has been duly served with the summons in this behalf, which required him to be and appear here on this day before such magistrate as might now be here, to answer to the said complaint, and to be further dealt with according to law]; and now, having heard the matter of the said complaint, it is adjudged and ordered that the defendant do pay to the said A.B. the sum of \_\_\_\_\_ forthwith, [or on or before the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, or as the Ordinance or statute may require], and also do pay to the said A.B. the sum of \_\_\_\_\_ for his costs in this behalf; and if the said several sums are not paid forthwith, [or on or before the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,]\* it is ordered that the same be levied by distress and sale of the defendant's goods and chattels, and, in default of sufficient distress in that behalf\* it is adjudged that the defendant be imprisoned in a prison in the said Colony [and there kept to hard labour] for the space of \_\_\_\_\_ unless the said several sums, and all costs and charges of the said distress, shall be sooner paid.

[L.S.] (Signed.) Magistrate.

\*Or, where the issuing of a distress warrant would be ruinous to the defendant or his family, or it appears that he has no goods whereon to levy a distress, then, instead of the words between the asterisks, \* \* say, "then, inasmuch as it has now been made to appear to me that the issuing of a warrant of distress would be ruinous to the defendant and his family [or that the defendant has no goods or chattels whereon to levy the said sums by distress]".

FORM No. 24. [ss. 22 and 54.]

*Order for any matter (other than the payment of a civil debt) where disobedience to the order is punishable by imprisonment.*

HONG KONG. IN THE POLICE COURT AT

Before J.P., Esquire, a magistrate of the said Colony, sitting at the said police court.

The day of , 19 .

A.B., having made a complaint that C.D. (hereinafter called the defendant) [state the facts entitling the complaint to the order, with the time and place when and where they occurred]; and the parties aforesaid having appeared [or the said A.B. having appeared but the defendant, although duly called, not having appeared by himself or his counsel and it being now satisfactorily proved to me upon oath [or declaration] that the defendant has been duly served with the summons in this behalf which required him to be and appear here on this day before such magistrate as might now be here, to answer to the said complaint, and to be further dealt with according to law] and now, having heard the matter of the said complaint, it is adjudged and ordered that the defendant do [state the matter required to be done]; and if, on a copy of a minute of this order being served on the defendant, either personally or by leaving it for him at his last or most usual place of abode, he refuses or neglects to obey this order, then it is adjudged that the defendant for such his disobedience be imprisoned in a prison in the said Colony [and there kept to hard labour] for the space of unless the said order shall be sooner obeyed [if the Ordinance or statute authorises this]: and it is also adjudged and ordered that the defendant do pay to the complainant the sum of for his costs in this behalf forthwith [or on the day of , 19 , or by instalments, etc.]; and if default is made in payment according to this adjudication and order, it is ordered that the sum due thereunder be levied by distress and sale of the defendant's goods; and, in default of sufficient distress, it is adjudged that the defendant be imprisoned in a prison [and there kept to hard labour] for the space of , to commence at and from the termination of his imprisonment aforesaid, unless the said sum, and all costs and charges of the said distress, shall be sooner paid.

[L.S.] (Signed.) Magistrate.

FORM No. 25. [ss. 13 and 22.]

*Order of dismissal of an information or complaint.*

HONG KONG. IN THE POLICE COURT AT

Before J.P., Esquire, a magistrate of the said Colony, sitting at the said police court.

The day of , 19 .

Information was laid [or complaint was made] before the undersigned for that, etc. [as in the summons to the defendant] and both the said parties having appeared before me in order that I should hear and determine the said information [or complaint] [or the defendant having appeared before me, but the said A.B., although duly called, not having appeared]; and the matter of the said information [or complaint] being by me duly considered, it manifestly appears to me that the said information [or complaint] is not proved, and it is therefore dismissed; and it is adjudged that the said A.B. do pay to the defendant the sum of for his costs incurred by him in his defence in this behalf; and if the said sum for costs is not paid forthwith, [or on or before the day of , 19 ] it is ordered that the same be levied by distress and sale of the goods and chattels of the said A.B., and in default of sufficient distress in that behalf it is adjudged that the said A.B. be imprisoned in a prison in the said Colony [and there kept to hard labour] for the space of , unless the said sum for costs, and all costs and charges of the said distress, shall be sooner paid.

[L.S.] (Signed.) Magistrate.

FORM No. 26. [ss. 22 and 30.]

*Order dismissing information or complaint and directing person charged to pay damages.*

HONG KONG. IN THE POLICE COURT AT

Before J.P., Esquire, a magistrate of the said Colony, sitting at the said police court.

The day of , 19 .

*C.D.* (hereinafter called the defendant) has been charged on the information [or complaint] of *A.B.* for that he, on the day of , 19 , at [state offence]; and being of opinion that though the said charge is proved, the offence was of so trifling a nature that it is inexpedient to inflict any punishment, I do therefore hereby dismiss the said information [or complaint].

[If payment of damages or costs is ordered proceed as follows]:—  
and it is ordered that the defendant do pay to the said *A.B.* for damages and for costs; and it is ordered that the said sums be paid forthwith [or on or before the day of , 19 , or by instalments of for every days, the first instalment to be paid forthwith, [or on or before the day of , 19 , ]: and if default is made [proceed as in form of conviction for fine to be levied by distress].

[L.S.] (Signed.) Magistrate.

FORM No. 27. [ss. 22 and 55.]

Order to enter into recognizance to keep the peace or to be of good behaviour.

HONG KONG. IN THE POLICE COURT AT

Before *J.P.*, Esquire, a magistrate of the said Colony, sitting at the said police court.

The day of , 19 .

*A.B.* having made complaint that *C.D.* (hereinafter called the defendant) [state the facts entitling the complainant to the order, with the time and place when and where they occurred]; and the defendant having appeared, and on hearing the matter of the complaint, it is this day adjudged and ordered that the defendant do forthwith duly enter into a recognizance in the sum of with surety in the sum of [each] to keep the peace and be of good behaviour towards His Majesty and all his liege people, and especially towards the complainant, for the term of now next ensuing: and, if the defendant fails to comply with this order it is adjudged that he be imprisoned in a prison in the said Colony for the space of , unless he shall sooner comply with this order.

[If costs are ordered proceed as follows]:—  
and it is also adjudged and ordered that the defendant do pay to the said *A.B.* the sum of for costs forthwith [or on or before the day of , 19 , or by instalments, etc.]; and if default is made in payment according to this adjudication and order, it is ordered [proceed as in form of conviction for fine to be levied by distress].

[L.S.] (Signed.) Magistrate.

FORM No. 28. [ss. 22, 55 and 59.]

Recognizance conditioned to keep the peace or to be of good behaviour or not to do or commit some act or thing.

We, the undersigned *C.D.*, of , *E.F.*, of , and *G.H.*, of , severally acknowledge ourselves to owe to Our Sovereign Lord the King the several sums following, namely, the said *C.D.* as principal the sum of , and the said *E.F.* and *G.H.* as sureties the sum of each, to be levied on our several goods, lands, and tenements if the said *C.D.* fails in the condition hereon indorsed.

(Signed.) (where not taken orally).

*C.D.*, Defendant.

*E.F.*, } Sureties  
*G.H.*, }

Taken (orally) before me the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_ .  
 [L.S.] (Signed.) \_\_\_\_\_ Magistrate.  
 [or Superintendent of Prisons,  
 or as case may be].

CONDITION INDORSED.

The condition of the within-written recognizance is such that if the within-bounden C.D. keeps the peace and is of good behaviour towards His Majesty and all his liege people, and especially towards \_\_\_\_\_, of \_\_\_\_\_, for the term of \_\_\_\_\_ now next ensuing [or abstains from doing the thing forbidden, or as the case may be], then the said recognizance shall be void, but otherwise shall remain in full force.

NOTE.—Where the recognizance is taken orally, omit the words "the undersigned," and insert the word "orally" after "taken".

FORM No. 29. [ss. 22 and 59.]

*Summons to person bound by recognizance which is alleged to have been forfeited by conviction of principal.*

HONG KONG. IN THE POLICE COURT AT

To C.D. of \_\_\_\_\_

You are hereby summoned to appear before me, the undersigned, a magistrate of the said Colony, sitting at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon or before such magistrate as may then be there, to show cause why the recognizance entered into on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, 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 \_\_\_\_\_, 19 \_\_\_\_ .  
 [L.S.] (Signed.) \_\_\_\_\_ Magistrate.

FORM No. 30. [ss. 22 and 59.]

*Adjudication of forfeiture of recognizance where person bound as principal has been convicted of an offence which is a breach of the condition.*

HONG KONG. IN THE POLICE COURT AT

Before J.P., Esquire, a magistrate of the said Colony, sitting at the said police court.

The \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_ .

C.D. (hereinafter called the defendant) was by his recognizance entered into the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, bound in the sum of \_\_\_\_\_ the condition of the recognizance being that \_\_\_\_\_, of \_\_\_\_\_, should [state condition of recognizance]; and proof having been given that the said \_\_\_\_\_ has been convicted of the offence of having [state offence], being an offence which is in law a breach of the condition of the said recognizance; Therefore it is adjudged that the said recognizance is forfeited, and that the defendant do pay to the magistrates' clerk [or other person specified] the said sum of \_\_\_\_\_ and do also pay to \_\_\_\_\_ the sum of \_\_\_\_\_ for costs; and it is ordered that the said sums be paid forthwith [or on or before the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, or by instalments of \_\_\_\_\_ for every \_\_\_\_\_ days, the first instalment to be paid forthwith or on or before the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_]; and if default is made in payment according to this adjudication and order, it is ordered [proceed as in conviction for fine to be levied by distress.]

[L.S.] (Signed.) \_\_\_\_\_ Magistrate.

FORM No. 31. [ss. 22 and 59.]

*Order cancelling or mitigating forfeiture of recognizance,  
(To be indorsed on recognizance).*

HONG KONG. IN THE POLICE COURT AT

Before J.P., Esquire, a magistrate of the said Colony, sitting at the said police court.

A warrant of distress was, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, issued for levying the sum of \_\_\_\_\_ declared to be forfeited under the within-written recognizance, but no goods have been sold thereunder; and the said \_\_\_\_\_ has applied to me, the undersigned, to cancel [or mitigate] the forfeiture of the said recognizance, and has given security to my satisfaction for the future performance of the condition of the said recognizance, and has paid [or given security for payment of] the costs incurred in respect of the forfeiture thereof [or insert such other condition as the magistrate may think just]: Therefore the said forfeiture is hereby cancelled [or mitigated to the sum of \_\_\_\_\_].

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
[L.S.] (Signed.) Magistrate.

FORM No. 32. [ss. 22 and 56.]

*Summons to attend an application for varying or  
dispensing with sureties.*

HONG KONG. IN THE POLICE COURT AT

To A.B., of

You are hereby summoned to appear before a magistrate of the said Colony sitting at \_\_\_\_\_ on \_\_\_\_\_ day the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, to show cause why the amount for which it is proposed that the surety \_\_\_\_\_ of \_\_\_\_\_ should be bound should not be reduced [or why the obligation of \_\_\_\_\_ to find a surety [or sureties] should not be dispensed with].

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
[L.S.] (Signed.) Magistrate.

FORM No. 33. [s. 56.]

*Order varying order for sureties.*

HONG KONG. IN THE POLICE COURT AT

Before J.P., Esquire, a magistrate of the said Colony, sitting at the said police court.

The \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

C.D. has been, under a warrant of commitment dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and issued by this court committed to prison for default in finding sureties [or a surety] in the sum of \_\_\_\_\_, and, on new evidence having been produced to me [or on proof of a change of circumstances having been given to me], it seems to me just to vary, in manner hereinafter appearing, the order under which the said warrant was issued: Therefore it is ordered that the amount for which it is proposed that the surety [or sureties] of the said C.D. should be bound be reduced to \_\_\_\_\_ [or that the obligation of the said C.D. to find a surety [or sureties] be dispensed with] [or as may be directed].

[L.S.] (Signed.) Magistrate.

FORM No. 34.

[s. 58.]

*Oral or written acknowledgment of undertaking to pay a sum adjudged by a conviction.*

HONG KONG. IN THE POLICE COURT AT

*C.D.* (hereinafter called the defendant) was this day [or was on the day of , 19 ,] convicted before the said court for that he, on the day of , 19 , at [state offence]; and it was adjudged by the said conviction that the defendant should pay [as in the conviction]; and it was thereby ordered that the defendant should be at liberty to give, to the satisfaction of a magistrate of the said Colony [or as in the conviction], security in the sum of with suret in the sum of [each] for the payment of the said sum at the time and in the manner by the said conviction directed: Now therefore I, the said defendant, as principal, and we, *E.F.*, of , and *G.H.*, of , as sureties [or I, *E.F.*, of , as surety] hereby undertake that the defendant will pay the sum adjudged by the said conviction at the time and in the manner thereby directed; and I, the said defendant, and we [or I,] the said sureties [or surety], hereby severally acknowledge ourselves bound to forfeit and pay to the magistrates' clerk [or other person specified] the sum of in case the defendant fails to perform this undertaking.

(Signed.) (where not taken orally)

*C.D.*, Defendant.

*E.F.*, } Sureties.  
*G.H.*, }

Taken (orally) before me the day of , 19

[L.S.] (Signed.) Magistrate.

FORM No. 35.

[s. 59.]

*Oral or written acknowledgment of undertaking to perform condition of forfeited recognizance.*

HONG KONG. IN THE POLICE COURT AT

*C.D.* was by his recognizance entered into the day of , 19 , bound in the sum of , the condition of the recognizance being that should [state condition of recognizance]; and, default having been made in the performance of this condition, the recognizance was on the day of , 19 , declared to be forfeited, and the said *C.D.* not having paid the said sum, a warrant of distress was on the day of , 19 , issued for recovery thereof, but no goods have been sold under the warrant; and the said *C.D.* has applied to the undersigned magistrate of the said Colony to cancel or mitigate the forfeiture: Now therefore I, the said *C.D.*, as principal, and we *E.F.*, of , and *G.H.*, of , [or I, *E.F.*, of ,] as sureties [or surety], hereby undertake that the condition of the said recognizance shall be duly performed, [and that the said shall, on or before the day of , 19 , pay the sum of for costs incurred in respect of the said forfeiture]; and I, the said principal, and we [or I] the said sureties [or surety], hereby severally acknowledge ourselves bound to forfeit and pay to the magistrates' clerk [or other person specified] the sum of in case the said principal fails to perform the condition of the said recognizance.

(Signed.) (where not taken orally)

*C.D.*, Defendant.

*E.F.*, } Sureties.  
*G.H.*, }

Taken (orally) before me the day of , 19

[L.S.] (Signed.) Magistrate.



FORM No. 36.

[s. 23.]

*Declaration of service of summons or other document.*

I, \_\_\_\_\_, of \_\_\_\_\_, hereby solemnly declare that I did, on  
 day, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, serve  
 \_\_\_\_\_ of \_\_\_\_\_, with the [warrant, summons, notice, process  
 or other document] now shown to me, marked A, by delivering a true  
 copy thereof at \_\_\_\_\_ being his last [or most usual]  
 place of abode,

Taken this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me.

[L.S.] (Signed.) Magistrate. [or Justice of the Peace.]

FORM No. 37.

[s. 23.]

*Declaration as to handwriting and seal.*

I, \_\_\_\_\_, of \_\_\_\_\_, hereby solemnly declare that the signature  
 \_\_\_\_\_ to the document now produced and shown to me, and marked  
 A is in the proper handwriting of \_\_\_\_\_, of \_\_\_\_\_,  
 [and that the seal on the said document is the proper seal of \_\_\_\_\_].

Taken this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me.

[L.S.] (Signed.) Magistrate. [or Justice of the Peace.]

FORM No. 38.

[s. 85.]

*Order for restitution of property.*

HONG KONG. IN THE POLICE COURT AT

Before J.P., Esquire, a magistrate of the said Colony, sitting at the  
 said police court.

The \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

C.D. was charged before me, a magistrate of the said Colony, for  
 that he, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_,  
 [state offence and describe goods as in conviction], and having dealt  
 with the case summarily, the said C.D. has been this day convicted  
 before me of the offence with which he was so charged; and it is  
 proved to me that the said goods are now in the possession of \_\_\_\_\_  
 of \_\_\_\_\_: Therefore it is hereby ordered that the said  
 do forthwith restore the said goods to the said \_\_\_\_\_,  
 the owner thereof.

[L.S.] (Signed.) Magistrate.

FORM No. 39.

[s. 13.]

*Certificate of dismissal.*

HONG KONG. IN THE POLICE COURT AT

I hereby certify that an information [or complaint] preferred by  
 A.B. against C.D., for that [etc., as in the summons to defendant],  
 was this day considered by me, a magistrate of the said Colony, and  
 was by me dismissed [with costs].

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

[L.S.] (Signed.) Magistrate.

FORM No. 40. [s. 45.]

*Warrant of distress on conviction for fine, with or without costs or damages, or for costs or damages without fine.*

HONG KONG. IN THE POLICE COURT AT

To [insert name, etc., of officer where the person executing is not a constable] and to each and all of the constables of the said Colony.

C.D. (hereinafter called the defendant) was on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, convicted before the said court for that he, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_, [state offence]; and it was adjudged that the defendant should for his said offence forfeit and pay\* [amount of fine], and should also pay to the said \_\_\_\_\_ the sum of \_\_\_\_\_ for compensation and \_\_\_\_\_ for costs and it was ordered that the said sums should be paid [etc., as in the conviction]; and that if default should be made in payment according to the said adjudication and order, the sum due thereunder should be levied by distress and sale of the defendant's goods; and default has been made in payment according to the said adjudication and order: Therefore you are hereby commanded forthwith to make distress of the goods of the defendant (except the wearing apparel and bedding of him and his family, and, to the value of twenty-five dollars, the tools and implements of his trade); and if, within the space of \_\_\_\_\_ days next after the making of such distress, the sum of \_\_\_\_\_ being the sum stated at the foot of this warrant to be due under the said adjudication and order, together with the reasonable costs and charges of the making and keeping of the said distress be not paid, then to sell the said goods by you distrained, and pay the money arising therefrom to the magistrates' clerk, in order that it may be applied according to law, and that the overplus, if any, may be rendered on demand to the defendant: and if no such distress can be found, to certify the same to the said court, in order that further proceedings may be had according to law

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,

[L.S.] (Signed.) Magistrate.

	\$	c.
Amount adjudged,.....		
Paid, .....		
Remaining due,.....		
Costs of issuing warrant,.....		
Total amount to be levied, .....	\$	

\*Omit direction as to payment of fine, or compensation, or costs, as the case may require.

†N.B.—The goods are not to be sold until after the end of five clear days next following the day on which they are seized, unless the defendant consents or unless the goods are perishable.

FORM No. 41. [s. 45.]

*Warrant of distress on an order for the payment of any sum of money.*

HONG KONG. IN THE POLICE COURT AT

To [insert name, etc., of officer where the person executing is not a constable] and to each and all of the constables of the said Colony.

On the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, it was adjudged and ordered by the undersigned, [or J.P., Esquire,] a magistrate of the said Colony, that C.D. (hereinafter called the defendant) should pay to \_\_\_\_\_ the sum of \_\_\_\_\_ and the sum of \_\_\_\_\_ for costs [or as the case may be], on or before the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, [or as ordered]; and that, if default should be made in payment according to the said adjudication and order, the sum due thereunder should be levied by distress and sale of the defendant's goods; and default has been made in payment according to the said adjudication and order: Therefore you are hereby commanded [proceed as in warrant of distress on conviction for fine.]

FORM No. 42.

[s. 50.]

*Warrant of distress for costs on a conviction where the offence is punishable by imprisonment.*

HONG KONG. IN THE POLICE COURT AT

To [insert name, etc., of officer where the person executing is not a constable] and to each and all of the constables of the said Colony.

C.D., of [labourer,] (hereinafter called the defendant) was, on the day of 19, convicted before the said court for that [state the offence as in the conviction], and it was adjudged that the defendant for his said offence should be imprisoned in a prison in the said Colony [and there kept to hard labour] for the space of ; and it was also adjudged that the defendant should pay to the said A.B. the sum of for his costs in that behalf; and it was ordered that if the said sum of for costs should not be paid [forthwith], the same should be levied by distress and sale of the defendant's goods and chattels; and it was adjudged that, in default of sufficient distress in that behalf, the defendant should be imprisoned in a prison [and there kept to hard labour] for the space of ; to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs, and all costs and charges of the said distress, should be sooner paid; but the defendant having made default in the payment of the said sum of for costs: These are, therefore, to command you, in His Majesty's name, that you forthwith make distress of the defendant's goods and chattels, and if, within the space of days next after the making of such distress the said last-mentioned sum, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you sell the said goods and chattels so by you distrained, and pay the money arising from such sale to the magistrates' clerk that he may pay the same as by law directed, and may render the overplus, if any, on demand, to the defendant, and, if no such distress can be found, that then you certify the same to the said court, in order that further proceedings may be had according to law.

Dated this day of 19

[L.S.]

(Signed.)

Magistrate.

FORM No 43.

[s. 50.]

*Warrant of distress for costs on an order where the disobeying of the order is punishable with imprisonment.*

HONG KONG. IN THE POLICE COURT AT

To [insert name, etc., of officer where the person executing is not a constable] and to each and all of the constables of the said Colony.

On the day of 19, complaint was made before the undersigned [or J.P., Esquire,] a magistrate of the said Colony, for that [etc.. as in the order] and on the day of 19, at , the said parties having appeared before me, [or the said J.P., Esquire, or as it may be in the order] upon consideration of the matter of the said complaint, it was adjudged that the defendant should [etc.. as in the order]; and that if, upon a copy of the minute of that order being served on the defendant either personally or by leaving the same for him at his last or most usual place of abode he should refuse or neglect to obey the same, the defendant for such his disobedience should be imprisoned in a prison in the said Colony [and there kept to hard labour] for the space of unless the said order should be sooner obeyed; and also that the defendant should pay to the said A.B. the sum of for his costs in that behalf; and it was ordered that if the said sum for costs should not be paid [forthwith], the same should be levied by distress and sale of the defendant's goods and chattels; and it was adjudged that in default of sufficient distress in that behalf the defendant should be imprisoned in a prison [and there kept to hard labour] for the space of ; to commence at and from the termination of his imprisonment aforesaid unless the said sum for costs, and all costs and charges of the said distress, should be sooner

paid; and whereas after the making of the said order a copy of the minute thereof was duly served on the defendant, but he did not then pay, nor has he paid, the said sum of \_\_\_\_\_ for costs but therein has made default: These are, therefore, to command you, in His Majesty's name, that you forthwith make distress of the defendant's goods and chattels, and if, within the space of \_\_\_\_\_ days next after the making of such distress, the said last-mentioned sum together with the reasonable charges of taking and keeping the said distress shall not be paid, that then you sell the said goods and chattels so by you distrained, and pay the money arising from such sale to the magistrates' clerk, that he may pay the same as by law directed, and may render the overplus, if any, on demand, to the defendant, and, if no such distress can be found, then that you certify the same to the said court, in order that further proceedings may be had according to law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
 [L.S.] (Signed.) Magistrate.

FORM No. 44. [s. 64.]

*Warrant of distress for costs on an order for dismissal of an information or complaint.*

HONG KONG. IN THE POLICE COURT AT

To [insert name, etc., of officer where the person executing is not a constable] and to each and all of the constables of the said Colony.

On the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, information was laid [or complaint was made] before the undersigned [or J.P., Esquire,] a magistrate of the said Colony, for that [etc., as in the order of dismissal]; and afterwards, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, both parties having appeared before me [or the said J.P., Esquire,] and the case having been duly heard and considered, and the said information [or complaint] not having been proved, it was therefore dismissed; and it was adjudged that the said A.B. should pay to the defendant the sum of \_\_\_\_\_ for his costs incurred by him in his defence in that behalf; and it was ordered that if the said sum for costs should not be paid [forthwith], the same should be levied by distress and sale of the goods and chattels of the said A.B., and it was adjudged that, in default of sufficient distress in that behalf, the said A.B. should be imprisoned in a prison in the said Colony [and there kept to hard labour] for the space of \_\_\_\_\_, unless the said sum for costs, and all costs and charges of the said distress, should be sooner paid; and the said A.B. having now made default in the payment of the said sum for costs: These are, therefore, to command you, in His Majesty's name, that you forthwith make distress of the goods and chattels of the said A.B., and if, within the space of \_\_\_\_\_ days next after the making of such distress the said last-mentioned sum, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you sell the said goods and chattels so by you distrained, and pay the money arising from such sale to the magistrates' clerk, that he may pay the same as by law directed, and may render the overplus, if any, on demand to the said A.B., and if no such distress can be found, then that you certify the same to the said court, in order that further proceedings may be had according to law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
 [L.S.] (Signed.) Magistrate.

FORM No. 45. [s. 30.]

*Warrant of distress where the charge is dismissed, but the person charged is ordered to pay damages, or costs, or both.*

HONG KONG. IN THE POLICE COURT AT

The \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

C.D. (hereinafter called the defendant) was charged for that he, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_, [state offence]; and on the hearing of the said charge, on the

day of \_\_\_\_\_, 19\_\_\_\_, before the undersigned [*or J.P., Esquire,*] a magistrate of the said Colony, the magistrate being of opinion that, though the charge was proved, the offence was in the particular case of so trifling a nature that it was inexpedient to inflict any punishment, dismissed the information but ordered that the defendant should pay to \_\_\_\_\_ \*for damages and\* \_\_\_\_\_ †for costs†; and it was ordered that the said sums should be paid [*as in order*]: [*Proceed as in warrant of distress on conviction for fine.*]

\*Where no order to pay damages, omit words between asterisks.

†Where no order to pay costs, omit words between daggers.

In either case substitute "sum" for "sums."

FORM No. 46.

[s. 59.]

*Warrant of distress for sum due under recognizance declared to be forfeited.*

HONG KONG. IN THE POLICE COURT AT

To [*insert name, etc., of officer where the person executing is not a constable*] and to each and all of the constables of the said Colony.

C.D. was, by his recognizance entered into on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, bound in the sum of \_\_\_\_\_, the condition of the recognizance being that \_\_\_\_\_ should [*state condition of recognizance*], and, default having been made in compliance with the said condition, the said recognizance was, on the day of \_\_\_\_\_, 19\_\_\_\_, declared by the undersigned [*or J.P., Esquire,*] a magistrate of the said Colony to be forfeited: and the said \_\_\_\_\_ has made default in payment of the sum due under the said recognizance: Therefore you are hereby commanded forthwith to make distress of the goods of the said \_\_\_\_\_, except the wearing apparel and bedding of him and his family, and, to the value of twenty-five dollars, the tools and implements of his trade, and if, within the space of \* \_\_\_\_\_ days next after the making of such distress, the sum of \_\_\_\_\_, being the sum stated at the foot of this warrant to be due under the said recognizance, together with the reasonable costs and charges of the making and keeping of the said distress, be not paid, then to sell the said goods by you distrained and pay the money arising therefrom to the magistrates' clerk, in order that it may be applied according to law, and that the overplus, if any, may be rendered on demand to the said \_\_\_\_\_, and if no such distress is found, to certify the same to the said court, in order that further proceedings may be had according to law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_:

[L.S.]

(Signed.)

Magistrate.

	\$	c.
Amount due under recognizance, .....		
Paid, .....		
Remaining due, .....		
Costs of issuing warrant, .....		
Total amount to be levied, .....	\$	

\*N.B.—The goods are not to be sold until after the end of five clear days next following the day on which they are seized, unless the owner consents or unless the goods are perishable.

FORM No. 47.

[s. 59.]

*Warrant of distress for sum due under recognizance adjudged to be forfeited by conviction of principal.*

HONG KONG. IN THE POLICE COURT AT

To [insert name, etc., of officer where the person executing is not a constable] and to each and all of the constables of the said Colony.

C.D. (hereinafter called the defendant) was, by his recognizance entered into on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, bound in the sum of \_\_\_\_\_, the condition of the recognizance being that \_\_\_\_\_ should [state condition of recognizance]; and the said \_\_\_\_\_ having been convicted of the offence of having [state offence], being an offence which is in law a breach of the said condition, it was, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, adjudged by the undersigned [or J.P., Esquire,] a magistrate of the said Colony, that the said recognizance should be forfeited, and that the defendant should pay to the magistrates' clerk the said sum of \_\_\_\_\_, and should also pay the sum of \_\_\_\_\_ for costs; and it was ordered that the said sum should be paid [as in order], and that, if default should be made in payment according to the said adjudication and order, the sum due thereunder should be levied by distress and sale of the defendant's goods; and default has been made in payment according to the said adjudication and order: Therefore you are hereby commanded [proceed as in warrant of distress for fine].

FORM No. 48.

[s. 58.]

*Warrant of distress for sum due by a principal in pursuance of a forfeited security for payment of a sum adjudged by a conviction.*

HONG KONG. IN THE POLICE COURT AT

To [insert name, etc., of officer where the person executing is not a constable] and to each and all of the constables of the said Colony.

C.D. (hereinafter called the defendant) was, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, convicted before the said court for that he, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_, [state offence]; and it was adjudged by the said conviction that the defendant should pay [as in the conviction]; and it was ordered that the defendant should be at liberty to give, to the satisfaction of a magistrate of the said Colony [or as in the conviction], security with \_\_\_\_\_ suret \_\_\_\_\_ for the payment of the said sum at the time and in the manner by the said conviction directed; and the defendant and \_\_\_\_\_ and \_\_\_\_\_ his sureties [or surety] undertook that the defendant would pay the said sum at the time and in the manner so directed, and [severally] acknowledged themselves [or himself] bound to forfeit and pay to \_\_\_\_\_ the sum of \_\_\_\_\_ in case the defendant failed to make payment as so directed; and it appears to me that the sum of \_\_\_\_\_ due by the defendant in pursuance of the said undertaking has not been paid and has been forfeited; and notice of the said forfeiture has been duly served on the defendant: Therefore you are hereby commanded [proceed as in warrant of distress on conviction for fine, substituting for the words "being the sum stated at the foot of this warrant to be due under the said adjudication and order" the words "being the sum stated at the foot of this warrant to be due in pursuance of the said undertaking", and stating the amount at the foot as "amount due in pursuance of the said undertaking"].

FORM No 49.

[s. 47.]

*Return to a warrant of distress.*

HONG KONG. IN THE POLICE COURT AT

I, W.T., do hereby certify to the said court that by virtue of this warrant I have made diligent search for the goods and chattels of the within-mentioned defendant, and that I can find no sufficient goods or chattels of the defendant whereon to levy the sums within-mentioned.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(Signed.)

FORM No. 50.

[s. 53.]

*Account of costs and charges incurred in respect of the execution of a warrant of distress.*

HONG KONG. IN THE POLICE COURT AT

In the matter of an information [or a complaint] by

I, \_\_\_\_\_, of \_\_\_\_\_, the constable charged with the execution of the warrant of distress upon the goods of \_\_\_\_\_, dated the day of \_\_\_\_\_, 19\_\_\_\_, hereby declare that the following is a true account of the costs and charges incurred in respect of the execution of the said warrant.

\$ c.

Total,.....

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(Signed.)

FORM No. 51.

[s. 49.]

*Warrant of commitment in the first instance.*

HONG KONG. IN THE POLICE COURT AT

To each and all of the constables of the said Colony and to the Superintendent of Prisons in the said Colony.

C.D., late of \_\_\_\_\_, [labourer] (hereinafter called the defendant) was on this day duly convicted before the said court for that [state the offence as in the conviction]; and it was thereby adjudged that the defendant for his said 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 costs; and it was thereby adjudged that, if the said several sums should not be paid [forthwith], the defendant should be imprisoned in a prison [and there kept to hard labour] for the space of \_\_\_\_\_, unless the said several sums should be sooner paid; and whereas the time in and 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: These are, therefore, to command you, the said constables, to take the defendant and convey him to a prison and there to deliver him to the said Superintendent, together with this warrant; and you, the said Superintendent, to receive the defendant into your custody in a prison and there to imprison him [and keep him to hard labour] for the space of \_\_\_\_\_, unless the said several sums shall be sooner paid; and for your so doing this shall be your sufficient warrant.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

[L.S.]

(Signed.)

Magistrate.

FORM No. 52.

[s. 49.]

*Warrant of commitment on an order in the first instance.*

HONG KONG. IN THE POLICE COURT AT

To each and all of the constables of the said Colony and to the Superintendent of Prisons in the said Colony.

On the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, complaint was made before the undersigned, [or J.P., Esquire,] a magistrate of the said Colony, for that [etc., as in the order], and afterwards, to wit, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the parties appeared before me, [or J.P., Esquire,] the said magistrate, and thereupon, having considered the matter of the said complaint, it was adjudged that the defendant should pay to the said A.B. the sum of \_\_\_\_\_ on or before the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and also

should pay to the said A.B. the sum of \_\_\_\_\_ for costs; and it was also thereby adjudged that, if the said several sums should not be paid on or before the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the defendant should be imprisoned in a prison [and there kept to hard labour] for the space of \_\_\_\_\_, unless the said several sums should be sooner paid; and whereas the time in and by the said order appointed for the payment of the said several sums of money has elapsed, but the defendant has not paid the same but therein has made default: These are, therefore, to command you, the said constables, to take the defendant and convey him to a prison, and there to deliver him to the said Superintendent, together with this warrant; and you, the said Superintendent, to receive the defendant into your custody in a prison and there to imprison him [and keep him to hard labour] for the space of \_\_\_\_\_, unless the said several sums shall be sooner paid; and for your so doing this shall be your sufficient warrant

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
 [L.S.] (Signed.) \_\_\_\_\_ Magistrate.

FORM No. 53. [ss. 47 and 48.]

*Warrant of commitment for want of distress.*

HONG KONG. IN THE POLICE COURT AT

*To each and all of the constables of the said Colony and to the Superintendent of Prisons in the said Colony.*

[Proceed as in warrant of distress down to commanding part, and close thus]:--

and on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, a warrant of distress was handed for execution to \_\_\_\_\_, a constable of the said Colony, commanding him to levy the sum of [state sum directed to be levied] by distress and sale of the defendant's goods; and it now appears, as well by the return of the said constable to the said warrant of distress as otherwise, that he has made diligent search for the defendant's goods but that no sufficient distress whereon to levy the said sum could be found: These are, therefore, to command you, the said constables, to take the defendant and convey him to a prison, and there to deliver him to the said Superintendent, together with this warrant; and you, the said Superintendent, to receive the defendant into your custody in a prison and there to imprison him [and keep him to hard labour] for the space of \_\_\_\_\_, unless the said sum, and all the costs and charges of the said distress, shall be sooner paid; and for your so doing this shall be your sufficient warrant.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
 [L.S.] (Signed.) \_\_\_\_\_ Magistrate.

FORM No. 54. [s. 46.]

*Warrant of commitment pending return to warrant of distress.*

HONG KONG. IN THE POLICE COURT AT

*To each and all of the constables of the said Colony and to the Superintendent of Prisons in the said Colony.*

C.D. (hereinafter called the defendant) was, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, [or this day] convicted before the said court for that he [state the offence as in the conviction]; and default has been made in payment according to the said adjudication and order; and a warrant of distress has been issued against the defendant in pursuance of the said conviction, but no return has been made thereto; and the defendant has not given sufficient security, to the satisfaction of this court, for his appearance at the time and place appointed for the return of the said warrant: These are, therefore, to command you, the said constables, to take the defendant and convey him to a prison, and there to deliver him to the said Superintendent together with this warrant; and you the said Superintendent, to receive the defendant into your custody in a prison and there to keep and detain him until the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.



being the day appointed for the return of the said warrant, unless he previously enters into a recognizance in the sum of \$ , with suret in the sum of \$ [each] conditioned for his appearance on that day; and on that day, if such recognizance has not been entered into, to convey and have him before a magistrate of the said Colony at the said police court, at o'clock in the noon, to be further dealt with according to law; and for your so doing this shall be your sufficient warrant.

Dated this day of , 19 .  
 [L.S.] (Signed.) Magistrate.

FORM No. 55. [s. 50.]

*Warrant of commitment on a conviction where the punishment is by imprisonment.*

HONG KONG. IN THE POLICE COURT AT

*To each and all of the constables of the said Colony and to the Superintendent of Prisons in the said Colony.*

C.D. (hereinafter called the defendant) has been this day convicted before the said court for that he [state the offence as in the conviction]; and it has been adjudged that the defendant be for his said offence imprisoned in a prison [and there kept to hard labour] for the space of : These are, therefore, to command you, the said constables, to take the defendant and convey him to a prison, and there to deliver him to the said Superintendent, together with this warrant; and you, the said Superintendent, to receive the defendant into your custody in a prison and there to imprison him [and keep him to hard labour] for the space of ; and for your so doing this shall be your sufficient warrant.

Dated this day of , 19 .  
 [L.S.] (Signed.) Magistrate.

FORM No. 56. [s. 50.]

*Warrant of commitment on an order where disobedience to the order is punishable by imprisonment.*

HONG KONG. IN THE POLICE COURT AT

*To each and all of the constables of the said Colony and to the Superintendent of Prisons in the said Colony.*

On the day of , 19 , complaint was made before the undersigned, [or J.P., Esquire,] a magistrate of the said Colony, for that [etc., as in the order]; and afterwards, to wit, on the day of , 19 , at the said parties appeared before me [or as in the order]; and thereupon, having considered the matter of the said complaint, it was ordered that the defendant should [as in the order]; and it was adjudged that if, upon a copy of the minute of that order being duly served on the defendant, either personally or by leaving the same for him at his last or most usual place of abode, he should refuse or neglect to obey the same, in such case the defendant for such his disobedience should be imprisoned in a prison [and there kept to hard labour] for the space of , unless the said order should be sooner obeyed: and it now having been proved to me that, after the making of the said order, a copy of the minute thereof was duly served on the defendant, but he then refused [or neglected] to obey the same, and has not as yet obeyed the same: These are, therefore, to command you, the said constables, to take the defendant and convey him to a prison, and there to deliver him to the said Superintendent, together with this warrant; and you, the said Superintendent, to receive the defendant into your custody in a prison and there to imprison him [and keep him to hard labour] for the space of : and for your so doing this shall be your sufficient warrant

Dated this day of , 19 .  
 [L.S.] (Signed.) Magistrate.



order]: Therefore the said term of imprisonment is hereby revoked; and it is hereby ordered that the defendant be imprisoned in a prison [and there kept to hard labour] for the space of [the reduced term], unless the said sum, and all costs and charges of the said distress, if any, shall be sooner paid, and you are hereby commanded [proceed as in ordinary warrant of commitment, inserting reduced term of imprisonment].

FORM No. 60.

[s. 29.]

Register of convictions and orders.

HONG KONG. IN THE POLICE COURT AT

The day of , 19 .

No.	Name of informant or complainant.	Name of defendant.	Name of offence or of matter of complaint.	Minute of adjudication.	Magistrate adjudicating.
(1)	(2)	(3)	(4)	(5)	(6)

PART II.

FORMS FOR RECOVERY OF CIVIL DEBTS.

FORM No. 61.

[s. 60.]

Summons to defendant.

HONG KONG. IN THE POLICE COURT AT

Between Plaintiff,

(Address  
Description)

and

Defendant.

(Address  
Description)

To , of

You are hereby summoned to appear before such magistrate of the said Colony as may be sitting at the said court on day, the day of , 19 , at o'clock in the noon, to answer the plaintiff's claim, the particulars of which are hereto annexed.

Dated this day of , 19 .

[L.S.]

(Signed.)

Magistrate.

FORM No. 62.

[s. 61.]

Summons to witness.

HONG KONG. IN THE POLICE COURT AT

Between Plaintiff,

(Address  
Description)

and

Defendant.

(Address  
Description)

To \_\_\_\_\_, of \_\_\_\_\_

You are hereby required to attend before such magistrate of the said Colony as may be sitting at the said court on \_\_\_\_\_ day, the day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock in the noon, to give evidence in the above cause on behalf of the plaintiff [or defendant].

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

[L.S.] \_\_\_\_\_ (Signed.) \_\_\_\_\_ Magistrate.

FORM No. 63. [s. 61.]

*Judgment for plaintiff.*

HONG KONG. IN THE POLICE COURT AT

Before J.P. Esquire, a magistrate of the said Colony.

Between \_\_\_\_\_ Plaintiff,

(Address  
Description)

and

Defendant.

(Address  
Description)

The \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

It is this day adjudged that the plaintiff recover against the defendant the sum of \_\_\_\_\_ for debt [or damages] and \_\_\_\_\_ for costs, amounting together to the sum of \_\_\_\_\_; and it is ordered that the defendant pay the same to the plaintiff forthwith [or on or before the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, or by instalments of \_\_\_\_\_ for every \_\_\_\_\_ days, the first instalment to be paid forthwith or on or before the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,];\* and if default is made in payment according to this adjudication and order, it is ordered that the sum due thereunder be levied by distress and sale of the defendant's goods.\*

[L.S.] \_\_\_\_\_ (Signed.) \_\_\_\_\_ Magistrate.

\*If security is accepted, substitute for words between asterisks: "and it is ordered that the defendant be at liberty to give, to the satisfaction of a magistrate [or of \_\_\_\_\_], security in the sum of \_\_\_\_\_, with one surety [or two sureties] in the sum of \_\_\_\_\_ [each] for payment of the said sum as above directed."

FORM No. 64. [s. 61.]

*Judgment for defendant.*

HONG KONG. IN THE POLICE COURT AT

Before J.P. Esquire, a magistrate of the said Colony.

Between \_\_\_\_\_ Plaintiff,

(Address  
Description)

and

Defendant.

(Address  
Description)

The \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Upon hearing this cause this day, it is adjudged that judgment be entered for the defendant, and that the plaintiff pay the sum of \_\_\_\_\_ for the defendant's costs forthwith [or on or before the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, or by instalments of \_\_\_\_\_ for every \_\_\_\_\_ days, the first instalment to be paid forthwith or on or before the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,];\* and if default is made in payment according to this adjudication and order, it is

ordered that the sum due thereunder be levied by distress and sale of the plaintiff's goods.\*

[L.S.] (Signed.) Magistrate.

*\*If security is accepted, substitute for words between asterisks: "and it is ordered that the plaintiff be at liberty to give, to the satisfaction of a magistrate [or of ], security in the sum of [each] for payment of the said sum as above directed."*

FORM No. 65. [s. 61.]

*Judgment summons.*

HONG KONG. IN THE POLICE COURT AT

Between Plaintiff,  
 (Address Description)  
 and  
 Defendant.  
 (Address Description)

The day of , 19 .

To the above-named defendant [or plaintiff].

The plaintiff [or defendant] obtained an order against you, the above-named defendant [or plaintiff], before the undersigned, [or J.P., Esquire,] a magistrate of the said Colony, on the day of , 19 , for the payment of , and you have made default in payment of the sum payable in pursuance of the said order: Therefore you are hereby summoned to appear personally before such magistrate of the said Colony as may be sitting at the said court on day the day of 19 , at o'clock in the noon, to be examined upon oath [or declaration] by the said court touching the means you have or have had since the date of the order to satisfy the sum payable in pursuance of the said order; and also to show cause why you should not be committed to prison for such default.

[L.S.] (Signed.) Magistrate.

Amount of order, and costs .....\$ c.

	\$	c.
Deduct { Paid into the Magistracy ... Instalments not required to have been paid before the date of the summons..		

Sum payable .....\$ c.  
 Costs of this summons.....  
 Amount upon payment of which no further proceed-  
 ings will be had until default in payment of next  
 instalments.

FORM No. 66. [s. 61.]

*Order of commitment.*

HONG KONG. IN THE POLICE COURT AT

Between Plaintiff,

(Address  
Description)

and

Defendant.

(Address  
Description)

To each and all of the constables of the said Colony and to the Superintendent of Prisons in the said Colony.

The plaintiff [or defendant] obtained an order against the defendant [or plaintiff] before the undersigned, [or before J.P., Esquire,] a magistrate of the said Colony on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, for the payment of \_\_\_\_\_, and the defendant [or plaintiff] has made default in payment of \_\_\_\_\_, payable in pursuance of the said order; and a summons was, at the instance of the plaintiff [or defendant], duly issued, by which the defendant [or plaintiff] was required to appear personally before such magistrate of the said Colony as might be sitting at the said court on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, to be examined upon oath [or declaration] touching the means he had then or had since the date of the order to satisfy the sum then due and payable in pursuance of the said order, and to show cause why he should not be committed to prison for such default; and at the hearing of the said summons the defendant [or plaintiff] appeared [or the summons was proved to have been duly served], and it has now been proved that the defendant [or plaintiff] now has [or has had since the date of the said order] the means to pay the sum then due and payable in pursuance of the said order, and has refused [or neglected, or then refused or neglected] to pay the same, and the defendant [or plaintiff] has shown no cause why he should not be committed to prison: Now, therefore, it is ordered that, for such default, the defendant [or plaintiff] be committed to prison for \_\_\_\_\_ days, unless he shall sooner pay the sum stated below as that on the payment of which he is to be discharged: and you are hereby required, you the said constables, to take the defendant [or plaintiff] and convey him to a prison, and there to deliver him to the said Superintendent, together with this order; and you, the said Superintendent, to receive the defendant [or plaintiff] and keep him safely in a prison for \_\_\_\_\_ days from the arrest under this order, or until he is sooner discharged by due course of law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

[L.S.]

(Signed.)

Magistrate.

\$ \_\_\_\_\_ c.

Total sum payable at the time of hearing of the judgment summons .....

Hearing of summons, and costs of order .....

Total sum on payment of which the prisoner will be discharged .....

FORM No. 67.

[s. 61.]

Certificate for discharge of a prisoner from custody.

HONG KONG. IN THE POLICE COURT AT

Between

Plaintiff,

(Address  
Description)

and

Defendant.

(Address  
Description)

To the Superintendent of Prisons in the said Colony.

I hereby certify that the defendant [or plaintiff], who was committed to your custody by virtue of an order of commitment dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, has paid and satisfied



FORM No. 69.

[s. 61.]

*Oral or written acknowledgment of undertaking to pay civil debt.*

HONG KONG. IN THE POLICE COURT AT

Between Plaintiff,

(Address  
Description)

and

Defendant.

(Address  
Description)

It was this day [or on the            day of            , 19    ,] adjudged by the undersigned, [or J.P., Esquire,] a magistrate of the said Colony, that the plaintiff should recover against the defendant the sum of            for debt [or damages] and            for costs, amounting together to the sum of            : and it was ordered that the defendant should pay the same to the plaintiff forthwith, [or on or before the            day of            , 19    , or by instalments of            for every            days, the first instalment to be paid on the            day of            , 19    ,] and that the defendant should be at liberty to give, to the satisfaction of a magistrate [or as in the judgment], security in the sum of            with            suret            in the sum of            [each], for the payment of the sum so ordered to be paid as thereby directed: Now, therefore, I, the defendant, as principal, and we E.F., of            , and G.H., of            , as sureties [or I, E.F., of            , as surety,] hereby undertake that the defendant will pay the sum so ordered to be paid as thereby directed; and I, the said defendant, and we [or I] the said sureties [or surety], hereby severally acknowledge ourselves bound to forfeit and pay to            the sum of            in case the defendant fails to perform this undertaking.

(Signed.) (where not taken orally)

C.D., Defendant.

E.F., } Sureties.  
G.H., }

Taken [orally] before me this            day of            , 19    .

[L. s.]

(Signed.)

Magistrate.

PART III.

FORMS FOR INDICTABLE OFFENCES.

FORM No. 70.

[s. 76.]

*Caution to and statement by accused.*

HONG KONG. IN THE POLICE COURT AT

Before J.P., Esquire, a magistrate of the said Colony.

C.D. (hereinafter called the accused) stands charged before the undersigned, a magistrate of the said Colony, for that he, on the day of            , 19    , at            [etc., as in the heading to the depositions] and the said charge being read to the accused and the witnesses for the prosecution E.F. and G.H. being severally examined in his presence, the accused is now addressed by me as follows: "Having heard the evidence, do you wish to say anything in answer to the charge? You are not obliged to say anything unless you desire to do so; but whatever you say will be taken down in writing, and may be given in evidence upon your trial and you are clearly to understand that you have nothing to hope from any promise of favour and that you have nothing to fear from any threat which may have been held out to you to induce you to make any admission



or confession of your guilt, but that whatever you say now may be given in evidence upon your trial notwithstanding such promise or therat"; whereupon the said C.D. saith as follows:

[Here state whatever the prisoner may say, and in his very words as nearly as possible. Get him to sign it, if he will.]

This day of , 19 .

(Signed.) C.D.

Taken before me at the day and year last above written.

(Signed.) Magistrate.

FORM No. 71. [s. 78.]

*Recognizance to prosecute or give evidence.*

HONG KONG. IN THE POLICE COURT AT

Before J.P., Esquire, a magistrate of the said Colony.

The day of , 19 .

A.B., of , personally came before me, the undersigned, and acknowledged himself to owe to Our Sovereign Lord the King the sum of , to be made and levied on his goods and chattels, lands and tenements, to the use of Our Sovereign Lord the King, his heirs and successors, if he, the said A.B., shall fail in the condition hereon indorsed.

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

[L.S.] (Signed.) Magistrate.

*Condition to prosecute.*

If therefore he, the said A.B., shall appear at the next [or as may be] criminal session of the Supreme Court, and there prefer or cause to be preferred against the said C.D., an indictment for the offence aforesaid, and there also duly prosecute such indictment, then the said recognizance to be void, or else to stand in full force and virtue.

[Where the condition is to prosecute and give evidence, add after the words "Supreme Court"]

"and there prefer or cause to be preferred an indictment against the said C.D., for the offence aforesaid, and duly prosecute such indictment, and give evidence thereon to the Supreme Court and jurors on the trial of the said C.D., then the said recognizance to be void, or else to stand in full force and virtue."

[Where the condition is to give evidence only, add after the words "Supreme Court"]

"and there give such evidence as he knoweth on an indictment to be then and there preferred against the said C.D., for the offence aforesaid to the Supreme Court and jurors on the trial of the said C.D., then the said recognizance to be void, or else to stand in full force and virtue."

FORM No. 72. [s. 78.]

*Notice of the said recognizance to be given to the prosecutor and his witnesses.*

HONG KONG. IN THE POLICE COURT AT

Take notice that you, A.B., of , are bound in the sum of to appear at the next criminal session of the Supreme Court [or as the case may be], and then and there prosecute and give evidence [according to the condition] against C.D., and unless you then appear

there and prosecute and give evidence accordingly, the recognizance entered into by you will be forthwith levied on you.

Dated this                    day of                    , 19 .

(Signed.)    Magistrate.

FORM No. 73.    [s. 78.]

*Commitment of witness for refusing to enter into the recognizance.*

HONG KONG.                    IN THE POLICE COURT AT

*To each and all of the constables of the said Colony and to the Superintendent of Prisons in the said Colony.*

Whereas *C.D.*, was lately charged before the undersigned, a magistrate of the said Colony, for that [*etc.*, as in the summons to the witness]; and it having been made to appear to me upon oath that *E.F.*, of                    , was likely to give material evidence for the prosecution, I duly issued my summons to the said *E.F.*, requiring him to be and appear before me on the                    day of                    , 19                    , at                    , or before such other magistrate as should then be there, to testify what he should know concerning the said charge so made against the said *C.D.* as aforesaid; and the said *E.F.* now appearing before me [*or being brought before me by virtue of a warrant in that behalf*] to testify as aforesaid has now been examined by me touching the premises, but being by me required to enter into a recognizance conditioned to give evidence against the said *C.D.*, has now refused so to do: These are, therefore, to command you, the said constables, to take the said *E.F.* and him safely to convey to a prison and there deliver him to the said Superintendent, together with this precept: and you, the said Superintendent, to receive the said *E.F.* into your custody in a prison and there to imprison and safely keep him until after the trial of the said *C.D.* for the offence aforesaid, unless in the meantime the said *E.F.* shall duly enter into such recognizance as aforesaid in the sum of                    before a magistrate of the said Colony, conditioned in the usual form, to appear at the next criminal session of the Supreme Court [*or as the case may be*] and there to give evidence on the trial of the said *C.D.* for the said offence, if an indictment should be filed against him for the same.

Dated this                    day of                    , 19 .

[L.S.]    (Signed.)    Magistrate.

FORM No. 74.    [s. 78.]

*Subsequent order to discharge the witness.*

HONG KONG.                    IN THE POLICE COURT AT

*To the Superintendent of Prisons in the said Colony.*

Whereas by my order, dated the                    day of                    , 19                    , reciting that *C.D.* was lately charged before me for a certain offence mentioned, and *E.F.*, having appeared before me and being examined as a witness for the prosecution in that behalf, refused to enter into a recognizance to give evidence against the said *C.D.*, and I therefore thereby committed the said *E.F.* to your custody and required you safely to keep him until after the trial of the said *C.D.* for the offence aforesaid unless in the meantime he should enter into such recognizance as aforesaid; and whereas, for want of sufficient evidence against the said *C.D.*, the said *C.D.* has not been committed or holden to bail for the said offence, but on the contrary has since been discharged, and it is therefore not necessary that the said *E.F.* should be detained longer in your custody; These are, therefore, to order and direct you, the said Superintendent, to discharge the said *E.F.* out of your custody as to the said commitment, and suffer him to go at large.

Dated this                    day of                    , 19 .

[L.S.]    (Signed.)    Magistrate.

FORM No. 75.

[s. 73.]

*Warrant remanding accused.*

HONG KONG. IN THE POLICE COURT AT

*To each and all of the constables of the said Colony and to the Superintendent of Prisons in the said Colony.*

Whereas *C.D.* was this day charged before the undersigned, a magistrate of the said Colony, for that [*etc., as in the warrant to apprehend*]; and it appears to me to be necessary to remand the said *C.D.*: These are, therefore, to command you, the said constables, in His Majesty's name, forthwith to convey the said *C.D.* to a prison and there deliver him to the said Superintendent together with this precept; and you, the said Superintendent, to receive the said *C.D.* into your custody in a prison and there safely keep him until day, the day of , 19 , when I hereby command you to have him at the said police court, at o'clock in the noon of the same day, before such magistrate of the said Colony as may be sitting at the said court, to answer further to the said charge, and to be further dealt with according to law, unless you shall be otherwise ordered in the meantime.

Dated this day of , 19 .

[L.S.] (Signed.) Magistrate.

FORM No. 76.

[s. 73.]

*Recognizance of bail instead of remand, on an adjournment of examination.*

HONG KONG. IN THE POLICE COURT AT

On the day of , 19 , *C.D.*, of , *E.F.*, of . and *G.H.*, of , personally came before me, a magistrate of the said Colony, and severally acknowledged themselves to owe to Our Sovereign Lord the King the several sums following: that is to say, the said *C.D.* the sum of , and the said *E.F.* and *G.H.* the sum of each to be made and levied on their several goods and chattels, lands and tenements, respectively, to the use of Our Sovereign Lord the King, his heirs and successors if he, the said *C.D.*, shall fail in the condition hereon indorsed.

Taken and acknowledged, this day of 19 , at , before me.

[L.S.] (Signed.) Magistrate.

*Condition.*

The condition of the within-written recognizance is such that whereas the within-bounden *C.D.* was this day [or on the day of , 19 ,] charged before me, for that he [*etc., as in the warrant*]; and whereas the examination of the witnesses for the prosecution in this behalf is adjourned until the day of , 19 ; if therefore the said *C.D.* shall appear before me on the said day of , 19 , at o'clock in the noon, at , or before such other magistrate as may then be there, to answer [further] to the said charge and to be further dealt with according to law, then the said recognizance to be void, or else to stand in full force and virtue.

FORM No. 77.

[s. 73.]

*Notice of the said recognizance to be given to accused and his sureties.*

HONG KONG. IN THE POLICE COURT AT

Take notice that you *C.D.*, of , are bound in the sum of , and your sureties, *E.F.* and *G.H.*, in the sum of each, that you, *C.D.*, appear before me a magistrate of the said Colony, on day, the day of ,

19 , at o'clock in the noon, at , to answer further to the charge made against you by A.B. and to be further dealt with according to law; and unless you, C.D., personally appear accordingly, the recognizance entered into by yourself and your sureties will be forthwith levied on you and them.

Dated this day of , 19  
 [L.s.] (Signed.) Magistrate.

FORM No. 78. [s. 97.]

*Recognizance of bail.*

HONG KONG. IN THE POLICE COURT AT

On the day of , 19 , C.D., of E.F., of and G.H. of personally came before me the undersigned, a magistrate of the said Colony, and severally acknowledge themselves to owe to Our Sovereign Lord the King the several sums following: (that is to say), the said C.D. the sum of , and the said E.F. and G.H. the sum of [each], to be made and levied on their several goods and chattels, lands and tenements respectively, to the use of our Sovereign Lord the King, his heirs and successors, if he the said C.D. shall fail in the condition hereon indorsed.

Taken and acknowledged, this day of , 19 , at , before me.

(Signed.) Magistrate.

Explained by Sworn Interpreter.

*Condition in ordinary cases.*

The condition of the above-written recognizance is such, that whereas the said C.D. was this day charged before me for that he [etc., as in the warrant]

If therefore the said C.D. will appear at the criminal session of the Supreme Court to be holden on the day of 19 , and at every adjournment thereof and there surrender himself (if so required) into the custody of the Superintendent of Prisons in the said Colony, and plead to such indictment as may be filed against him by the Attorney General and take his trial upon the same, and not depart the said court without leave, then the said recognizance to be void, or else to stand in full force and virtue.

FORM No. 79. [s. 97.]

*Notice of the said recognizance to be given to accused and his sureties.*

HONG KONG. IN THE POLICE COURT AT

Take notice that you, C.D., of , are bound in the sum of , and your sureties, E.F. and G.H., in the sum of [each], that you C.D., appear [etc., as in the condition of the recognizance], and not depart the said court without leave; and unless you, C.D., personally appear and plead, and take your trial accordingly, the recognizance entered into by yourself and your sureties will be forthwith levied on you and them.

Dated this day of , 19 .  
 [L.s.] (Signed.) Magistrate.

FORM No. 80.

[s. 97.]

*Certificate of consent to bail by the committing magistrate  
indorsed on the commitment.*

HONG KONG. IN THE POLICE COURT AT

I hereby certify that I consent to the within-named *C.D.* being bailed by recognizance, himself in the sum of \_\_\_\_\_, and [two] sureties in the sum of \_\_\_\_\_ [each].

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_  
[L.S.] (Signed.) Magistrate.

FORM No. 81.

[s. 98.]

*Warrant of deliverance on bail being given for a prisoner  
already committed.*

HONG KONG. IN THE POLICE COURT AT

*To the Superintendent of Prisons in the said Colony.*

*C.D.*, late of \_\_\_\_\_ [labourer] has before me, a magistrate of the said Colony, entered into his own recognizance, and found sufficient sureties for his appearance at the next criminal session of the Supreme Court [or as the case may be] to answer Our Sovereign Lord the King for that he [etc., as in the commitment], for which he was taken and committed to a prison: These are, therefore, to command you, in His Majesty's name, that if the said *C.D.* do remain in your custody in a prison for the said cause, and for no other, you shall forthwith suffer him to go at large.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_  
[L.S.] (Signed.) Magistrate.

## PART IV.

## FORMS FOR INDICTABLE OFFENCES TRIABLE SUMMARILY.

FORM No. 82.

[ss. 84 and 85.]

*Summary conviction of indictable offence.*

HONG KONG. IN THE POLICE COURT AT

Before *J.P.*, Esquire, a magistrate of the said Colony.

The \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

*C.D.* (hereinafter called the defendant) having been charged for that he, on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, at \_\_\_\_\_, [state offence]; and the magistrate having determined to try the case summarily; the defendant is this day convicted of the said offence, and it is adjudged that he pay [or that he be imprisoned, insert particulars] for his said offence [proceed as in ordinary forms of summary conviction.]

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_  
[L.S.] (Signed.) Magistrate.

FORM No. 83.

[s. 85.]

*Order of dismissal where an indictable offence has been tried summarily.*

HONG KONG.

IN THE POLICE COURT AT

Before J.P., Esquire, a magistrate of the said Colony.

The                      day of                      , 19                      .

C.D. (hereinafter called the defendant) having been charged on the information of A.B. for that he, on the                      day of                      , 19                      , at                      [state offence]; and the magistrate having determined to try the case summarily; and the matter of the said charge having been duly considered by the said magistrate, it manifestly appears to him that the said charge is not proved: Therefore the said information is hereby dismissed; and it is ordered that the informant pay to the defendant the sum of                      for costs forthwith [or on or before the                      day of                      , 19                      ]; and if default is made [proceed as in a conviction for fine to be levied by distress.]

[L.S.]

(Signed.)

Magistrate.

FORM No. 84.

[s. 100.]

*Application to magistrate to state a case.*

HONG KONG.

IN THE POLICE COURT AT

To J.P., Esquire, a magistrate of the said Colony.

In the matter of an information [or complaint] wherein I, the undersigned A.B., was informant [or prosecutor, or complainant] and C.D. was defendant, heard and determined before you at the said police court on the                      day of                      , 19                      , being dissatisfied with your determination, upon the hearing of the above information [or complaint] and being aggrieved thereby as being erroneous in point of law [or as the case may be], I hereby, pursuant to section 100 of the Magistrates Ordinance, 1932, make application to you to state and sign a case setting forth the facts and ground of such your determination, in order that I may appeal therefrom to the Full Court.

Dated this                      day of                      , 19                      .

(Signed.)

A.B.

FORM No. 85.

[s. 105.]

*Magistrate's certificate for leave to appeal by way of re-hearing*

HONG KONG.

IN THE POLICE COURT AT

Whereas on the                      day of                      , 19                      , an information [or complaint] preferred by A.B. against C.D., of                      , (hereinafter called the defendant) for that he [etc., as in the information, complaint or summons] was heard and determined by me, the undersigned, a magistrate of the said Colony, and the defendant was duly convicted of the said offence and was adjudged [or the defendant was ordered to pay the said A.B., the sum of                      ]. [here state the adjudication of fine, sum, or imprisonment and costs as in a conviction or order, or, if dismissed]: and thereupon the said information [or complaint] was dismissed, [and the said A.B. was ordered to pay to the defendant the sum of                      for his costs incurred by him in his defence in that behalf] [conclude as in the order of dismissal]; and whereas the defendant [or A.B.], being dissatisfied



section of the [state the Ordinance or statute as the case may be charging, for that he, the appellant [etc., state the offence or cause of complaint], was heard and determined by me, the said parties respectively being then present; and upon such hearing the appellant was duly convicted before me of the said offence, and it was adjudged that he should pay [or and upon such hearing the appellant was by me ordered to pay] to the respondent the sum of [here state the adjudication of fine, sum, or imprisonment and costs, as in a conviction or an order]

[Or, if dismissed: and upon such hearing the said information [or complaint] was dismissed by me, [and, if so, the appellant was ordered to pay to the respondent the sum of for his costs incurred by him in his defence in that behalf, [conclude as in an order of dismissal].

2. And whereas the appellant, being dissatisfied with my determination upon the hearing of the said information [or complaint] and alleging himself to be aggrieved by such determination as being erroneous in point of law has, pursuant to section 100 of the Magistrates Ordinance, 1932, duly applied to me in writing to state and sign a case setting forth the facts and the grounds of such determination as aforesaid, in order that he may appeal therefrom to the Full Court, and has duly entered into a recognizance as required by the said Ordinance in that behalf.

[If the case is stated in obedience to a rule under section 111, recite the refusal and the granting of such rule as follows:—but I, being of opinion that the application of the appellant was merely frivolous, refused to state and sign such case, and at his request signed and delivered to him a certificate of such refusal; and whereas the Full Court has since granted a rule calling upon me to state such case.]

3. Now therefore I, the said magistrate, in compliance with the said application [or in obedience to the said rule and order of the Full Court] and the provisions of the said Ordinance [if more facts are introduced than proved and by consent of the said parties], do hereby state and sign the following case.

4. Upon the hearing of the information [or complaint] it was proved on the part of the respondent, and found as a fact, that [here state so much of the evidence given and of the facts as are necessary to raise the point of law in question].

5. [State here any of the following paragraphs according to circumstances]. It was admitted by the appellant that the said proceedings had before me were legal and regular, and that if [according to circumstances] the said conviction [or order] was properly made.

6. It is also an admitted fact that

7. It was further stated on behalf of the respondent, and admitted by the appellant, that

8. For the purpose of enabling the said court to determine the questions raised between the parties, the following further facts were stated and agreed upon between them, viz.:

If it is desired to refer to a portion of the evidence by consent, insert the following paragraph:—

9. It is agreed that if either party shall wish to refer to [a document or book] not set out in the body of this case, such party shall be at liberty to do so, and that for this purpose the said [document or book] shall be taken, so far as it relates to the said , to form part of this case.

10. It was contended on the part of the appellant that [here state the legal objection or objections to the findings on the facts taken by the defendant or his counsel].

11. I, however, being of opinion that [here state the grounds of the decision], held that [here state the decision and judgment].



If it is desired to refer to a portion of the evidence by consent, insert the following paragraph:—

21. The questions of law arising on the above statement for the opinion of this court therefore are, 1st. whether, etc., 2nd. whether, etc.

Dated this                  day of                                  , 19 .  
[L.S.]                                  (Signed.)                                  Magistrate.

---

FORM No. 88.                                  [s. 108.]

*Recognizance of appeal.*

HONG KONG.                          IN THE POLICE COURT AT

[The form of recognizance will be the same as in Form No. 28 supra, but the condition indorsed will be as follows]:—

The condition of the within-written recognizance is such that if the within-bounden shall without delay prosecute a certain appeal to the Full Court from a conviction [or order] of J.P., Esquire, a magistrate of the said Colony, dated the                  day of                  , 19                  , whereby [*here state effect of conviction or order*], and further shall abide by and duly perform the order of the said court to be made upon the hearing of such appeal, and shall pay such costs as may be awarded by the said court [*add, if appellant is liberated from custody and further if the said* shall submit to the judgment of the said court, and shall, within ten days from the date thereof, appear before a magistrate of the said Colony to abide by the said judgment in case such conviction [or order] is not quashed, set aside, or reversed] then the within-written recognizance shall be void, but otherwise shall remain in full force and virtue.

---

FORM No. 89.                                  [s. 108.]

*Order to bring up appellant in custody to enter into recognizance of appeal.*

HONG KONG.                          IN THE POLICE COURT AT

*To the Superintendent of Prisons in the said Colony.*

You are hereby ordered to bring *C.D.*, now in your custody, before the undersigned, a magistrate of the said Colony, or such magistrate as may then be sitting at the said court, on                  day, the                  day of                  , 19                  , at                  o'clock in the                  noon, that he may enter into a recognizance with                  suret conditioned to appear and try an appeal from the conviction [or order], dated the                  day of                  , 19                  , of the undersigned [or *J.P.*, Esquire,] a magistrate of the said Colony, and may thereupon, if the magistrate thinks fit, be released from your custody.

Dated this                  day of                                  , 19 . . . .  
[L.S.]                                  (Signed.)                                  Magistrate.

---

FORM No. 90.                                  [s. 115.]

*Certificate of Registrar of the Supreme Court that the costs of an appeal have not been paid.*

REGISTRY, SUPREME COURT, HONG KONG.

(Title of the appeal).

I hereby certify that at the sitting of the Full Court on the                  day of                  , 19                  , an appeal by *C.D.* against a conviction [or order] of *J.P.*, Esquire, a magistrate of the said Colony, came on to be tried, and was then heard and determined, and the Full Court

thereupon ordered that the said conviction [*or order*] should be confirmed [*or quashed*] and that the said [*appellant*] should pay to the said [*respondent*] the sum of \_\_\_\_\_, for his costs incurred by him on the said appeal, and which sum was thereby ordered to be paid to me, the undersigned, on or before the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, to be by me handed over to the said [*respondent*]; and I further certify that the said sum for costs has not, nor has any part thereof, been paid in obedience to the said order.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

[L. S.]

(Signed.)

Registrar.

## SECOND SCHEDULE.

RULES. [ss. 29, 56, 57, 58 and 127.]

### *Summary proceedings.*

1.—(1) When, in pursuance of s. 28 (2) of this Ordinance the magistrates' clerk receives a minute of proceedings, he shall forthwith enter particulars of such minute in chronological order in a return in Form No. 1 in the appendix to these Rules, which shall be authenticated by the signature of one of the magistrates.

Returns to  
magistrate.

Appendix.  
Form No. 1.

(2) The return shall show the appropriation of any fine or penalty imposed.

2. The magistrate signing the return shall cause it to be delivered to the magistrates' clerk, who shall transcribe the particulars in Form No. 2 in the appendix to these rules, in the register referred to in section 29 (4) of this Ordinance.

Entries in  
register.

Appendix.  
Form No. 2.

First  
Schedule.  
Form  
No. 60.

3.—(1) The magistrates' clerk shall render an account of all fines, fees and other sums received by him under this Ordinance in such manner and at such times as the Colonial Treasurer may direct.

Accounts.  
Form.

(2) The magistrates' clerk shall enter on the day of its receipt each sum of money received by him on any account whatever.

Date of  
entry.

(3) Where payment is deferred or to be made by instalments, the magistrates' clerk shall make a note opposite the appropriate entry in the return, and shall enter the sum in a book called the Instalment Ledger

Payments  
deferred  
or by  
instalments.

Appendix.  
Form No. 1.

(4) When the whole of such sum has been paid or received by distress, or the term of imprisonment imposed in default of payment or of sufficient distress has expired, the magistrates' clerk shall then enter the sum in the account: Provided that, though the whole of the sum may not have been paid or recovered, the instalments received shall be accounted for at such times and in such manner as the Colonial Treasurer may direct.

4. When the magistrates' clerk has rendered an account in the required or authorised form to the Colonial Treasurer, he shall not be required to render any other account relating to the same particulars.

Other  
accounts  
dispensed  
with.

5. The magistrates' clerk shall render such returns at such times and in such manner as the Colonial Secretary may direct.

Returns to  
Colonial  
Secretary.

6. Where a magistrate has enforced payment of any sum due by a principal in pursuance of a security under this Ordinance which appears to the magistrate to be forfeited, the sum shall be paid to the magistrates' clerk, and shall be paid and applied by him in accordance with its appropriation in such manner as the Colonial Treasurer may direct.

Application  
of sum due  
under  
forfeited  
security.

Form of security.	7. Any security given under this Ordinance by an oral or written acknowledgment may be in the form of an undertaking.
Security book.	8.—(1) The magistrates' clerk shall keep a security book, and shall enter therein, with respect to each security given in relation to any proceeding, the name and address of each person bound, showing whether he is bound as principal or as surety, the sum in which each person is bound, the undertaking or condition by which he is bound, the date of the security, and the person before whom it is taken.  (2) Where any such security is not entered into before a magistrate or before the magistrates' clerk, the person before whom it is entered into shall make a return thereof, showing the above particulars, to the magistrates' clerk.  (3) The security book, and any certified extract therefrom, shall be evidence of the several matters hereby required to be entered in the security book in like manner as if the security book were the register.
Notice to principal of forfeiture of security.	9.—(1) Not less than two clear days before a warrant of distress is issued for a sum due by a principal in pursuance of a forfeited security under the Ordinance, the magistrates' clerk issuing the warrant shall cause notice of the forfeiture to be served on the principal.  (2) Service of the notice may be effected either by prepaid letter sent to the address mentioned in the security, or as service of a summons may be effected under this Ordinance
Application to vary order for sureties.	10. An application under section 56 of this Ordinance shall be an application for a summons requiring the complainant to show cause why the order made on his complaint should not be varied.
Payment by defendant.	11. When an order of commitment for non-payment of money is issued, the defendant may, at any time before he is delivered into the custody of the gaoler, pay to the officer holding the order the amount indorsed thereon as that on the payment of which he may be discharged, and, on receiving that amount, the officer shall discharge the defendant, and shall forthwith pay over the amount to the magistrates' clerk.
Discharge of prisoner on payment.	12.—(1) The sum indorsed on the order of commitment as that on payment of which the prisoner may be discharged may be paid to the magistrates' clerk or to the gaoler in whose custody the prisoner is.  (2) Where it is paid to the clerk, he shall sign a certificate of the payment, and, on receiving the certificate by post or otherwise, the gaoler in whose custody the prisoner then is shall forthwith discharge the prisoner.  (3) Where it is paid to the gaoler, he shall on payment to him of that amount, sign a certificate of the payment and discharge the prisoner and forthwith transmit the sum so received to the magistrates' clerk.
Costs of plaintiff or complainant in enforcing order.	13. All costs incurred by the plaintiff or complainant in endeavouring to enforce an order shall, unless a magistrate otherwise orders, be enforceable by warrant of distress and sale or by imprisonment, without hard labour, not exceeding six weeks, unless the same shall be sooner paid.
<i>Appeals.</i>	
Delivery of additional copy of case stated.	14. In all cases of appeal to the Full Court on questions of law under Part VI of this Ordinance, the party setting down the appeal for argument shall, at the time of setting down the appeal for argument and when the appeal is to be heard before two judges, furnish the Registrar with an additional copy of the case stated and of the depositions, if any, attached thereto; and if he fails to do so the other party to such appeal may, on the day following, deliver such copy as ought to have been delivered by the party making default; and the party making default shall not be heard until he has paid for such additional copy or deposited with the Registrar a sufficient sum to pay for such copy.
Mode of stating case.	15. Every case stated under Part VI of this Ordinance shall be divided into paragraphs which, as nearly as may be, shall be confined to a distinct portion of the subject, and every paragraph shall be numbered consecutively.
Costs of drawing and copying case.	16. The costs of drawing and copying any such case as aforesaid which does not in substance comply with the requirements of rule 15 of these rules shall not be allowed on taxation, unless the Full Court or the judge before whom the appeal is heard specially so directs.

APPENDIX OF FORMS.  
FORM NO. 1.

HONG KONG.  
IN THE POLICE COURT AT  
*Return of all fines and fees and other sums of money imposed or received showing their appropriation.*

CASE No.	NAMES OF PERSONS CHARGED.	Amount where option is given.		Whether committed to prison, bound over, whipped, cautioned or discharged or payment deferred.	FINES.				
		Fine.	Amends.		Ordinary.	Revenue Reward Fund.	Arms.		
(1)	(2)	\$	c.	(3)	(4)	(5)	(6)	(7)	(8)

FORFEITURES.		Poor Box.	Fees.	Amends.	Miscellaneous Receipts.
Ordinary.	Revenue Reward Fund.				
\$	c.	\$	c.	\$	c.
(9)	(10)	(12)	(13)	(14)	(15)

**FORM NO. 2.**  
**IN THE POLICE COURT AT**  
*Regi-ter.*

**HONG KONG.**

Summary.	No OF CASES AS RECORDED.		Name of Informant or Complainant.	Name of Defendant.	Nature of Offence or matter of Complaint.	Ordinance or Statute.	Minute of Adjudication.	Magistrate Adjudicating.	Date of Order if made.	No. of Com-mittal Warrant if any.	Amount where option is Given.								
	ARRESTED.	Summoned.									Fine.	Amends.							
	On Warrant.	Without Warrant.																	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	\$	(13)	\$	(14)				
Whether committed to prison, bound over, whipped, cautioned or discharged or payment deferred.	<b>F I N E S .</b>												Miscellaneous Receipts.						
	(15)	Ordinary.		Revenue Reward Fund.		Arms.		Ordinary.		Revenue Reward Fund.		Arms.		Fees.	Amends.	Miscellaneous Receipts.			
		\$	c.	\$	c.	\$	c.	\$	c.	\$	c.	\$					c.		
		(16)	(17)	(18)	(19)	(20)	(21)	(22)	(23)	(24)	(25)								
		<b>F O R F E I T U R E S .</b>																	
Poor Box.		Revenue Reward Fund.		Arms.		Arms.		Arms.		Arms.		Arms.		Arms.					
\$		c.		\$		c.		\$		c.		\$		c.					
(16)		(17)		(18)		(19)		(20)		(21)		(22)		(23)		(24)		(25)	

**THIRD SCHEDULE.** [ss. 84 and 90.]

LIST OF OFFENCES EXCLUDED FROM  
SUMMARY JURISDICTION.

1. Any offence which is punishable with death.
2. Any offence (except burglary) which is punishable with imprisonment with hard labour for life.
3. Any felony mentioned in the Suppression of Piracy Ordinance, 1868. Ordinance  
No. 1 of  
1868.
4. Misprison of treason.
5. Any offence against the King's title, prerogative, person or government.
6. Blasphemy and offences against religion.
7. Perjury and subornation of perjury.
8. Making or suborning any other person to make a false oath punishable as perjury or as a misdemeanor.
9. Any offence against the provisions of the laws relating to bankrupts other than the offence of obtaining credit under false pretences or by means of any other fraud under Section 78A (a) of the Larceny Ordinance, 1865. Ordinance  
No. 5 of  
1865.
10. Composing, printing or publishing blasphemous, seditious or defamatory libels, except as provided by section 17 of the Defamation and Libel Ordinance, 1887. Ordinance  
No. 1 of  
1887.
11. Bigamy.
12. Bribery, except in cases punishable under section 3 or section 4 of the Misdemeanors Punishment Ordinance, 1898, where the amount or value of the bribe does not exceed twenty-five dollars. Ordinance  
No. 1 of  
1898.
13. Arson.
14. Stealing, or fraudulently taking, or injuring or destroying, records or documents belonging to any court of record or relating to any proceeding therein.
15. Stealing, or fraudulently destroying or concealing wills or testamentary papers or any document or written instrument being or containing evidence of the title to any lands, or any interest in lands, tenements, or hereditaments.
16. Any offence committed by trustees created by deed or will, bankers, or factors, and mentioned in any of sections 62 to 73 of the Larceny Ordinance, 1865. Ordinance  
No. 5 of  
1865.

**HONG KONG.**

No. 42 of 1932.

I assent.

(L. S.)

W. PEEL,  
Governor.

9th December, 1932.

An Ordinance to consolidate and amend the law relating to the Registration of United Kingdom Patents.

[9th December, 1932.]

BE it enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof, as follows:—

- |  |   |
|--|---|
| Short title.   | <b>1.</b> This Ordinance may be cited as the Registration of United Kingdom Patents Ordinance, 1932.  |
| Registrar of Patents.  | <b>2.</b> —(1) It shall be lawful for the Governor to appoint a Registrar of Patents.<br><br>(2) Until the Governor shall make an appointment under sub-section (1), the officer who immediately before the commencement of this Ordinance was discharging the duties of Registrar of Patents, shall be the Registrar of Patents for the purposes of this Ordinance.  |
| Application for registration in Hong Kong of patent granted in the United Kingdom. | <b>3.</b> Any person being the grantee of a patent in the United Kingdom, or any person deriving his right from such grantee by assignment, transmission or other operation of law, may, within five years from the date of issue of the patent, apply to have such patent registered in Hong Kong. Where any partial assignment or transmission has been made all proper parties shall be joined in the application for registration |
| Application to be accompanied by certain documents.                                | <b>4.</b> Every application under this Ordinance shall be accompanied by a certified copy of the specification or specifications (including drawings, if any) of the United Kingdom patent and a certificate of the Comptroller General of the United Kingdom Patent Office giving full particulars of the issue of the patent on such specification or specifications  |
| Issue of certificate of registration.  | <b>5.</b> Upon such application being received, together with the documents mentioned in section 4, and upon payment of the prescribed fees and of the cost of any prescribed advertisement, the Registrar of Patents shall issue a certificate of registration.  |
| Nature of rights conferred by registration.  | <b>6.</b> Such certificate of registration shall confer on the applicant privileges and rights, subject to all conditions established by the law of Hong Kong, as though the patent had been issued in the United Kingdom with an extension to Hong Kong.   |
| Period of rights conferred by registration.  | <b>7.</b> The privileges and rights so granted shall date from the date of the patent in the United Kingdom and shall continue in force only so long as the patent remains in force in the United Kingdom: Provided that no action for infringement   |

shall be entertained in respect of any manufacture, use or sale of the invention prior to the date of issue of the certificate of registration in Hong Kong.

8.—(1) The Supreme Court shall have power, upon the application of any person who alleges that his interests have been prejudicially affected by the issue of a certificate of registration, to declare, on any of the grounds upon which the United Kingdom Patent might be revoked under the law for the time being in force in the United Kingdom, that the exclusive privileges and rights conferred by such certificate of registration have not been acquired.

Power to declare exclusive privileges not acquired.

(2) Such grounds shall be deemed to include the manufacture, use or sale of the invention in Hong Kong prior to the date of the patent in the United Kingdom, but not to include the manufacture, use or sale of the invention in Hong Kong by some person or persons after the date of the patent in the United Kingdom and prior to the date of the issue of the certificate of registration under section 5.

9. Whenever the specification or drawings of a United Kingdom patent registered in Hong Kong has or have been amended by way of disclaimer, correction or explanation, according to the law of the United Kingdom, a request, accompanied by a copy of the specification and drawings (if any) as amended, duly certified by the Comptroller General of the United Kingdom Patent Office, may be made to the Registrar to substitute a copy of the specification and drawings as amended for the specification and drawings originally filed.

Amendment of specification or drawings.

10. Where a person becomes entitled by assignment, transmission or other operation of law to the privileges and rights conferred by a certificate of registration or to any interest therein, he may make application in the prescribed manner to the Registrar of Patents for the entry on the Register of such assignment, transmission or other instrument affecting the title, or giving an interest therein.

Registration of assignment, etc.

11.—(1) The Registrar may make such Rules and do such things as he may think expedient, subject to the provisions of this Ordinance, for prescribing the procedure under this Ordinance and the fees to be paid in respect of proceedings under this Ordinance: Provided always that no such Rules shall come into operation until the same have been approved by the Legislative Council and published in the Gazette.

Power to make rules prescribing procedure and fees

(2) The Rules in the Schedule shall be in force except as they may be rescinded, added to or amended by Rules made under sub-section (1).

Schedule.

12.—(1) The Registration of United Kingdom Patents Ordinance, 1925, the Registration of United Kingdom Patents Amendment Ordinance, 1928, and the Registration of United Kingdom Patents Amendment Ordinance, 1932, are repealed.

Repeal of Ordinances No. 13 of 1925, No. 10 of 1928, and No. 18 of 1932.

(2) Notwithstanding the repeal of the Patents Ordinance, 1892, by section 13 of the Registration of United Kingdom Patents Ordinance, 1925, all rights, obligations and duties conferred or imposed by or under the provisions of the Patents Ordinance, 1892, and still subsisting immediately before such repeal, including the rights, obligations and duties conferred or imposed by section 8 of the Patents Ordinance, 1892, shall, for all purposes whatsoever, be deemed to have continued to subsist after such repeal, and shall, unless expired before the commencement of this Ordinance, be deemed to continue to subsist, in all respects, and to such extent, as if the said Ordinance

Saving as to Ordinance No. 2 of 1892, repealed by Ordinance No. 13 of 1925.



nance had not been repealed: Provided that user and publication in the Colony under any order of provisional protection granted under section 11 of the Patents Ordinance, 1892, shall not form any ground for any declaration under section 8 of this Ordinance.

Passed the Legislative Council of Hong Kong, this 8th day of December, 1932.

R. A. C. NORTH,  
*Deputy Clerk of Councils.*

**SCHEDULE.** [s. 11 (2).]

REGISTRATION OF UNITED KINGDOM PATENTS RULES.

1. Every application for registration of a patent shall be accompanied by a statutory declaration setting out the interest and title of the applicant.

2. The issue of every certificate of registration of a patent shall, forthwith, be notified by the Registrar in the Gazette at the expense of the applicant.

3. Every application under section 10 of the Ordinance shall be accompanied by a statutory declaration setting out the interest and title of the applicant, and by the original, or a certified copy, of every document on which the applicant's title depends.

4. The following fees shall be payable to the Registrar:

Certificate of Registration of Patent .....	\$10.00
Entry on Register under section 10 .....	\$10.00
Search of Register .....	\$1.00
Office copy of entries in the Register, or of documents, per folio of 72 words (minimum charge \$1.00) .....	\$0.50
Collating a copy, not made by the Registrar, of entries in the Register, or of documents, per folio of 72 words (minimum charge 50 cents) .....	\$0.20
Initialling alterations in such last mentioned copy, per alteration .....	\$0.20
Certifying a copy of entries in the Register, or of documents .....	\$4.00
On application to change the name of a proprietor of a single patent where there has been no alteration in the proprietorship .....	\$5.00
On application to change the name of a proprietor of more than one patent standing in the same name, the change being the same in each case,—	
for the first patent .....	\$5.00
for every other patent .....	\$1.00
Altering a single entry of the address of a registered proprietor .....	\$5.00
Altering more than one entry of the address of a registered proprietor where the address in each case is the same and altered in the same way,—	
for the first entry .....	\$5.00
for every other entry .....	\$1.00

HONG KONG.

No. 43 OF 1932.

I assent.

L.S.

W. PEEL,  
Governor.

9th December, 1932.

An Ordinance to amend the Protection of Women and Girls Ordinance, 1897.

[9th December, 1932.]

BE it enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as the Protection of Women and Girls Amendment Ordinance, 1932. Short title.

2. Sub-section (2) of section 13 of the Protection of Women and Girls Ordinance, 1897, is repealed and the following sub-section is substituted:— Substitution for Ordinance No. 4 of 1897, s. 13 (2).

(2) Every occupier or keeper of a house or portion thereof which is used in the manner aforesaid shall be liable for the first offence of such use to a fine not exceeding two hundred and fifty dollars and to imprisonment for any term not exceeding three months: for the second offence to a fine not exceeding five hundred dollars and to imprisonment for any term not exceeding six months: and for a third or any subsequent offence to a fine not exceeding one thousand dollars and to imprisonment for any term not exceeding twelve months.

3. Sub-section (1) of section 17 of the Protection of Women and Girls Ordinance, 1897, is repealed and the following sub-section is substituted:— Substitution for Ordinance No. 4 of 1897, s. 17 (1).

(1) Every male person who—

(a) knowingly lives wholly or in part on the earnings of prostitution; or

(b) solicits for immoral purposes,

shall be liable to imprisonment for any term not exceeding six months.

4. Sub-section (3) of section 21 of the Protection of Women and Girls Ordinance, 1897, is repealed and the following sub-section is substituted:— Substitution for Ordinance No. 4 of 1897, s. 21 (3).

Power on indictment, hearing or charge for rape, to convict of certain offences.

48 & 49 Vict. c. 69, s. 9.

(3) If upon the trial of any indictment, or the hearing of any information or charge, for rape, or for any offence made felony in section 6, the magistrate or the jury, as the case may be, shall be satisfied that the defendant is guilty of an offence under sections 5, 6, 9 or 10 or of an indecent assault, but is not satisfied that the defendant is guilty of the felony charged in such indictment, information or charge, or of an attempt to commit the same, then and in every such case the magistrate or the jury, as the case may be, may acquit the defendant of such felony, and find him guilty of an offence as aforesaid, or of an indecent assault, and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment, information or charge for such offence as aforesaid, or for an indecent assault.

Passed the Legislative Council of Hong Kong, this 8th day of December, 1932.

R. A. C. NORTH,  
*Deputy Clerk of Council.*

---

#### APPOINTMENTS.

**No. 778.**—It is hereby notified that the Honourable Mr. EDWIN RICHARD HALLIFAX, C.M.G., C.B.E., resumed duty as Secretary for Chinese Affairs on 8th December, 1932.

*8th December, 1932.*

---

**No. 779.**—His Excellency the Governor has been pleased to recognize, provisionally and pending instructions from the Secretary of State for the Colonies, Mr. HENRY B. DAY as a Vice-Consul for the United States of America in Hong Kong.

*5th December, 1932.*

---

**No. 780.**—His Excellency the Governor has been pleased to appoint, under section 3 of the Dentistry Ordinance, 1914, Ordinance No. 16 of 1914, Dr. HERMANN BALEAN to be a Member of the Dental Board, during the absence from the Colony of Dr. GEORGE DUNCAN RALPH BLACK, with effect from 19th November, 1932.

*7th December, 1932.*