



## **BELIZE**

### **SUMMARY JURISDICTION (PROCEDURE) ACT CHAPTER 99**

#### **REVISED EDITION 2000** SHOWING THE LAW AS AT 31ST DECEMBER, 2000

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Chapter 3 of the Laws of Belize, Revised Edition 1980 - 1990.

This edition contains a consolidation of the following laws-	Page
<b>ARRANGEMENT OF SECTIONS</b>	3
<b>SUMMARY JURISDICTION (PROCEDURE) ACT</b> Amendments in force as at 31st December, 2000.	15



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SCHEDULE

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CHAPTER 99

SUMMARY JURISDICTION (PROCEDURE)

Ch. 24,  
R.L., 1958.  
CAP. 100,  
R.E. 1980-1990.  
9 of 1965.  
4 of 1967.  
1 of 1969.  
8 of 1970.  
15 of 1971.  
28 of 1971.  
3 of 1978.  
30 of 1985.  
22 of 1987.  
21 of 1991.  
18 of 1998.  
Short title.

[9th May, 1953]

1. This Act may be cited as the Summary Jurisdiction (Procedure) Act.

*Preliminary*

2. In this Act, unless the context otherwise requires:-

Interpretation.

“adult” means a person who, in the opinion of the court, is of the age of sixteen years or upwards;

“child” means a person who, in the opinion of the court, is under the age of fourteen years;

“clerk” means the clerk of the court;

“complainant” includes any informant or prosecutor in any case relating to a summary conviction offence;

“complaint” includes any information or charge relating to a summary conviction offence;

“court” means a summary jurisdiction court established under the Inferior Courts Act;

CAP. 94.

CAP. 101. “crime” means an offence punishable on indictment under the Criminal Code or under any other Act or law;

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

“keeper”, when used in relation to a prison, includes the superintendent or other chief resident officer of the prison;

“order” includes any conviction in respect of a summary conviction offence;

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

CAP. 94. “prescribed” means prescribed by rules made under the Inferior Courts Act;

“prison” includes any lock-up house, police-cell or other duly authorised place of detention for persons in custody;

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

“town” includes any town established under, and pursuant to, any Act;

“young person” means a person who is fourteen years of age or upwards but under the age of sixteen years.

Application of  
the Act

3.-(1) Unless the contrary is expressly provided by any statute relating thereto, the provisions of this Act shall extend and apply to all proceedings which may be taken before or after the commencement of this Act in respect of summary conviction offences, whether those offences are constituted before, or at the time of, or after, the commencement of this Act.

(2) Every offence created by any Act or other law with respect to

which it is directed that the offender shall be liable on conviction summarily, or on summary conviction, or under the Summary Jurisdiction Acts, to any punishment or penalty, shall be a summary conviction offence within the meaning of this section.

PART I

*General Provisions*

4. Where an act which, if done wholly within the jurisdiction of a court, would be a summary conviction offence cognisable in that court, is done partly within and partly beyond that court's jurisdiction, every person who, within the jurisdiction, does or abets any part of that act shall be liable to be proceeded against and convicted and punished for the offence in the same manner as if the act had been done wholly within the jurisdiction.

Acts done partly within and partly beyond court's jurisdiction.

5. Where any person is charged with an offence under the Summary Jurisdiction (Offences) Act, or under any other statute for the time being in force, in respect of a child or young person who is alleged in the complaint to be under any specified age, and the child or young person appears to the court to be under that age, the child or young person shall, for the purposes of the said Act or of that other statute, be deemed to be under that age, unless the contrary is proved.

Presumption of age of child.  
CAP. 98.

6. Nothing in the Summary Jurisdiction (Offences) Act, shall be construed to take away or affect the right of the parent, teacher or other person having the lawful control or charge of a child or young person to administer punishment to him.

Saving of right of punishment.  
CAP. 98.

7. Nothing in the Summary Jurisdiction (Offences) Act, shall be construed to affect the criminal jurisdiction of the Supreme Court.

Saving of jurisdiction of the Supreme Court.  
CAP. 98.

Savings of offences constituted by other statutes. CAP. 98.

8. Nothing in the Summary Jurisdiction (Offences) Act, shall be construed to take away or affect the jurisdiction of a magistrate or justice of the peace in respect of offences constituted by any other statute for the time being in force and not specified in that Act.

Restrictions of jurisdiction in respect of questions of title or insolvency. CAP. 98.

9. Nothing in the Summary Jurisdiction (Offences) Act shall authorise a court to hear and determine any complaint for a summary conviction offence-

(a) in which any question in good faith arises as to the title to any real property or any interest therein or accruing therefrom; or

(b) arising out of any execution under the process of the Supreme Court.

## PART II

### *Punishments*

Punishments under the Act.

10. The following punishments may be inflicted by a court in respect of summary conviction offences-

20 of 1978.

(a) penalty;

(b) payment of compensation for injury done; and

(c) imprisonment.

Infliction of less penalty.

11. Except where otherwise provided by any Act, a court may in its discretion adjudge any person convicted before it of a summary conviction offence punishable by a penalty to suffer any less penalty than that prescribed by the Act constituting the offence.

12. The court may, in its discretion, on the application of the complainant, adjudge any person convicted before it of a summary conviction offence to make compensation, not exceeding one thousand dollars, to any person injured by the commission of the offence, and any compensation so awarded shall be regarded and dealt with in all respects as if it were recovered on a judgment of a district court under the District Courts (Procedure) Act.

Award of compensation to person injured. 30 of 1985.

CAP. 97.

13. Where any person injured by the commission of a summary conviction offence accepts compensation for the injury under the order of a court, the acceptance of that compensation shall be a bar to any action for the same injury but, subject to the provisions of this section, no conviction shall otherwise affect the right of action of any person for damages arising from any injury to his person or property caused by the commission of a summary conviction offence.

Effect of payment of compensation.

14. Where any person is convicted of a summary conviction offence punishable by imprisonment under any Act, the court may, in its discretion, adjudge him to undergo any less term of imprisonment than the term prescribed by that Act for the offence.

Reduction of term of imprisonment.

15.-(1) Where a court adjudges any person to undergo a term of imprisonment for a summary conviction offence, and he is already undergoing, or has been at the same sitting of that court adjudged to undergo, imprisonment for another offence, the court may direct that that imprisonment shall commence at the expiration of the imprisonment which he is then undergoing, or has been so previously adjudged to undergo as aforesaid.

Consecutive sentences of imprisonment.

(2) In this section the expression “imprisonment” includes imprisonment imposed by a court on any person with or without the option of a fine, or in respect of the non-payment of any sum of money or for failing to do or abstaining from doing any act or thing required to be done or left undone.

## PART III

*Abetment and Attempt*

- Abetment of summary conviction offence. 16. A person who aids, abets, counsels, causes or procures the commission of any summary conviction offence shall be liable to be proceeded against and convicted for that offence, either together with the principal offender or before or after his conviction, and shall be liable, on conviction, to the same punishment as that to which the principal offender is liable by law.
- Attempt and incitement to commit summary conviction offence. 17. Subject to the express provisions of any statute for the time being in force in that behalf, every person who attempts to commit, or incites any other person to commit, any summary conviction offence shall on conviction thereof be liable to one-half of the punishment prescribed for that offence by the statute creating it.

## PART IV

*Institution of Proceedings**Making of Complaint*

- Mode of instituting proceeding. 18. Every proceeding in a court for the obtaining of an order against any person in respect of a summary conviction offence shall be instituted by a complaint made before the magistrate of the court.
- General right of making complaint. 19. Any person may make a complaint against any other person committing a summary conviction offence unless it appears from the statute on which the complaint is founded that a complaint for that offence shall be made only by a particular person or class of persons.
- Limitation of complaint. 20. In every case where no time is specially limited for making a complaint for a summary conviction offence in any statute relating to that

offence, the complaint shall be made within six months from the time when the matter of the complaint arose, and not after.

21.-(1) No complaint need be in writing, unless it is required to be so by the statute on which it is founded or by some other statute, but if a complaint is not made in writing, the clerk shall reduce it into writing.

Form and  
requisites of  
complaint.

(2) Subject to the provisions of section 29 every complaint may, unless some statute otherwise requires, be made without any oath being made of the truth thereof.

(3) A complaint may be made by the complainant in person, or by his attorney-at-law, or by any person authorised in writing in that behalf, and shall be for one offence only.

(4) Every complaint, information, summons, warrant or other document laid, issued or made for the purpose of or in connection with any proceedings before a court of summary jurisdiction for an offence shall be sufficient if it contains a statement of the specific offence with which the accused person is charged together with such particulars as may be necessary for giving reasonable information as to the nature of the charge.

(5) The statement of the offence shall describe the offence shortly in ordinary language, avoiding as far as possible the use of technical terms, and without necessarily stating all the essential elements of the offence, and if the offence charged is one created by statute, shall contain a reference to the section of the statute creating the offence.

(6) After the statement of the offence, necessary particulars of the offence shall be set out in ordinary language, in which the use of technical terms shall not be required.

(7) Any information, complaint, summons, warrant or other document to which this section applies which is in such form as would have been

sufficient in law if this Act had not passed shall, notwithstanding anything in this section, continue to be sufficient in law.

Statement of exception.

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

Search Warrant

Issue of search warrant and proceedings thereunder.

23.-(1) Any magistrate who is satisfied, by proof upon oath, that there is reasonable ground for believing that there is, in any building, ship, vehicle, aircraft, box, receptacle or place-

- (a) any thing upon, or in respect of which, any summary conviction offence has been or is suspected to have been committed for which, according to any statute for the time being in force, the offender may be arrested without warrant; or
- (b) any thing which there is reasonable ground for believing will afford evidence as to the commission of a summary conviction offence; or
- (c) any thing which there is reasonable ground for believing is intended to be used for the purpose of committing any offence against the person punishable on summary conviction, for which, according to any statute for the time being in force, the offender may be arrested without warrant,

may at any time issue a warrant under his hand, authorising any police

officer named therein to search the building, ship, vehicle, aircraft, box, receptacle or place for any of those things, and to seize and take it before the magistrate issuing the warrant or some other magistrate, to be by him dealt with according to law.

(2) Every search warrant may be issued and executed on a Sunday, and shall be executed between the hours of five o'clock in the morning and eight o'clock at night, but the magistrate, in his discretion, may, by the warrant, authorise the police officer to execute it at any hour.

(3) When the thing is seized and brought before any magistrate, he may detain it, or cause it to be detained, taking reasonable care that it is preserved until the conclusion of the matter.

(4) If any appeal is brought, he may order it further to be detained for the purpose of or pending the appeal, but if no appeal is brought, the magistrate shall direct it to be restored to the person from whom it was taken, except in the cases mentioned in subsections (5), (6) and (7) unless he is authorised or required by law to dispose of it otherwise.

(5) If under the warrant there is brought before a magistrate any forged bank-note, bank-note paper, instrument or other thing, the possession of which, in the absence of lawful excuse, is an indictable offence according to any statute for the time being in force, the magistrate may direct that thing to be detained for production in evidence or to be otherwise dealt with as the case requires.

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

(7) If the thing to be searched for is gunpowder, or any other explosive or dangerous or noxious substance or thing, the person making the search shall have the same powers and protection as are given by any statute for the time being in force to any person lawfully authorised to search for the thing, and the thing itself shall be disposed of in the same manner as directed by that statute or, in default of direction, as ordered by the Minister responsible for firearms.

Search without Warrant

Searching  
licensed places.

24. It shall be lawful for any police officer, and for all persons whom he calls to his assistance, to enter without warrant into any house licensed for the sale by retail of fermented or spirituous liquors, and to search therein for offenders and otherwise perform their duty, using as little annoyance to the inmates thereof as possible.

Enforcing Appearance of Defendant

Issue of summons  
to defendant.

25.-(1) Whenever a complaint is made before a magistrate that any person has committed, or is suspected to have committed, any summary conviction offence within his jurisdiction, the magistrate may issue his summons directed to that person, stating concisely the substance of the complaint, and requiring him to appear at a certain time not less than forty-eight hours after the service of the summons and at a certain place, before the court of the magistrate to answer the complaint, and to be further dealt with according to law, but the court may, if it thinks fit, with the consent of the parties, hear and determine a complaint notwithstanding that the period of forty-eight hours may not have elapsed.

(2) Nothing in this section shall oblige any magistrate to issue the summons in any case where the application for an order may by law be made *ex parte*.

26.-(1) Where two or more complaints are laid under this or any other Act for summary conviction offences against the same person or persons, a single summons may be issued against that person or each of those persons in respect of all the complaints, however the matter of each complaint shall be separately stated in the summons.

Issue of single summons on more than one information.

(2) Any summons issued under this section shall be treated for the purpose of this Act as if it were a separate summons in respect of each complaint.

27. The summons shall be served by a police officer upon the defendant either by delivering it to him personally or, if he cannot with the exercise of reasonable diligence be encountered, by leaving it with some person for him at his last or most usual place of abode.

Service of summons on defendant.

28.-(1) If the defendant does not appear before the court at the time and place mentioned in the summons, then, after proof upon oath, to the satisfaction of the court, that the summons was duly served or that the defendant wilfully avoids service, the court may, in its discretion-

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

- (a) unless the statute on which the complaint is founded otherwise directs, proceed *ex parte* to the hearing of the complaint, and adjudicate thereon as fully and effectually to all intents and purposes as if the defendant had personally appeared before it in obedience to the summons; or
- (b) adjourn the hearing to some future day; or
- (c) on oath being made by or on behalf of the complainant substantiating the matter of the complaint to the satisfaction of the court, issue a warrant to apprehend the person so summoned or avoiding service, and to

bring him before the court to answer the complaint, and to be further dealt with according to law.

(2) The court may, if it thinks fit, permit a defendant to appear by an attorney-at-law, and may at any time withdraw the permission after it has been given.

Issue of warrant for defendant in first instance.

29. On a complaint in writing and upon oath being made before a magistrate for any summary conviction offence, the magistrate may, on good cause being shown to him for so doing, and on oath being made before him substantiating the matter of the complaint to his satisfaction, instead of issuing a summons, issue in the first instance a warrant to apprehend the person against whom the complaint has been made and to bring him before the court of the magistrate to answer the complaint, and to be further dealt with according to law.

## PART V

### *Witnesses*

#### *Enforcing attendance of witness*

Issue of summons for witness.

30. If, either before or on the hearing of any complaint, it appears to the magistrate, on the statement of the complainant or of the defendant or otherwise, that any person is likely to give material evidence for the complainant or for the defendant, the magistrate may issue a summons to that person, requiring him to attend, at a time and place to be mentioned therein, before the court of the magistrate to give evidence respecting the case, and to produce to the court books, plans, papers, documents, articles and things which are in his possession, power or control, and likely to be material evidence on the hearing of the complaint.

Service of summons on witness.

31. The summons shall be served by a police officer upon the person to whom it is directed, either by delivering it to him personally or, if he cannot

with the exercise of reasonable diligence be encountered, by leaving it with some person for him at his last or most usual place of abode.

32. If the person to whom the summons is directed does not attend before the court at the time and place mentioned therein, and no reasonable excuse is offered for his non-attendance then, after proof upon oath to the satisfaction of the court that the summons was duly served or that the person to whom the summons is directed wilfully avoids service, the court, being satisfied by proof upon oath that he is likely to give material evidence and that a reasonable sum was paid or tendered or was ready to be paid or tendered to him for his expenses in that behalf, may issue a warrant to apprehend and bring him, at a time and place to be mentioned in the warrant, before the court in order to testify before such court.

Warrant for witness after summons.

33. If the magistrate is satisfied by proof upon oath that any person likely to give material evidence, either for the complainant or for the defendant, will not attend to give evidence without being compelled to do so then, instead of issuing a summons, he may issue a warrant in the first instance for the apprehension of that person.

Issue of warrant for witness in first instance.

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

Dealing with witness arrested under warrant.

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

35. Every witness who is present when the hearing or the further hearing of a cause is adjourned, or who has been duly notified of the time and place to which the hearing or further hearing is so adjourned, shall be bound to

Non-attendance of witness on adjourned hearing.

attend at that time and place and, in default of so doing, may be dealt with in the same manner as if he had failed to attend the court in obedience to a summons to attend and give evidence.

*Refractory Witness*

Dealing with witness refusing to be sworn or give evidence.

36.-(1) Where any person, attending either in obedience to a summons, or by virtue of a warrant, or being present in a court and being orally required by the court to give evidence in any cause-

- (a) refuses to be sworn as a witness; or
- (b) having been so sworn, refuses to answer any question put to him by or with the sanction of the court; or
- (c) refuses or neglects to produce any document which he is required by the court to produce,

without offering any sufficient excuse for his refusal or neglect, the court may, if it thinks fit, adjourn the hearing of the cause for any period not exceeding eight days, and may in the meantime, by warrant, commit the person to prison, unless he sooner consents to do what is required of him.

(2) If the person, on being brought before the court at or before the adjourned hearing, again refuses to do what is so required of him, the court may, if it thinks fit, again adjourn the hearing of the cause, and commit him for the like period, and so again from time to time until he consents to do what is so required of him.

(3) Nothing in this section shall affect the liability of the person to any other punishment or proceeding for refusing or neglecting to do what is so required of him, or shall prevent the court from disposing of the matter in the meantime, according to any other sufficient evidence taken by it.

## PART VI

*Hearing and Order**Hearing of Complaint*

37.-(1) On the day and at the place mentioned in the summons or on and at which the defendant is brought before a court or to and at which the case is adjourned, as the case may be, the cause with respect to which the complaint has been made shall be called for hearing in the court.

Time and place  
of hearing.

(2) The room or place in which a court is held for the purposes of the hearing shall be deemed an open and public court, to which the public generally may have access, so far as it can conveniently contain them.

38. Both the complainant and the defendant shall be entitled to conduct their respective cases in person or by an attorney-at-law or (without prejudice to section 17 of the Police Act) by any other fit and proper person designated by the Director of Public Prosecutions in writing to conduct prosecutions.

Conduct of case.  
21 of 1991.  
CAP. 138.

39. If, when the cause is called, the defendant appears voluntarily in obedience to the summons, or is brought before the court under a warrant, and the complainant, having had due notice of the time and place of hearing, which shall be proved to the satisfaction of the court, does not appear in person or by an attorney-at-law, the court shall dismiss the complaint, unless the court, having received a reasonable excuse for the non-appearance of the complainant, or for other sufficient reason, thinks fit to adjourn the hearing thereof to some future day, upon such terms as the court thinks just.

Non-appearance  
of complainant

40.-(1) If, when the cause is called, the defendant does not appear, the court may, if it comes within the provisions of section 28, proceed as therein directed.

Non-appearance  
of defendant.

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

(3) If the defendant is afterwards apprehended on a warrant as mentioned in subsection (2), he shall be brought before the magistrate, who shall thereupon commit him by warrant to prison or to other safe custody as he thinks fit, and order him to be brought at a certain time and place before the court, and of that time and place the complainant shall, by direction of the magistrate, be served with due notice.

Guilty plea by  
post. Procedure  
thereon.  
Schedule.

28 of 1971.

41.-(1) Notwithstanding any other provisions of this Act, if in the case of any offence specified in the Schedule the defendant pleads guilty by letter addressed to the clerk of the court, the court may in its discretion in lieu of any other proceedings enter a plea of guilty and deal with the case in the like manner, including the reading in open court of the letter containing the plea, *mutatis mutandis* as if the defendant had appeared before the court in person and said that he was guilty.

(2) The court shall not impose in respect of any offence dealt with under this section a fine exceeding fifty dollars or the maximum amount of fine provided for by law (whichever be the lesser) or any term of imprisonment.

(3) In every case in which the procedure prescribed by subsection (1) is applicable the summons shall contain the following-

- (a) a provision that the defendant shall not be required to appear to answer the said complaint before the court before a certain date and time not less than fourteen days after the service of the summons;

(b) a footnote or endorsement as follows-

“By virtue of section 41 (1) of the Summary Jurisdiction (Procedure) Act (Chapter 99 of the Revised Laws) a court may in its discretion accept a plea of guilty in a letter addressed to the clerk of the court and may thereupon impose such penalty as the law provides for the offence to which the defendant has pleaded guilty but shall not impose a fine exceeding fifty dollars or the maximum amount of fine provided for by law (whichever be the lesser) or any term of imprisonment in respect of any such offence. If the defendant decides to take this course he may if he chooses, mention in such letter any facts -which he thinks mitigate the offence. The court has a complete discretion as to whether the defendant should be required to attend and plead personally and if the statement of facts (if any) in mitigation is disputed by the prosecution at the hearing of the summons this may lead to the personal appearance of the defendant being required.”

(4) The Attorney General may by Order published in the *Gazette* amend the said Schedule, and the said Order shall be subject to the negative resolution of both Houses of the National Assembly.

(5) This section shall have no application in the case of any defendant who is a child or young person or who is reasonably believed to be under the age of sixteen years at the date of the service of the summons.

42. If, when the cause is called, neither the complainant nor the defendant appears, the court shall make such order as the justice of the case requires.

Non-appearance  
of both parties.

43. If, when the cause is called, both the complainant and the defendant appear, the court shall proceed to hear and determine the complaint.

Appearance of  
both parties.

Hearing.

44.-(1) At the commencement of the hearing, the court shall state to the defendant the substance of the complaint and ask him whether he is guilty or not guilty.

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

(3) If the defendant says that he is not guilty, the witnesses on both sides shall, unless the court in any instance otherwise expressly orders, be called and placed out of court and out of hearing under the charge of the proper officer of the court or of some other person appointed by the court for that purpose.

(4) The court shall then proceed to hear the complainant and any witnesses he examines, and any other evidence he adduces in support of his complaint, and also to hear the defendant and any witnesses he examines, and any other evidence he adduces in his defence, and also, if the court thinks fit, to hear any witnesses the complainant examines in reply, if the defendant has examined any witnesses or given any evidence.

(5) The magistrate shall in every case take notes in writing of the evidence, or of so much thereof as is material, in a book to be kept for that purpose, and the book shall be signed by the magistrate at the conclusion of each day's proceeding:

Provided that, if the magistrate is from any cause unable to take the notes, they may be taken by the clerk under his direction.

Cross-complaints.  
18 of 1998.

45. Where two or more complaints appear to arise out of the same circumstances the court may, if it thinks fit, hear and determine the complaints at one and the same time.

46.-(1) The complainant shall be entitled to address the court at the commencement of his case and the defendant shall be entitled to address the court at the commencement or the conclusion of his case, as he thinks fit.

Addresses.

(2) If the defendant has examined any witnesses or given any evidence, the magistrate may allow the complainant to reply on the conclusion of the cause.

47.-(1) At any time before or during the hearing of a complaint the court may, in its discretion, adjourn the hearing to a certain time and place to be then appointed and stated in the presence and hearing of the party or parties, or his or their respective attorney-at-law, or in the absence of a defendant, if it is proved to the satisfaction of the court that the defendant is unable to appear by reason of illness or any other unavoidable cause.

Adjournment  
and proceeding  
thereon.

(2) Upon the adjournment, the court may-

- (a) suffer the defendant to go at large; or
- (b) commit him to prison or to other safe custody as the court thinks fit, but no committal under this paragraph shall be for a longer term than eight days, the day following that on which the committal is made being counted as the first day; or
- (c) discharge him upon his entering into a recognisance, with or without a surety or sureties to the satisfaction of the magistrate, conditioned for his appearance at the time and place to which the hearing or further hearing is so adjourned.

(3) If, at the time and place to which the hearing or further hearing is so adjourned, either or both of the parties does not or do not appear, the court may proceed to the hearing or further hearing as if the party or parties

were present or, if the complainant does not appear, the court may dismiss the complaint.

(4) The power to adjourn the hearing of a case, includes power, after a person has been convicted and before he has been sentenced or otherwise dealt with, to adjourn the case for the purpose of enabling inquiries to be made or of determining the most suitable method of dealing with his case.

(5) The court shall not for the purpose specified in subsection (4) adjourn the hearing of a case under this section for any single period exceeding three weeks.

*Order for Taking of Prints*

Taking of prints  
by order of the  
court.

15 of 1971.  
4 of 1967.

48.-(1) Where any person not less than fourteen years of age who has been taken into custody is charged with an offence before a court, the court may, if it thinks fit, on the application of a police officer not below the rank of assistant inspector, order that the prints of that person be taken by a police officer or other person named in the order.

(2) Prints taken in pursuance of an order made under this section shall be taken either at the court or, if the person to whom the order relates is remanded in custody, at any place to which he is committed, and a police officer or other person named in such order may use such reasonable force as may be necessary for that purpose.

(3) The provisions of this section shall be in addition to the provisions of any other enactment under which the prints of any person may be taken.

(4) Where the prints of any person have been taken in pursuance of an order made under this section, then if the complaint against him is dismissed, the prints and all copies and records shall be destroyed.

(5) For the purposes of this section the expression “prints” shall include fingerprint, thumb print, palm print and sole print impressions.

*Transfer of Cause*

49.-(1) If on the hearing of any complaint it appears that the ground of complaint arose beyond the limits of the jurisdiction of the court before which the complaint has been made, the court may, on being satisfied that it has no jurisdiction, direct the matter to be transferred to the court having jurisdiction where the ground of complaint arose.

Transfer of cause where ground of complaint has arisen out of jurisdiction of the court.

(2) If the defendant is in custody and the magistrate directing the transfer thinks it expedient that the custody should be continued or, if he is not in custody, that he should be placed in custody, the magistrate shall direct him to be taken by a police officer before the magistrate having jurisdiction where the cause of the complaint arose, and shall give a warrant for that purpose to the police officer, and deliver to him the complaint and recognisance, if any, taken by the magistrate under the provisions of this Act, to be delivered to the magistrate before whom the defendant is to be taken, and the complaint and recognisance, if any, shall be treated to all intents and purposes as if they had been taken by the last-mentioned magistrate.

(3) If the defendant is not continued or placed in custody, the magistrate shall inform the defendant that he has directed the transfer of the matter as aforesaid, and thereupon the provisions of subsection (2), respecting the transmission and use of the documents in the matter, shall apply.

50.(1) Where, on the holding of any preliminary inquiry on a charge of any crime the magistrate is of opinion that the evidence establishes, or appears likely to establish, the commission of a summary conviction offence of a like kind to the offence charged, or an abetment of, or an attempt or incitement to commit, that summary conviction offence, the magistrate may, if he thinks fit, inform the accused person accordingly, and all further proceedings in the

Reduction of charge from indictable to summary conviction offence.

matter thereafter shall be the same as if a complaint had been made against the person for the latter offence or abetment, attempt or incitement.

(2) Where the magistrate decides to deal with the case under subsection (1) all witnesses already examined shall be recalled for cross-examination or further cross-examination, if the defendant so desires.

Where charge appears to be one proper for indictment.

1 of 1969.

51. If on the hearing of a complaint it appears to the court that the cause ought to be tried on indictment before the Supreme Court, or if the Director of Public Prosecutions intimates to the court his opinion in writing to that effect, all further proceedings in the cause as for a summary conviction offence shall be stayed, and depositions shall be taken, and the cause shall in all other respects be dealt with as if the charge had been originally one for a crime.

#### *Making of Order*

Time of decision and order.

52.-(1) The court shall at the conclusion of the hearing or within six weeks thereafter at a subsequent sitting give its decision in the cause, either by dismissing the complaint or by making such order against the defendant as the justice of the case requires.

(2) Where before pronouncing the decision of the court the magistrate ceases to exercise jurisdiction in the judicial district or to hold office, it shall be lawful for him, within six weeks of the conclusion of the hearing, to lodge his written decision with the clerk, who shall read it in open court at the earliest opportunity after notice to the parties and the decision when read shall be the decision of the court.

(3) If the complaint is dismissed on the merits, the court shall, upon being required by or on behalf of the defendant at any time within six months after the dismissal, make a formal order of dismissal and give to the defendant a certificate thereof, and the certificate shall upon production be

without further proof a bar to any subsequent complaint for the same matter against the defendant.

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

(5) If a defendant against whom an order is made desires to have the order in his case formally drawn up he may, at any time within five days from the date of adjudication, require the magistrate to do so, and thereupon it shall be the duty of the magistrate, within two days from the date of his being so required, formally to draw up the order, and the defendant shall be entitled to have a copy thereof without any fee being charged for the copy.

53. Where by any statute the court is empowered to impose a penalty for a summary conviction offence, it may, in the absence of express provision to the contrary in the same or any other statute, order a defendant who is convicted of the offence, in default of payment of the sum of money adjudged to be paid by the order, either forthwith, or at the times specified in the order, as the case may be, to be imprisoned in accordance with the scale set forth in section 55.

Imprisonment in default of payment of penalty.

54. Where a person is convicted of any summary conviction offence for which the court, under any Act or other enactment for the time being in force, has authority to impose imprisonment and has not authority to impose a fine, the court, notwithstanding the provisions of any such Act or other enactment, may, if it thinks that the justice of the case will be better met by a fine than by imprisonment, impose on the offender a fine not exceeding two hundred and fifty dollars, and not being of such amount as will, under the provisions of this Act, subject the offender in default of payment of the fine to any greater term of imprisonment than that to which he is liable under the Act or other enactment authorising the imprisonment as aforesaid.

Power to impose a fine *in lieu* of imprisonment.

Scale of imprisonment for non-payment of money adjudged to be paid by order.

55. Subject in every case to the provisions of the statute on which the order is founded, the period of imprisonment, which is imposed by the court in respect of non-payment of any sum of money adjudged to be paid by an order shall be that period which, in the opinion of the court, will satisfy the justice of the case, that is to say, a period not exceeding that mentioned in the second column of the following scale in respect of the sum of money mentioned in the first column:

First column

Second column

Where the sum of money adjudged to be paid by an order-

does not exceed \$2.50 ..... seven days;  
 exceeds \$2.50 but does not exceed \$5.00 ..... fourteen days;  
 exceeds \$5.00 but does not exceed \$25.00 ..... one month;  
 exceeds \$25.00 but does not exceed \$125.00 ..... two months;  
 exceeds \$125.00 but does not exceed \$250.00 ..... three months;  
 exceeds \$250.00 ..... six months.

Full offence charged - attempt proved.

56.-(1) Where the complete commission of the offence charged is not proved, but the evidence establishes an attempt to commit the offence, the defendant may be convicted of the attempt, and punished accordingly.

(2) After a conviction for the attempt under subsection (1), the defendant shall not be liable to be prosecuted again for the offence which he was charged with committing.

Attempt charged - full offence proved.

57.-(1) Where an attempt to commit an offence is charged, but the evidence establishes the commission of the full offence, the defendant shall not be entitled to have the complaint dismissed, but he may be convicted of the attempt and punished accordingly.

(2) After a conviction for the attempt under subsection (1), the

defendant shall not be liable to be prosecuted again for the offence which he was charged with attempting to commit.

58. Every complaint shall be deemed divisible, and if the commission of the offence charged, as described in the statute creating the offence, or as charged in the complaint, includes the commission of any other offence, the defendant may be convicted of any offence so included which is proved, although the whole offence charged is not proved, or he may be convicted of an attempt to commit any offence so included.

Full offence charged - part proved.

59. If on the hearing of any complaint it appears to the court that, although the complaint is proved, the offence was, in the particular circumstances of the case, of so trifling a nature that it is inexpedient to inflict any punishment, or any other than a nominal punishment-

Discharging defendant without punishment.

- (a) the court may, without proceeding to a conviction, dismiss the complaint and, if it thinks fit, order the defendant to pay such damages, not exceeding twenty-five dollars, and such costs of the proceedings, or either of them, as the court thinks reasonable, and the damages shall be payable to the person directed by the court; or
- (b) the court may, upon convicting the defendant, discharge him conditionally on his giving security, with or without a surety or sureties to the satisfaction of the court, to appear for sentence when called upon or to be of good behaviour, and either without payment of damages and costs, or subject to the payment of damages and costs, or either of them, which the court thinks reasonable.

Costs and Compensation

Order for costs and compensation.

60.-(1) In every case where the complaint is dismissed, the court may order that the complainant shall pay to the defendant the costs which the court thinks just and reasonable and if the court is of opinion that the complaint was frivolous or vexatious, it may also order the complainant to pay to the defendant a reasonable sum, not exceeding ten dollars, as compensation for any trouble and expense to which the defendant has been put by reason of that complaint, in addition to his costs.

(2) Wherever an order is made against the defendant, the court may order that the defendant shall pay to the complainant such costs, and shall also, subject to the provisions of any Act in that behalf, pay to the complainant or any other person such compensation as the court thinks just and reasonable.

This section shall not affect the procedure of the court under any statute making express provision with respect to that compensation.

(3) An order for payment of costs made against a defendant may include any costs of, and attendant upon, his apprehension.

(4) An order for payment of costs shall not include any fees to an attorney-at-law.

(5) Any sum so allowed for costs, or for costs and compensation, shall in every case be specified in the order of dismissal or order, as the case may be, and payment thereof may be enforced in the same manner as payment of a penalty.

## PART VII

Enforcement of Order

61.-(1) The court by whose order any sum of money is adjudged to be paid may, if it thinks fit, do all or any of the following things, namely-

Powers of the court as to mode of payment of money adjudged to be paid by order.

- (a) allow time for payment of the sum; or
- (b) direct payment of the sum to be made by instalments; or
- (c) direct that the person liable to pay the sum shall be at liberty to give to the satisfaction of the court security, either with or without a surety or sureties, for the payment thereof or of any instalment thereof.

(2) Where a sum of money 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 the payment of all the instalments then remaining unpaid.

62. Where time has been allowed for the payment of a sum adjudged to be paid by a conviction or order of a court, further time may, subject to the provisions of this Act, on an application by or on behalf of the offender, be allowed by the court, or the court may, subject as aforesaid, direct payment by instalments of the sum so adjudged to be paid.

Allowance of further time.

63. The court may accept a deposit of money from or on account of any person *in lieu* of surety or sureties and, on any breach of the condition of his recognisance, the deposit shall be forfeited and shall be dealt with in the manner mentioned in section 130.

Deposit of money *in lieu* of surety.

Distress Warrant

Distress warrant. 64.-(1) Any sum of money adjudged to be paid by an order shall, if the statute on which the order is founded so directs, but subject to the provisions of subsections (2), (3) and (4) and may, in the discretion of the court in other cases, be levied upon the goods and chattels of the defendant by distress and sale thereof.

(2) In that case the court shall, but subject as aforesaid, or may, as the case may be, issue its warrant of distress for the purpose of levying the sum, and the warrant shall be in writing and shall be signed by the magistrate of the court.

(3) A court may, if, when application is made to it to issue a distress warrant, it appears-

- (a) that the defendant has no personal property whereon to levy the distress; or
- (b) that in the event of a distress warrant being issued his goods and chattels will be insufficient to satisfy the sum of money adjudged to be paid by the order; or
- (c) that the levy of the distress will be more injurious to him or his family than imprisonment,

instead of issuing a distress warrant, order the defendant, on non-payment of the sum, to be imprisoned for any term not exceeding the term prescribed by section 55 in respect of a like sum in the scale of imprisonment in default of payment of sums of money adjudged to be paid by orders.

(4) 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 warrant issued by a court.

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

Commitment or security until return made to distress warrant.

66. Where a distress warrant is issued against the defendant, and a return is made by the police officer charged with the execution of the warrant to the effect that no sufficient goods and chattels of the defendant can be found whereon to levy the distress, the court may order the defendant, on non-payment of the sum of money adjudged to be paid by the order and all costs and charges of the distress and of the commitment, to be imprisoned for any term not exceeding the term prescribed by section 55 in respect of a like sum in the scale of imprisonment in default of payment of sums of money adjudged to be paid by orders.

Imprisonment in default of distress.

67.-(1) The following provisions shall have effect with respect to the execution of distress warrants issued by the court, namely-

General provisions with respect to distress warrants.

- (a) a distress warrant shall be executed by or under the direction of a police officer;
- (b) if the police officer charged with the execution of the warrant is prevented from executing it by the fastening of doors or otherwise, the magistrate may, by writing under his hand indorsed on the warrant, authorise the police officer to use the force necessary to enable him to execute the warrant;
- (c) except so far as the person upon whose goods and chattels the distress is levied otherwise consents in writing, the distress shall be sold at public auction, and three days at least shall intervene between the making of

the distress and the sale, but where consent in writing is so given as aforesaid the sale may be made in accordance with the consent;

(d) subject as aforesaid, the distress shall be sold within the time fixed by the warrant, and if no time is so fixed then within the period of fourteen days from the date of 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.

(2) If any person charged with the execution of any distress warrant wilfully retains from the proceeds of any property sold to satisfy the distress, or otherwise exacts any greater costs or charges than those to which he is for the time being entitled by law, or makes any improper charge, he shall on conviction thereof, be liable to a fine not exceeding fifty dollars.

(3) Nothing contained in this subsection shall affect his liability to be prosecuted and punished for extortion.

(4) A written account of the costs and charges incurred in respect of the execution of any distress warrant shall as soon as practicable be delivered by the police officer charged with the execution of the warrant to the magistrate, and the person upon whose goods and chattels the distress was levied may, at any time within one month after the making of the distress, inspect the account without fee or reward at any time during office hours, and take a copy thereof.

(5) A police officer charged with the execution of any distress warrant shall sell the distress or cause it to be sold, and may deduct out of the amount realised by the sale all costs and charges actually incurred in effecting the sale, and shall pay to the magistrate, or to some person specified by him, the remainder of that amount, in order that it may be applied in payment of the sum for which the warrant was issued and of the

proper costs and charges of the execution of the warrant, and any surplus proceeds shall be paid to the person upon whose goods and chattels the distress was levied.

68. Where any person against whom a distress warrant is issued pays or tenders to the police officer having the execution of the warrant the sum or sums therein mentioned or produces to him the receipt for them of the clerk, and also pays the amount of the costs and charges of the distress up to the time of that payment or tender, the police officer shall cease to execute the warrant.

Payment of amount of distress warrant.

Commitment of Defendant

69. Wherever an order is made against any person for the payment of a sum of money, and he is liable to be imprisoned for a certain term unless that sum is sooner paid, the court may, if he does not pay the sum either forthwith or at the time specified in the order for its payment, as the case may be, issue a warrant of commitment, under the hand of the magistrate, requiring the police officer to whom the warrant is directed to take and convey the person to prison and there deliver him to the keeper, and requiring the keeper to receive him into the prison and there to imprison him for the time directed and appointed by the warrant of commitment, unless the sum of money adjudged to be paid by the order, and also all other costs, charges and expenses are sooner paid.

Committal of defendant in certain cases.

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

Obligation to allow time for payment of penalties.

(2) In subsection (1) the expression “special reason” may include the gravity of the offence, the character of the defendant or any special circumstances.

(3) Where any such person desires to be allowed time for payment, the court, in deciding what time ought to be allowed, shall consider any representation made by him, but the time allowed shall not be less than seven days.

(4) If before the expiration of the time allowed the person convicted surrenders himself to a court having jurisdiction to issue a warrant of commitment in respect of the non-payment of a sum adjudged to be paid, aforesaid, and states that he prefers immediate committal to awaiting the expiration of the time allowed, that court may if it thinks fit forthwith issue a warrant committing him to prison.

(5) Where a person who has been allowed time for payment appears to the court to be not less than sixteen or more than eighteen years of age, the court may, if it thinks fit and subject to any provisions of this Act, order that he be placed under the supervision of such person as may be appointed by the court until the sum adjudged to be paid is paid.

(6) Where an order placing a person under supervision with respect to a sum of money is in force, the court shall not issue a warrant committing the offender to prison in respect of nonpayment of the sum, unless the court has considered any report as to the conduct and means of the offender, which may be made by the person under whose supervision the offender has been placed.

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

(8) Nothing in this section shall apply to any order made by a

court for the maintenance of a wife or child or of any member of a family whom the defendant is liable to support under any law or for the maintenance of any child of his.

71. Where application is made to the court to issue a warrant for committing a person to prison for non-payment of a sum of money adjudged to be paid by an order, the court may, if it considers it expedient to do so, postpone the issue of the warrant until the time and on the conditions, if any, the court thinks just.

Postponing issue of warrant of commitment.

72.-(1) Where upon a conviction a court does not order the payment of any fine, but directs that the defendant be imprisoned for his offence, 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 neglect or refusal to do such act he be imprisoned, and the defendant neglects or refuses to do such act, then in every such case any magistrate may issue a warrant of commitment under his hand requiring the police officer or police officers to whom it is directed, to take and convey such defendant to prison, and there to deliver him to the keeper thereof, and also such keeper to receive the defendant into the prison and there to imprison him for the time directed and appointed by the warrant of commitment.

Where the conviction or order directs imprisonment only.

(2) In all such cases, where by such conviction or order any sum for costs is adjudged to be paid by the defendant to the prosecutor or complainant, such sum may, if the magistrate thinks fit, be levied by distress warrant in manner aforesaid, and in default of distress the defendant may, if the magistrate thinks fit, be committed to prison in manner aforesaid, there to be imprisoned for a term not exceeding one month to commence at the expiration of the term of imprisonment he is then undergoing, unless such sum for costs, and all costs and charges of the said distress if the magistrate thinks fit so to order, are sooner paid.

73. Where any person is brought by a police officer to any prison to be imprisoned by virtue of a warrant of commitment, the police officer shall

Commencement of imprisonment.

indorse on the warrant the day on which the person was arrested by virtue thereof and the imprisonment shall be computed from that day and inclusive thereof.

Varying or discharging of order for sureties.

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

Right of person imprisoned in default to be released on payment of sum adjudged to be paid.

75.-(1) Where a term of imprisonment is imposed by a court in respect of the non-payment of any sum of money adjudged to be paid by an order of a court, that term shall, on payment of a part of such sum to the clerk, 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) In reckoning the number of days by which any term of imprisonment ought to be reduced under this section, the first day of imprisonment shall not be taken into account, and that in reckoning the sum which secures the reduction of a term of imprisonment fractions of a cent shall be omitted.

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

(4) Where any person has been committed to prison by the court for non-payment of any sum of money adjudged to be paid by an order, then on payment to the keeper of the prison of any sum in part satisfaction of the sum so adjudged to be paid, the term of imprisonment shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days for which the prisoner is sentenced as the sum so paid bears to the sum for which he is so liable.

(5) Wherever under subsection (4) a sum has been received in part satisfaction of a sum due from a prisoner in consequence of the conviction of the court, that sum shall be applied, firstly towards the payment in full or in part of any costs or damages or compensation ordered by the conviction of the court to be paid to the prosecutor and, secondly, towards the payment of the fine, if any, imposed on the prisoner.

(6) The keeper of any prison who receives any sum under this section in payment in full or in part of any costs or damages or compensation ordered by the conviction of the court to be paid to the prosecutor shall forthwith transmit the sum to the clerk of the court in which the conviction took place, who shall pay it to the person entitled thereto.

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

Determination of liability of defendant on satisfaction of, or discharge from, order.

(2) Nothing in this section shall affect the liability of any person in respect of a continuing or recurring offence.

77. Where a magistrate upon any information or complaint adjudges the defendant to be imprisoned, and such defendant is then in prison undergoing

Imprisonment for a subsequent offence.

imprisonment upon a conviction for any other offence, the warrant of commitment for such subsequent offence shall in every such case be forthwith delivered to the keeper of the prison to whom it is directed, and he shall under the authority of that warrant imprison the defendant in accordance with the directions therein.

*Summary Order*

Summary order to do a specific act.

78.-(1) Where a power is by any statute given to the court to require any person to do, or to abstain from doing, any act or thing, other than the payment of money, or to require any act or thing to be done or left undone, other than the payment of money, and no mode of enforcing the requisition is presented by that statute, the court may-

- (a) exercise that power by an order;
- (b) annex to the order any conditions as to time or mode of action or otherwise which the court thinks just;
- (c) suspend or rescind the order on any undertaking being given, or condition being performed, which the court thinks just; and
- (d) generally make such arrangements for carrying the power into effect as to the court seems fit.

(2) Every person who makes default in complying with an order of the court in relation to any matter arising under a statute, other than the payment of money-

- (a) shall be punished in the manner prescribed by that statute; or
- (b) if no punishment is thereby prescribed, may subject to

subsection (3), in the discretion of the court, be ordered to pay a sum not exceeding five dollars for every day during which he is in default, or to be imprisoned until he has remedied his default.

(3) A person shall not, for noncompliance with the direction of the court, whether made by one or more orders, to do or abstain from doing any act or thing, be liable under this section to the payment of any sums amounting in the aggregate to more than four hundred dollars or to imprisonment for any periods amounting in the aggregate to more than two months.

(4) In making any order under this section, the court may order that-

- (a) in default of compliance with the order, the defendant shall pay to the complainant a sum which the court awards as a fair compensation to him for the default; and
- (b) in default of the payment of that sum, the defendant shall be imprisoned for any term not exceeding the term prescribed by section 55 in respect of a like sum in the scale of imprisonment in default of payment of sums of money adjudged to be paid by orders.

## PART VIII

### *Summary Trial of Crimes*

#### *Summary trials of indictable offences generally*

79.-(1) Where a person is charged before the court with a crime with which the court has power to deal summarily, in accordance with the provisions of section 50 of the Summary Jurisdiction (Offences) Act, the court, without prejudice to any other power which it possesses, may, for the purpose of

Remand of  
person charged.  
CAP. 98.

ascertaining whether it is expedient to deal with the case summarily, either before or during the hearing of the cause, adjourn the cause and remand the person charged.

(2) A person may be remanded under this section in like manner in all respects as a person accused of a crime may be remanded.

General provisions  
as to dealing  
summarily with  
crimes.  
CAP. 98.

80.-(1) Where a crime is, in the circumstances mentioned in section 50 of the Summary Jurisdiction (Offences) Act, authorised to be dealt with summarily-

CAP. 96.

(a) the procedure shall, until the court assumes the power to deal with the crime summarily, be the same in all respects as if the crime were to be dealt with throughout under the Indictable Procedure Act, but when and so soon as the court assumes the power to deal with the crime summarily, the procedure shall be the same, from and after that period, as if the crime were a summary conviction offence, and the provisions of this Act shall apply accordingly, but nothing in this section shall be construed to prevent the court from dealing thereafter with the crime under the provisions of the Indictable Procedure Act, if it thinks fit to do so;

CAP. 96.

(b) the evidence of any witness taken before the magistrate who has assumed the power to deal with the offence summarily need not be taken again, but the witness shall, if the defendant or the prosecutor so requires, be recalled for the purpose of cross-examination;

(c) the conviction for the crime shall have the same effect as a conviction on a trial on indictment therefor would have;

- (d) where the court has assumed the power to deal with the crime summarily, and dismisses the complaint on the merits, it shall, if required, deliver to the person charged a copy, certified under the hand of the magistrate, of the order of dismissal, and the dismissal shall have the same effect as an acquittal on a trial on indictment for the crime would have; and
- (e) the conviction shall contain a statement either as to the plea of guilty of the person charged or his consent to the crime being dealt with summarily by the court.

(2) Where under the provisions of section 49 or 50 of the Summary Jurisdiction (Offences) Act any person is tried summarily by a court of summary jurisdiction for a crime and is convicted by that court of that crime, then if in all the circumstances of the case, including the prevalence of the crime for which the accused has been convicted and the character and antecedents of the accused, the court is of opinion that greater punishment should be inflicted in respect of the crime than that court has power to inflict, the court may, *in lieu* of dealing with him, commit him in custody to the Supreme Court for sentence.

CAP. 98.  
8 of 1970.

(3) Where any person has been committed for sentence under the powers conferred by this section, the magistrate shall within fourteen days or as soon as is practicable thereafter, transmit the record of the case to the Registrar, together with a copy thereof for the Director of Public Prosecutions, and the Registrar shall as soon as practicable after receiving the same deliver them to the Chief Justice and the Director of Public Prosecutions.

8 of 1970.

(4) The Chief Justice shall, as soon as conveniently may be after receiving such record, issue an order to the keeper of the prison wherein the prisoner is confined to bring the prisoner before the court at the time and

place fixed therein and the Registrar shall notify the Director of Public Prosecutions and the prisoner accordingly.

(5) A person so committed shall be liable to be dealt with and punished in the same manner as if he were convicted in the Supreme Court for that crime by the verdict of a jury.

## PART IX

### *Maintenance Orders (Facilities for Enforcement)*

Interpretation of terms in Part IX.

81. In this Part-

“certified copy”, in relation to an order of the court, means a copy of the order certified by the proper officer of the court to be a true copy;

“dependants” means those whom the person against whom the maintenance order was made, according to the law in force in the part of Her Majesty’s dominions in which that order was made, is liable to maintain;

“maintenance order” means an order, other than an order of affiliation, for the periodical payment of sums of money towards the maintenance of the wife or other dependants of the person against whom the order is made;

“prescribed” means prescribed by rules of court.

Enforcement in Belize of maintenance orders made in England or Northern Ireland.

82.-(1) Where a maintenance order has, whether before or after the commencement of this Act, been made against any person by a court in England or Northern Ireland, and a certified copy of the order has been transmitted by a Secretary of State to the Minister of Foreign Affairs, the said Minister shall send a copy of the order to the Attorney General with a request that the prescribed officer of a court in Belize registers it.

(2) On receipt thereof the order shall be registered in the prescribed manner and shall, from the date of the registration, be of the same force and effect and, subject to the provisions of this Part of this Act, all proceedings may be taken thereon, as if it had been an order originally obtained in the court in which it is so registered, and that court shall have power to enforce it accordingly.

(3) The court in which an order is to be registered as aforesaid shall, if the court by which it was made was a court of superior jurisdiction, be the Supreme Court and, if the court was not a court of superior jurisdiction, be a summary jurisdiction court.

83. Where a court in Belize has, whether before or after the commencement of this Act, made a maintenance order against any person, and it is proved to that court that that person is resident in England or Northern Ireland, the court shall send to the Minister of Foreign Affairs for transmission to a Secretary of State a certified copy of the order.

Transmission of maintenance orders made in Belize.

84.-(1) Where an application is made to a summary jurisdiction court in Belize for a maintenance order against any person, and it is proved that that person is resident in England or Northern Ireland, the court may in his absence if after hearing the evidence it is satisfied of the justice of the application, make any order it might have made if a summons had been duly served on him and he had failed to appear at the hearing, but in that case the order shall be provisional only and shall have no effect unless and until confirmed by a competent court in England or Northern Ireland as aforesaid.

Provisional orders of maintenance against persons resident in England or Northern Ireland.

(2) The evidence of any witness examined on the application shall be put into writing, and his deposition shall be read over to and signed by him.

(3) Where an order is made under subsection (1), the court shall send to the Minister of Foreign Affairs, for transmission to a Secretary of State, the depositions so taken and a certified copy of the order, together with a statement of the grounds on which the making of the order might have been

opposed if the person against whom the order is made had been duly served with a summons and had appeared at the hearing, and any information the court possesses for facilitating the identification of that person and ascertaining his whereabouts.

(4) Where any provisional order under subsection (1) has come before a court in England or Northern Ireland for confirmation, and has by that court been remitted to the summary jurisdiction court which made it for the purpose of taking further evidence, that court or any other summary jurisdiction court sitting and acting for the same place shall, after giving the prescribed notice, proceed to take the evidence in like manner and subject to the like conditions as the evidence in support of the original application.

(5) If upon hearing the evidence it appears to the court that the order ought not to have been made, the court may rescind the order, but in any other case the depositions shall be sent to the Minister of Foreign Affairs and dealt with in like manner as the original depositions.

(6) The confirmation of an order made under this section shall not affect any power of a summary jurisdiction court to vary or rescind that order.

(7) On the making of, varying or rescinding of, an order the court shall send a certified copy thereof to the Minister of Foreign Affairs for transmission to a Secretary of State and, in the case of an order varying the original order, the order shall not have any effect unless and until confirmed in like manner as the original order.

(8) The applicant shall have the same right of appeal, if any, against a refusal to make a provisional order as he would have had against a refusal to make the order had a summons been duly served on the person against whom the order is sought to be made.

85.-(1) Where a maintenance order has been made by a court in England or Northern Ireland, and the order is provisional only and has no effect unless and until confirmed by a summary jurisdiction court in Belize, and a certified copy of the order, together with the depositions of witnesses and a statement of the grounds on which the order might have been opposed, has been transmitted to the Minister of Foreign Affairs, and it appears to the said Minister that the person against whom the order was made is resident in Belize, the said Minister may send those documents to the Attorney General with a request that the prescribed officer of a summary jurisdiction court should issue a summons calling upon the person to show cause why that order should not be confirmed, and upon receipt of the documents and that requisition the court shall issue the summons and cause it to be served upon that person.

Confirmation by summary jurisdiction court of maintenance order made in England or Northern Ireland.

(2) A summons so issued may be served in Belize in the same manner as if it had been originally issued by a summary jurisdiction court having jurisdiction in the place where the person happens to be.

(3) At the hearing it shall be open to the person on whom the summons was served to raise any defence which he might have raised in the original proceedings had he been a party thereto but no other defence, and the certificate from the court which made the provisional order stating the grounds on which the making of the order might have been opposed if the person against whom the order was made had been a party to the proceedings shall be conclusive evidence that those grounds are grounds on which objection may be taken.

(4) If at the hearing the person served with the summons does not appear or, on appearing, fails to satisfy the court that the order ought not to be confirmed, the court may confirm the order either without modification or with any modifications which the court after hearing the evidence thinks just.

(5) If the person against whom the summons was issued appears at the hearing and satisfies the court that for the purpose of any defence it is necessary to remit the case to the court which made the provisional order for

the taking of any further evidence, the court may so remit the case and adjourn the proceedings for the purpose.

(6) Where a provisional order has been confirmed under this section, it may be varied or rescinded in like manner as if it had originally been made by the confirming court, and where on an application for rescission or variation the court is satisfied that it is necessary to remit the case to the court which made the order for the purpose of taking any further evidence, the court may so remit the case and adjourn the proceedings for the purpose.

(7) Where an order has been so confirmed, the person bound thereby shall have the same right of appeal, if any, against the confirmation of the order as he would have had against the making of the order had the order been one made by the court confirming the order.

Regulations to facilitate communications between courts. 9 of 1965.

86. The Minister may make regulations as to the manner in which a case can be remitted by a court authorised to confirm a provisional order to the court which made the provisional order, and generally for facilitating communications between those courts.

Mode of enforcing orders.

87.-(1) A summary jurisdiction court in which an order has been registered under this Part or by which an order has been confirmed under this Part, and the officers of that court shall take all steps for enforcing the order as may be prescribed, and the order shall be enforceable in like manner as if it were a judgment for the payment of money under the District Courts (Procedure) Act.

CAP. 97.

(2) If the order is of such a nature that if made by the court in which it is so registered, or by which it is so confirmed, it would be enforceable in like manner as an order of affiliation, the order shall be so enforceable.

(3) A distress warrant or warrant of commitment issued by a summary jurisdiction court for the purpose of enforcing an order so

registered or confirmed may be executed in any part of Belize.

88. The provisions of this Act which apply to proceedings in summary conviction offences shall apply in like manner to proceedings before summary jurisdiction courts under this Part, and the power to make rules under section 67 of the Inferior Courts Act, and to prescribe fees and costs under section 61 of the said Act shall include power to make rules regulating the procedure of summary jurisdiction courts under this Part and prescribing fees and costs in respect thereof.

Application of provisions relating to summary jurisdiction procedure. CAP. 94.

89. Any document purporting to be signed by a judge or officer of a court in England or Northern Ireland shall, until the contrary is proved, be deemed to have been so signed without proof of the signature or judicial or official character of the person appearing to have signed it, and the officer of a court by whom a document is signed shall, until the contrary is proved, be deemed to have been the proper officer of the court to sign it.

Proof of document signed by officers of court.

90. Depositions taken in a court in England or Northern Ireland for the purposes of this Part may be received in evidence in proceedings before a summary jurisdiction court under this Part.

Depositions to be evidence.

91.-(1) Where the Minister is satisfied that reciprocal provisions have been made by the legislature of any Commonwealth country other than the United Kingdom for the enforcement within that country of maintenance orders made by courts within Belize, the Minister may by Order published in the *Gazette* declare that the provisions of this Part shall extend to maintenance orders made by courts in that Commonwealth country in like manner as it extends to maintenance orders made within England or Northern Ireland, and on that Order being made this Part shall extend accordingly.

Extension of Act.

9 of 1965.

(2) For the purposes of this section the expression “Commonwealth country” shall be deemed to include any territory which is defined as such in the Interpretation Act.

CAP. 1.

(3) In the application of this Part to a Commonwealth country other than the United Kingdom, orders intended to be registered or confirmed in that country shall be transmitted to the Minister of Foreign Affairs or his equivalent thereof.

## PART X

### *Miscellaneous Provisions*

#### *Ownership of Property*

Statement of ownership of property.

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

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

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

Statement of ownership of church.

93. Where, in any document in any proceeding under this Act, it is necessary to state the ownership of any church, chapel or building set apart for religious worship, or of any thing belonging thereto or being therein, it shall be sufficient to state that the church, chapel, building or thing, is the property of the clergyman, or of the officiating minister, or of the churchwarden or churchwardens of the church, chapel or building, without naming him or them.

94. Where, in any document in any proceeding under this Act, it is necessary to state the ownership of-

Statement of ownership of public property.

- (a) any work or building made, erected or maintained, either wholly or in part, at the expense of the inhabitants of Belize, or of any city, town or village of Belize; or
- (b) any thing belonging or used in relation thereto; or
- (c) any thing provided for the use of the poor or of any public institution or establishment; or
- (d) any materials or tools provided or used for repairing the work or building, or any public road or highway; or
- (e) any other property whatever, whether real or personal, of the inhabitants aforesaid,

it shall be sufficient to state that the property is the property of the inhabitants of Belize, or of the city, town or village, as the case may be, without naming any of them.

Arrest

95.-(1) Every person who is found committing any offence which is punishable on summary conviction may be apprehended and taken into custody, without warrant, by any police officer, or may be apprehended by the owner of any property on or with respect to which the offence is committed, or by his servant or any other person authorised by him, and shall in the latter case be delivered as soon as possible into the custody of a police officer, to be dealt with according to law.

Arrest of offender in certain cases.

(2) If any police officer or other peace officer refuses or wilfully neglects to take into custody any person found committing any such offence,

he is guilty of an offence and, on conviction thereof, liable to a fine not exceeding one hundred dollars.

Bail where offender taken into custody without warrant.

96. A person taken into custody without warrant for a summary conviction offence shall be brought before a magistrate as soon as practicable after he is so taken into custody, and in the meantime any police officer not below the rank of corporal may inquire into the matter and, except where the offence appears to that officer to be of a serious nature, shall discharge the prisoner, upon his entering into a recognisance, with or without sureties, for a reasonable amount to appear before the court at the time and place specified in the recognisance.

Form and requisites of warrant of apprehension.

97.-(1) Every warrant for the apprehension of any person issued under this Act or, unless the contrary is expressly provided, under any other statute relating to summary conviction offences, shall be dated on the day on which it is issued, and shall be signed by the magistrate or other justice of the peace by whom it is issued.

(2) The warrant-

- (a) shall not be signed in blank;
- (b) shall not be issued without an information or other statement in writing upon oath;
- (c) may be directed either to any police officer by name, or to that police officer and all other police officers, or generally to all police officers;
- (d) may be executed by any police officer named therein or by any one of the police officers to whom it is directed;
- (e) shall state concisely the offence or matter for which it is

issued, shall name or otherwise describe the person to be arrested, and shall order the police officer or other police officer to whom it is directed to apprehend that person and bring him before the court to answer the said information or statement, or to testify, or otherwise, according to the circumstances of the case, 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 it shall remain in force until it is executed.

(4) A magistrate or other justice of the peace who issues the warrant shall indorse thereon whether or not the person to be apprehended shall be admitted to bail and, if he is to be admitted to bail, whether with or without a surety or sureties and the amount of the recognisance into which he is to enter.

(5) Where a person who has been arrested under the warrant is to be admitted to bail, the recognisance conditioned for his appearance before the court at the time and place specified therein, may be entered into before any police officer not below the rank of corporal, who shall thereupon discharge the prisoner.

98.-(1) The warrant of apprehension may be issued and executed on a Sunday.

Execution of  
warrant.

(2) The police officer executing the warrant must, before making the arrest, inform the person to be arrested that there is a warrant for his apprehension, unless there is reasonable cause for abstaining from giving that information on the ground that it is likely to occasion escape, resistance or rescue.

(3) Subject to subsection (6) it shall not be necessary for the police officer executing the warrant to have it in his possession, but if he has it, he

must, upon request, show it to the person arrested or to be arrested.

(4) Every person arrested on the warrant shall be brought before the court as soon as is practicable after he is so arrested.

(5) Any police officer authorised to execute the warrant may, for the purpose of executing it, either with or without assistance from any other person or persons, break open and enter any house, building or enclosed place, if admittance cannot otherwise be obtained.

(6) Where a police officer breaks open and enters any house, building or enclosed place, he must be in possession of the warrant, and before doing so he must, as far as practicable, notify his possession thereof

Handcuffing of  
person arrested.

99. A person arrested, whether with or without warrant, shall not be handcuffed or otherwise bound, except in case of necessity, or of reasonable apprehension of violence, or of attempt to escape, or by order of the court or of a magistrate.

Police station to  
be lock-up.

100. Every police station shall be deemed to be a lock-up house where persons charged with summary conviction offences may be received and detained according to law.

*Proceedings relating to Stolen Goods, etc.*

Stolen goods  
search warrant.

101.-(1) On an information being laid on oath before a magistrate or any other justice of the peace that there is reasonable cause to suspect that any goods whatever, stolen or otherwise unlawfully obtained, are concealed or lodged in any dwelling-house, or in any other place, it shall be lawful for such magistrate or other justice of the peace by warrant under his hand, directed to any police officer, to cause any such dwelling-house or other place to be entered and searched at any time of the day or of the night.

(2) Where a search warrant is issued under subsection (1), if it

appears necessary to the magistrate or other justice of the peace issuing it, he may empower the police officer to whom the warrant is directed with such assistance as may be found necessary, such police officer having previously made known his authority, to use force to effect the entry, whether by breaking open doors or otherwise.

(3) The warrant may direct the police officer to guard any goods or things found upon such search, where it was found, or to convey them to some place of safety until the person who stole them or who otherwise unlawfully obtained them, can be taken before a magistrate to be dealt with according to law.

(4) Such police officer shall take into custody and carry before a magistrate every person found in such house, or other place, who appears to him to have been privy to such goods being so concealed or lodged in such house or other place, knowing or having reasonable cause to suspect them to have been stolen, or otherwise unlawfully obtained.

102.-(1) If any goods are stolen or unlawfully obtained from any person, or being lawfully obtained, are unlawfully deposited, pawned, pledged, sold or exchanged, and information is laid before a magistrate 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 advanced any money upon the security of such goods within any town, it shall be lawful for the magistrate to issue a summons or warrant for the appearance before the court of such broker, dealer or other person and for the production of the goods, and to order such goods to be delivered up to the owner thereof, either without any payment or upon payment of such sum and at such time as the magistrate thinks fit.

Recovery of goods unlawfully pawned, etc.

- (2) Every broker, dealer or other person who-
  - (a) being so ordered refuses or neglects to give up such goods; or

- (b) disposes of, or makes away with, any of such goods, after notice that they were stolen or unlawfully obtained as aforesaid,

shall forfeit to the owner thereof the full value of the goods to be determined by the magistrate.

(3) No order of a magistrate under this section shall bar the right of any broker, dealer or other person to recover possession of such goods from the person into whose possession they may come by virtue of such order, by action brought within the two months next after the order was made.

Restoration of goods stolen, etc.

103. A magistrate may order that any goods unlawfully pawned, pledged or exchanged which are brought before him, the ownership of which is established to the satisfaction of such magistrate, be delivered to the owner by the party with whom they were so unlawfully pawned, pledged or exchanged, either without compensation or with such compensation to the party in question as the magistrate may think fit.

Restitution order and its effect.

104. If any goods or money alleged to have been stolen or fraudulently obtained are in the custody of any police officer by virtue of any warrant of a magistrate or other justice of the peace, or in the prosecution of any charge of felony or misdemeanour in regard to the obtaining thereof, and the person so charged with stealing or obtaining possession cannot be found, or is summarily convicted or discharged, but the property so in custody is not included in any information upon which he has been found guilty, any magistrate may make an order for the delivery of any such goods or money to the party who appears to be the rightful owner thereof, and if the owner cannot be ascertained he may make such order with respect to such goods or money as to him may seem fit.

(2) No order made under this section shall bar the right of any person to sue the party to whom such goods or money are delivered, and to

recover such goods or money from him by action brought within the two months next after the order was made.

105. Where any goods or money alleged to have been stolen or unlawfully obtained, and of which the owner is unknown, is ordered by any magistrate to be delivered to the Commissioner of Police or other proper officer, the Commissioner or other proper officer, may after the expiration of twelve months during which no person has made claim to the goods or money as owner, sell or dispose of such goods or money for the public benefit, and pay the proceeds in accordance with the Lost and Abandoned Property Act.

Goods of unknown owner may be sold.

CAP. 335.

*Seizure and Restitution of Property*

106.-(1) The court may order the seizure of any property which there is reason to believe has been obtained by, or is the proceeds of, any summary conviction offence, or into which the proceeds of any summary conviction offence have been converted, and may direct that the property shall be kept or sold, and that it, or the proceeds thereof, if sold, shall be held as the court directs, until some person establishes, to the court's satisfaction, a right thereto.

Seizure of property the proceeds of summary conviction offence.

(2) If no person establishes that right within twelve months from the seizure, the property, or the proceeds thereof, shall become vested in the Financial Secretary for the public use of Belize and shall be disposed of accordingly.

107. The court may order the seizure of any instruments, materials or things which there is reason to believe are provided or prepared or being prepared, with a view to the commission of any summary conviction offence, and may direct them to be held and dealt with in the same manner as property seized under section 106.

Seizure of things intended to be used in commission of summary conviction offence.

- Enforcement of order of seizure. 108. Any order made under either section 106 or 107 may be enforced by a search warrant under this Act.
- Return of property found on person apprehended. 109. If, upon the apprehension of any person charged with a summary conviction offence, any property is taken from him, a report shall be made by the police to the court of that fact and of the particulars of the property, and the court shall, if it 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 person charged, order the property or any portion thereof to be returned to the person charged or to any other person it directs.
- Application of money found on person apprehended. 110. If, upon the apprehension of any person charged with a summary conviction offence, any money is taken from him, the court may, in its discretion, in case of his conviction, order the money, or any part thereof, to be applied to the payment of any costs, or costs and compensation, directed to be paid by him.
- Restitution of property in case of conviction. 111.-(1) Subject as hereinafter provided, where any person is convicted of a summary conviction offence, any property found in his possession, or in the possession of any other person for him, may be ordered by the court to be delivered to the person who appears to the court to be entitled thereto.
- (2) Where any person is convicted before the court of having stolen or dishonestly obtained any property, and it appears to the court that the property has been pawned to a pawnbroker or other person, the court may order the delivery thereof to the person who appears to the court to be the owner, either on payment or without payment to the pawnbroker or other person of the amount of the loan or any part thereof, as to the court, in all the circumstances of the case, seems just.
- (3) If the person in whose favour the order is made pays the money to the pawnbroker or other person under the order and obtains the property, he shall not afterwards question the validity of the pawn, but except to that extent no order made under this section shall have any further

effect than to change the possession, nor shall it prejudice any right of property or right of action in respect to property existing or acquired in the goods either before or after the offence was committed.

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

Keeping the Peace

112.-(1) Whenever a complaint is made by any person against another to the effect that there is reason to fear that the defendant will do the complainant some bodily injury, the court may, if the complaint is established, order the defendant to enter into a recognisance, with or without a surety or sureties to the satisfaction of the magistrate, to keep the peace and be of good behaviour, either towards the complainant individually or towards the complainant and all persons within Belize.

Finding sureties to keep the peace.

(2) Whenever the Director of Public Prosecutions considers that a breach of the peace is likely to occur by reason of the utterances, acts or other conduct within public hearing or public view of any person or persons, he may make complaint to a magistrate against such person or persons and the court may, if the complaint is established, order the defendant or defendants to enter into a recognisance, with or without a surety or sureties to the satisfaction of the magistrate, to keep the peace and be of good behaviour towards all persons within Belize.

1 of 1969.

(3) The provisions of this Act shall apply to the hearing of any complaint under this section, and the complainant and the defendant and the witnesses may be called and examined and cross-examined, and the

complainant and the defendant shall respectively be liable to the payment of costs, or of costs and compensation, as in the case of any other complaint.

(4) The court may order any defendant, in default of compliance with the order of the court, to be imprisoned for any term not exceeding twelve months.

Binding over parties to be of good behaviour.

113. The court shall have power, in any complaint made for a summary conviction offence, whether the complaint is dismissed or the defendant is convicted, to bind both the complainant and the defendant, or either of them, to be of good behaviour, and may order the complainant or the defendant, in default of compliance with the order, to be imprisoned for any term not exceeding three months.

Bringing up person imprisoned for want of sureties.

114. Every person imprisoned under either section 112 or 113 shall be brought before the Supreme Court whenever the prison in which he is confined is delivered.

Sanction of compromise.

115. The court may, in any case of breach of the peace, sanction any compromise between the parties to the complaint which it deems just and right.

Recognisances taken out of court.

116. Where the court has fixed, as respects any recognisance, the amount in which the principal and sureties, if any, are to be bound, the recognisance, notwithstanding anything in this or any other Act, need not be entered into before such court, but may be entered into by the parties before a justice of the peace or the clerk or, where any of the parties are in prison, before the keeper of such prison, and thereupon all the consequences of the law shall ensure, and the provisions of this Act shall apply as if the recognisances had been entered into before the court.

Enforcement of recognisance to keep the peace or to be of good behaviour.

117.-(1) Where a surety to a recognisance to keep the peace or to be of good behaviour has reason to suspect that the person bound as principal has been or is about to be guilty of conduct which was or would be a

breach of the conditions of the recognisance, he may make a complaint before any magistrate having jurisdiction either in the place in which the principal is or is believed by the complainant to be or in the place where the court by which the recognisance was ordered to be entered into was held, and that magistrate may thereupon, if in his discretion he thinks fit, issue a summons against the principal.

(2) The court before which the principal appears in answer to any such summons may, as it thinks fit, either order him to enter into a fresh recognisance, with or without sureties to the satisfaction of the magistrate, or deal with him in the same manner as if he were a person who had failed to comply with an order to enter into a recognisance and find sureties to keep the peace or to be of good behaviour, and shall in either case order that the first-mentioned recognisance be discharged.

Enforcement of Recognisance

118.-(1) Where a recognisance is conditioned for the appearance of any person before the court or for his doing some other act or thing to be done in, to or before the court or in a proceeding in the court, the court may, if the recognisance appears to be forfeited, declare it to be forfeited, and order the sum due thereunder to be levied upon the personal property of the person liable thereunder, in the same manner as if the sum were a penalty adjudged by the court to be paid, and were ascertained by an order.

Mode of enforcing recognisance.

(2) The court may at any time cancel or mitigate the forfeiture, upon the person liable under the recognisance applying and giving security, to the satisfaction of the court, for the future performance of the condition of the recognisance, and paying, or giving security for the payment of, the costs incurred in respect of the forfeiture, or upon any other conditions the court thinks just.

(3) If it appears to the court that a distress warrant should not, under the provisions of subsection (1), be issued against the person liable under the

1 of 1969.

recognisance, but that he has real property, the court may, if it thinks fit, postpone the issue of a warrant of commitment against him, and transmit the recognisance to the Director of Public Prosecutions in order that it may be put in suit against him.

(4) Where a recognisance to keep the peace and 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 as a surety before the court, the court may, on proof of the conviction of the person bound as principal by the recognisance of any offence which is by law a breach of the condition thereof, by order adjudge the recognisance to be forfeited and adjudge the persons bound thereby, whether as principal or as sureties, or any of them, to pay the sums for which they are respectively bound, and the recognisance shall be dealt with in the manner hereinbefore mentioned.

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1 of 1969.

(5) Notwithstanding anything contained in subsection (4), where a recognisance to keep the peace or to be of good behaviour, or not to do or commit some act or thing is adjudged to be forfeited under that subsection, the magistrate shall, on the demand in writing of the Director of Public Prosecutions, transmit the forfeited recognisance to the Supreme Court, and such forfeited recognisance shall be further dealt with as if it were an estreated recognisance under section 192 of the Indictable Procedure Act.

(6) All sums paid or recovered in respect of any recognisance declared or adjudged by the court in pursuance of this section to be forfeited shall be paid to the clerk and shall be paid over and accounted for in the same manner as penalties imposed by the court.

*Commitments of Vagrants and Rogues to Poor-house*

Power to make order for detention of vagrants in poor-house.

119. Where any person is brought before the court charged with having committed an offence against the provisions of any Act relating to vagrants, or to rogues and vagabonds, or to incorrigible rogues, and it appears to the court that the person so charged is unable from physical infirmity to maintain

himself, and that he has no visible means of subsistence, the court, instead of proceeding to hear and determine that charge, may order that the person so charged shall be forthwith conveyed to a poor-house and there detained until he is discharged therefrom as provided by sections 121 and 122.

120. Every person ordered to be so detained shall be taken to a poor-house, and there detained until he is discharged by the written order of a magistrate.

Time of detention.

121. Every magistrate is hereby authorised to make an order in writing directing the immediate discharge from a poor-house of any person who has been so ordered to be detained therein if it appears to the magistrate that he has become capable of earning his livelihood, and he shall be discharged accordingly.

Power to order discharge of person detained.

122. If any person enters into a bond in the sum of twenty-five dollars before a magistrate that due provision shall be made for the future maintenance of any person who has been so ordered to be detained in a poor-house, the magistrate, if satisfied that the person so entering into the bond has sufficient property to enable him to maintain the person so ordered to be detained, or to pay the said sum of twenty-five dollars if the condition of the bond is not performed, shall make an order in writing that the person so ordered to be detained and mentioned in the bond shall be at once discharged, and he shall be discharged accordingly.

Discharge of person detained on security being given.

123. If any person so ordered to be detained in a poor-house becomes so ill that, in the opinion of a government medical officer, he cannot be properly treated therein, the officers of the poor-house, with the sanction of the Director of Medical Services, may cause the person to be conveyed to the nearest public hospital for medical treatment therein, and the person on his discharge from the hospital shall be taken back to a poor-house and there detained as hereinbefore mentioned.

Transfer to hospital of person detained in case of illness.

Arrest of person detained in case of escape.

124. A person so ordered to be detained in a poor-house who leaves it, or any public hospital to which he has been removed, before he has been discharged as provided by sections 121 and 122 may be arrested, without warrant, by any police officer and conveyed back to a poor-house, and there detained as hereinbefore mentioned.

*Saving of Validity of Process*

Provisions as to certain proceedings in the court.

125. The following provisions with respect to certain proceedings in the court shall have effect, that is to say-

- (a) a warrant of commitment shall not be held void by reason only of any defect therein, if it is therein alleged that the offender has been ordered to do or to abstain from doing any act or thing required to be done or left undone, and there is a good and valid order to sustain the allegation;
- (b) a distress warrant shall not be held void by reason only of any defect therein, if it is therein alleged that an order has been made, and there is a good and valid order to sustain the allegation;
- (c) a person acting under a distress warrant shall not be deemed a trespasser from the beginning by reason only of any defect in the warrant or of any irregularity in the execution thereof, 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 distress warrant, so, however, that if amends are tendered before action brought and, if the action is brought, are paid into court in the action, and the plaintiff does not recover more than the sum so tendered and paid into court, the plaintiff shall not be

entitled to any costs incurred after the tender, and the defendant shall be entitled to costs, to be taxed as between attorney and client; and

(d) a summons or warrant or other process shall not be held void by reason of the magistrate who signed it dying or ceasing to hold office.

126. It shall not be competent for any person to impeach, in any proceeding or in any other manner whatever, any order made by the court on the hearing of a complaint on the ground that the court had no jurisdiction to make the order, unless that objection was taken on the hearing of the complaint or at the time of the making of the order.

No objection to jurisdiction unless taken at hearing.

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

Effect of variance or defect in proceedings.

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

Provided that if any variance or defect mentioned in this section appears to the court at the hearing to be such that the defendant has been thereby deceived or misled, the court may make any necessary amendments and, if it is expedient to do so, adjourn, upon such terms as it thinks fit, further hearing of the cause.

Proof of Service of Process

Proof of service of process. 128.-(1) In every proceeding in the court in which it is necessary to prove the service of any summons, notice, order or other process whatever of the court upon any person, it shall be deemed to be sufficient proof of the service if the person by whom the process has been served is duly sworn to an affidavit of the service.

(2) The affidavit may be sworn by and before any magistrate, justice of the peace or, if authorised for that purpose by the Attorney General, the clerk.

(3) The affidavit shall be received in evidence in any proceeding in any court without proof of the signature or of the official character of the person making it, or of the person before whom it is made, and the onus of showing that any service referred to in the affidavit was not made in accordance with the tenor of the affidavit shall be on the party objecting.

(4) Affidavits of service shall be numbered by the clerk consecutively in the order in which they are received and filed as of record in the court in which they are entitled and, in every case in which any such affidavit is used, it shall be sufficient to note on the proceedings its number and the court in which it is filed.

Proof of previous conviction. 129.-(1) Where on the hearing of any complaint, it is proposed to prove against the defendant the fact of a previous conviction-

- (a) a copy of the order of any summary jurisdiction court, in respect of the former offence purporting to be certified by the clerk of that court; or
- (b) production of a copy of a warrant of commitment reciting the conviction purporting to be certified under

the hand of the keeper of the prison,

shall upon proof of identity of the person be sufficient evidence of the conviction.

(2) A previous conviction may in the alternative be proved against any person in any criminal proceedings by the production of such evidence of the conviction as is mentioned in subsections (3), (4) and (5), and by showing that his fingerprints and those of the person previously convicted are the fingerprints of the same person.

(3) A certificate purporting to be signed by or on behalf of the Commissioner of Police, containing particulars relating to a conviction extracted from the criminal records kept by him, and certifying that the copies of the fingerprints exhibited to the certificate are copies of the fingerprints appearing from the said records to have been taken in pursuance of section 19 of the Police Act from the person convicted on the occasion of the conviction, shall be evidence of the conviction and evidence that the copies of the fingerprints exhibited to the certificate are copies of the fingerprints of the person convicted. CAP. 138.

(4) A certificate purporting to be signed by or on behalf of the keeper of a prison in which any person has been detained in connection with any criminal proceedings, certifying that the fingerprints exhibited thereto were taken from him while he was so detained, shall be evidence in those proceedings that the fingerprints exhibited to the certificate are the fingerprints of that person.

(5) A certificate, purporting to be signed by or on behalf of the Commissioner of Police, and certifying that the fingerprints, copies of which are certified as provided in subsection (3) by or on behalf of the Commissioner to be copies of the fingerprints of a person previously convicted and the fingerprints certified by or on behalf of the keeper of a prison as provided in subsection (4), or otherwise shown, to be the

fingerprints of the person against whom the previous conviction is sought to be proved are the fingerprints of the same person shall be evidence of the matter so certified.

*Appropriation of Penalties and Seizures, etc.*

Appropriation of penalties and seizures.

130. Subject to the provisions of this or any other statute, every penalty or any part thereof recovered in the court in respect of a summary conviction offence, and also the proceeds of any seizure or forfeiture made or incurred subject to the process of the court, shall be paid by the officer into whose hands they come to the Accountant General.

Dealing with forfeiture not pecuniary.

131. Subject to the express provisions of any statute relating thereto, every forfeiture not pecuniary which is incurred in respect of a summary conviction offence, or which may be enforced by the court, may be sold or disposed of in the manner directed by the court, and the proceeds of sale shall be applied in the like manner as if the proceeds were a penalty imposed under the statute on which the proceeding for the forfeiture is founded.

Remission by the Governor-General of penalties.

132.-(1) The Governor-General may remit, in whole or in part, any sum of money imposed as a penalty and as costs, charges and expenses in connection with the penalty, on any person convicted of a summary conviction offence, although the money may be, in whole or in part, payable into the Treasury for the public use of Belize, or to some party other than the Crown, and may extend the royal mercy to any person who may be imprisoned for non-payment of any sum of money so imposed, although the money may be, in whole or in part, payable into the Treasury for the public use of Belize, or to some party other than the Crown.

(2) The Governor-General may order the restoration of any thing seized or detained in connection with a summary conviction offence.

(3) Every remission or restoration under this section may be made in

the manner and subject to the terms and conditions the Governor-General sees fit to direct, subject to the Belize Constitution.

133. Every person who accepts or acquiesces in any remission or restoration as provided in section 132 shall be thereby debarred from having, maintaining or continuing, any action or suit in respect of any matter to which the remission or restoration relates, and no further proceedings shall be taken against him in relation to that matter.

Effect of acquiescence in remission.

134. Where any person, who is committed to prison on any order for non-payment of any sum of money adjudged to be paid by the order, desires to pay the money and costs before the expiration of the time for which he has been so ordered to be imprisoned by the warrant of commitment, he shall do so to the keeper of the prison in which he is imprisoned, and the keeper shall forthwith transmit a receipt for the moneys to the magistrate of the court which issued the warrant of commitment.

Payment of sum adjudged to be paid by order by person imprisoned in default of payment.

135. Every magistrate and every keeper of a prison shall keep a true and exact account of all moneys received by him under this Act, and shall, within the first seven days of every month, transmit a fair copy of that account for the preceding month to the Accountant General.

Keeping account of moneys received.

136. Where a magistrate has made an order directing or allowing any recognisance to be taken, and it is not practicable or convenient for him to attend at the time and place where the recognisance is to be taken, any other magistrate may attend and take the recognisance, which shall thereafter have effect and be dealt with in the same manner as if it had been taken by the first-mentioned magistrate.

Taking of recognisance.

137. In order to discourage corrupt practices by common informers, it shall be lawful for a magistrate by whom a conviction has been made to adjudge, although any part of a penalty is directed by statute to be paid to the

Magistrate may disallow payment to an informer.

informer, that no part of that penalty, or such part only thereof as he thinks fit, shall be paid to an informer.

Records

Record book of proceedings.

138.-(1) The clerk shall keep a record book for his court, in which shall be entered, in the proper columns respectively, the number of the cause, the date of making the complaint, the name of the complainant, the name of the defendant and his age, if he is under fourteen years of age, the substance of the complaint, the statute under which the cause is tried, the date of adjudication, a minute of the adjudication, the name of the magistrate adjudicating, and the costs.

(2) If the court refuses to entertain or dismisses a complaint, the clerk shall enter the refusal or dismissal, with the grounds thereof, in the record book.

Register of minutes of orders.

139.-(1) The clerk shall keep a register of the minutes or memoranda of all the orders of the court and of any other proceedings directed by the Attorney General to be registered, and with the particulars and in the form from time to time directed by the Attorney General.

(2) The register, and also any extract therefrom certified by the clerk to be a true extract, shall, in any proceeding whatever in any court, be *prima facie* evidence of the truth of all matters stated therein.

Custody of records.

140. Every record book and register mentioned in sections 138 and 139 shall remain in the judicial district and in the custody of the clerk.

SCHEDULE

[SECTION 41]

*Offences to which the Defendant may plead Guilty by Letter*

1. MOTOR VEHICLES AND ROAD TRAFFIC. CAP. 230.
  - (a) Any offences against sections 25, 26, 27, 40, 46(2) (3), 48 (2), 49 (3), 52, 53, 54, 60, 65 (2), 66, 67, 68, 80, 81, 86 and 106 of the Motor Vehicles and Road Traffic Act. Sub. Leg. 1991 Edn. Vol. IV. CAP. 192. p.
  - (b) Any offence against the Motor Vehicles and Road Traffic Regulations.
  - (c) Any offence against the Motor Vehicles and Road Traffic (Road Crossing) Regulations.
  - (d) Any offence against the Bicycles Regulations.
  
2. DOGS.

Any offence against sections 3, 9 and 10 of the Dogs Act. CAP. 153.
  
3. SUMMARY OFFENCES.

Any offence against section 4 (1) (v), (vi), (xi), (xii), (xviii), (xxvi), (xxviii) and (xli) of the Summary Jurisdiction (Offences) Act. CAP. 98.