

SCHEDULE B.

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| For the Protest of any Bill or Note,..... | 2 | 6 |
| For every Notice | 1 | 3 |

CAP. XCV.

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

[30th August, 1851.]

WHEREAS it would conduce much to the improvement of the administration of justice within that part of this Province called Lower Canada, so far as respects Summary Convictions and Orders to be made by Her Majesty's Justices of the Peace therein, if the several Statutes and parts of Statutes relating to the duties of such Justices in respect of such Summary Convictions and Orders were consolidated, with such additions and alterations as may be deemed necessary, and that such duties should be clearly defined by positive enactment: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That in all cases where an information shall be laid before one or more of Her Majesty's Justices of the Peace for any District in Lower Canada, that any person has committed or is suspected to have committed any offence or act within the jurisdiction of such Justice or Justices of the Peace, for which he is liable by law, upon a Summary Conviction for the same before a Justice or Justices of the Peace, to be imprisoned or fined, or otherwise punished; and also in all cases where a complaint shall be made to any such Justice or Justices, upon which he or they have or shall have authority by law to make any Order for the payment of money or otherwise, then in every such case it shall be lawful for such Justice or Justices of the Peace to issue his or their Summons (A), directed to such person, stating shortly the matter of such information or complaint, and requiring him to appear at a certain time and place, before the same Justice or Justices, or before such other Justice or Justices of the same District as shall then be there, to answer to the said information or complaint, and to be further dealt with according to law; and every such Summons shall be served by a Constable or other Peace Officer, or other person to whom the same shall be delivered, upon the person to whom it is so directed, by delivering the same to the party personally, or by leaving the same with some person for him, at his last or most usual place of abode; and the Constable, Peace Officer, or person who shall serve the same in manner aforesaid, shall attend at the time and place, and before the Justices in the said Summons mentioned, to depose, if necessary, to the service of the said Summons: Provided always, that nothing herein mentioned shall oblige any Justice or Justices of the Peace to issue any such Summons in any case where the application for any Order of Justices is by law to be made *ex parte*: Provided also, that no objection shall be taken or allowed to any information, complaint or summons, for any alleged fact therein, in substance or in form, or for any variance between such information, complaint or summons, and the evidence adduced on the part of the informant or complainant at the hearing of such information or complaint as hereinafter mentioned; but if any such variance shall appear to the Justice or Justices present and acting at such hearing to be such that the party so summoned and appearing has been thereby deceived or misled,

Preamble.

How Summons to be served.

Justices not obliged to issue Summons in certain cases.

No objection allowed for want of form.

mised, it shall be lawful for such Justice or Justices, upon such terms as he or they shall think fit, to adjourn the hearing of the case to some future day.

II. And be it enacted, That if the person so served with a Summons as aforesaid shall not be and appear before the Justice or Justices at the time and place mentioned in such Summons, and it shall be made to appear to such Justice or Justices, by oath or affirmation, that such Summons was so served, what shall be deemed by such Justice or Justices to be a reasonable time before the time therein appointed for appearing to the same, then it shall be lawful for such Justice or Justices, if he or they shall think fit, upon oath or affirmation being made before him or them, substantiating the matter of such information or complaint to his or their satisfaction, to issue his or their Warrant (B) to apprehend the party so summoned, and to bring him before the same Justice or Justices or before some other Justice or Justices of the Peace in and for the same District, to answer to the said information or complaint, and to be further dealt with according to law; or upon such information being laid as aforesaid for any offence punishable on conviction, the Justice or Justices before whom such conviction shall have been made may, if he or they shall think fit, upon oath or affirmation being made before him or them substantiating the matter of such information to his or their satisfaction, instead of issuing such Summons as aforesaid, issue in the first instance his or their Warrant (C) for apprehending the person against whom such information shall have been so laid, and bringing him before the same Justice or Justices, or before some other Justice or Justices of the Peace in and for the same District, to answer to the said information, and to be further dealt with according to law; or if where a Summons shall be so issued as aforesaid, and upon the day and at the place appointed in and by the said Summons for the appearance of the party so summoned, such party shall fail to appear accordingly in obedience to such Summons, then and in every such case, if it be proved upon oath or affirmation to the Justice or Justices then present, that such Summons was duly served upon such party a reasonable time before the time so appointed for his appearance as aforesaid, it shall be lawful for such Justice or Justices of the Peace to proceed *ex parte* to the hearing of such information or complaint, and to adjudicate thereon, as fully and effectually to all intents and purposes as if such party had personally appeared before him or them in obedience to the said Summons.

III. And be it enacted, That every such Warrant to apprehend a Defendant, that he may answer to such information or complaint as aforesaid, shall be under the Hand and Seal or Hands and Seals of the Justice or Justices issuing the same, and may be directed to all or any of the Constables or other Peace Officers of the District within which the same is to be executed, or to such Constable and all other Constables within the District within which the Justice or Justices issuing such Warrant hath or have jurisdiction, or generally to all the Constables within such last mentioned District, and it shall state shortly the matter of the information or complaint on which it is founded, and shall name or otherwise describe the person against whom it has been issued, and it shall order the Constable or other Peace Officer to whom it is directed, to apprehend the said Defendant, and to bring him before one or more Justice or Justices of the Peace, as the case may require, of the same District, to answer to the said information or complaint, and to be further dealt with according to law; and that it shall not be necessary to make such Warrant returnable at any particular time, but the same may remain in full force until it shall be executed; and such Warrant may be executed by apprehending the Defendant at any place within the District within which the Justices issuing the same shall have jurisdiction, or, in case of fresh pursuit, at any place in the next adjoining District, within seven miles of the border of such first mentioned District, without having such Warrant backed as hereinafter mentioned; and in all cases in which such Warrant shall be directed to all Constables or Peace Officers within the District within which the Justice or Justices issuing the same shall have jurisdiction, it shall be lawful for any Constable or Peace Officer for any place within the limits of the jurisdiction for which such Justice or Justices shall have acted when he or they granted such Warrant, to execute such Warrant in like manner as if such Warrant were directed specially to such

If Summons be not obeyed, Justices may issue Warrant;

Or may issue Warrant in the first instance;

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

Form of Warrant.

When and how Warrant may be executed.

such Constable by name, and notwithstanding that the place in which such Warrant shall be executed, shall not be within the place for which he shall be such Constable or Peace Officer ; and if the person against whom any such Warrant has been issued be not found within the jurisdiction of the Justice or Justices by whom it issued, or, if he shall escape, go into, reside or be, or be supposed or suspected to be in any place within this Province, whether in Upper or Lower Canada, out of the jurisdiction of the Justice or Justices issuing the Warrant, any Justice of the Peace, within whose jurisdiction such person shall be or be suspected to be as aforesaid, upon proof alone upon oath of the hand-writing of the Justice or Justices issuing the Warrant, may make an endorsement upon it, signed with his name, authorizing the execution of the Warrant within his jurisdiction ; and such endorsement shall be a sufficient authority to the person bringing the Warrant, and to all other persons to whom it was originally directed, and to all Constables or other Peace Officers of the District, County or place where the endorsement is made, to execute the same in any place within the jurisdiction of the Justice of the Peace endorsing the same, and to carry the offender, when apprehended, before the Justice or Justices who first issued the Warrant or some other Justice having the same jurisdiction ; Provided always, that no objection shall be taken or allowed to any such Warrant to apprehend a Defendant, so issued upon any such information or complaint as aforesaid, under or by virtue of this Act, for any alledged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the Informant or Complainant as hereinafter mentioned ; but if any such variance shall appear to the Justice or Justices present and acting at such hearing, to be such that the party so apprehended under such Warrant has been thereby deceived or misled, it shall be lawful for such Justice or Justices, upon such terms as he or they shall think fit, to adjourn the hearing of the case to some future day, and in the meantime to commit (D.) the said Defendant to the House of Correction or other prison, lock-up house, or place of security, or to such other custody as the said Justice or Justices shall think fit, or to discharge him upon his entering into a Recognizance (E.), with or without Surety or Sureties, at the discretion of such Justice or Justices, conditioned for his appearance at the time and place to which such hearing shall be so adjourned : Provided always, that in all cases where a Defendant shall be discharged upon Recognizance as aforesaid, and shall not afterwards appear at the time and place in such Recognizance mentioned, then the said Justice, who shall have taken the said Recognizance, or any Justice or Justices, who may then be there present, upon certifying (F.) upon the back of the said Recognizance the non-appearance of the Defendant, may transmit such Recognizance to the Clerk of the Peace of the District within which such Recognizance shall have been taken, to be proceeded upon in like manner as other Recognizances, and such Certificate shall be deemed sufficient *prima facie* evidence of such non-appearance of the said Defendant.

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

V. And be it enacted, That every person who shall aid, abet, counsel or procure the commission of any offence which is or hereafter shall be punishable on Summary Conviction, shall be liable to be proceeded against and convicted for the same, either together

Backing of Warrant when taken into another jurisdiction.

No objection allowed for want of form in the Warrant or for any variance, &c.

But if the party charged is deceived by the variation, he may be committed or discharged upon Recognizance.

But if he fail to re-appear, the Justice may transmit the Recognizance to the Clerk of the Peace.

Description of property of partners, &c.

Prosecution and punishment of aiders and abettors in the commission of offences.

together with the principal offender, or before or after his conviction, and shall be liable, on conviction, to the same forfeiture and punishment as such principal offender is or shall be by law liable, and may be proceeded against and convicted either in the District, County, Township, City, Parish or place where such principal offender may be convicted, or in that in which such offence of aiding, abetting, counselling or procuring may have been committed.

Power to Justices to summon witnesses to attend and give evidence.

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

If Summons be not obeyed, Justices may issue Warrant.

In certain cases may issue Warrant in first instance.

Persons appearing on Summons, &c. refusing to be examined, may be committed.

Complaint for an Order need not be in writing.

VII. And be it enacted, That in all cases of complaints upon which a Justice or Justices of the Peace may make an Order for the payment of money or otherwise, it shall not be necessary that such complaint shall be in writing, unless it shall be required to be so by some particular Act of Parliament upon which such complaint shall be framed.

As to proceedings upon informations for offences punishable on Summary Convictions.

VIII. And be it enacted, That in all cases of informations for any offences or acts punishable upon Summary Conviction, any variance between such information and the evidence adduced in support thereof as to the time at which such offence or act shall be alleged to have been committed, shall not be deemed material if it be proved that such information was in fact laid within the time limited by law for laying the same; and any variance between the said information and the evidence adduced in support thereof, as to the place in which the offence or act shall be alleged to have been

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

IX. And be it declared and enacted, That every such complaint upon which a Justice or Justices of the Peace is, or are or shall be authorized by law to make an Order, and that every information for any offence or act punishable upon Summary Conviction, unless some particular Act of Parliament shall otherwise require, may respectively be made or laid without any oath or affirmation being made of the truth thereof, except in cases of informations, where the Justice or Justices receiving the same shall thereupon issue his or their Warrant in the first instance, to apprehend the Defendant as aforesaid; and in every such case where the Justice or Justices shall issue his or their Warrant in the first instance, the matter of such information shall be substantiated by the oath or affirmation of the informant, or by some witness or witnesses on his behalf, before any such Warrant shall be issued, and every such complaint shall be for one matter of complaint only, and not for two or more matters of complaint, and every such information shall be for one offence only, and not for two or more offences, and every such complaint or information may be laid or made by the Complainant or Informant in person, or by his Counsel or Attorney, or other person authorized in that behalf.

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

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

witnesses

The party charged, if deceived by variance between information and evidence, may be committed or discharged upon Recognizance.

But if he fail to re-appear, the Justice may transmit the Recognizance to the Clerk of the Peace.

Manner of making complaint or laying information.

When Warrant is issued in the first instance, information to be on oath, &c.

Time limited for such information or complaint.

As to the hearing of complaints and informations.

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

Parties may plead by Counsel or Attorney.

If defendant does not appear, Justices may proceed to hear and determine or issue Warrant, and adjourn the hearing till defendant is apprehended.

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

But if he fail to re-appear, the Justice may transmit the Recognizance to the Clerk of the Peace.

If both parties appear, Justice to hear and determine the case.

Proceedings on the hearing of complaints and informations.

witnesses examined and cross-examined by Counsel or Attorney on his behalf; and every Complainant or Informant in any such case shall be at liberty to conduct such complaint or information respectively, and to have the Witnesses examined and cross-examined by Counsel or Attorney on his behalf.

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

XIII. And be it enacted, That when such Defendant shall be present at such hearing, the substance of the information or complaint shall be stated to him, and he shall be asked if he have any cause to shew why he should not be convicted, or why an Order should not be made against him, as the case may be; and if he thereupon admit the truth of the information or complaint, and shew no cause or no sufficient cause why he should not be convicted, or why an Order should not be made against him, as the case may be, then the Justice or Justices, present at the said hearing, shall convict him or make an Order against him accordingly; but if he do not admit the truth of such information

information or complaint as aforesaid, then the said Justice or Justices shall proceed to hear the Prosecutor or Complainant and such Witnesses as he may examine, and such other evidence as he may adduce in support of his information or complaint respectively, and also to hear the Defendant and such Witnesses as he may examine, and such other evidence as he may adduce in his defence, and also to hear such Witnesses as the Prosecutor or Complainant may examine in reply, if such Defendant shall have examined any Witnesses or given any evidence other than as to his the Defendant's general character; but the Prosecutor or Complainant shall not be entitled to make any observations in reply upon the evidence given by the Defendant, nor shall the Defendant be entitled to make any observations in reply upon the evidence given by the Prosecutor or Complainant in reply as aforesaid; and the said Justice or Justices, having heard what each party shall have to say as aforesaid, and the Witnesses and evidence so adduced, shall consider the whole matter and determine the same, and shall convict or make an Order upon the Defendant or dismiss the information or complaint, as the case may be; and if he or they convict or make an Order against the Defendant, a Minute or Memorandum thereof shall then be made, for which no fee shall be paid, and the conviction (I 1, 3) or Order (K 1, 3) shall afterwards be drawn up by the said Justice or Justices in proper form, under his or their Hand and Seal or Hands and Seals, and he or they shall cause the same to be lodged with the Clerk of the Peace to be by him filed among the Records of the General or Quarter Sessions of the Peace; or if the said Justice or Justices shall dismiss such information or complaint, it shall be lawful for such Justice or Justices, when required so to do, to make an Order of Dismissal of the same (L), and shall give the Defendant on that behalf a Certificate thereof (M), which said Certificate afterwards upon being produced, without further proof, shall be a bar to any subsequent information or complaint for the same matters respectively, against the same party: Provided always, that if the information or complaint in any such case shall negative any exemption, exception, proviso, or condition in the Statute on which the same shall be framed, it shall not be necessary for the Prosecutor or Complainant in that behalf to prove such negative, but the Defendant may prove the affirmative thereof in his defence, if he would have advantage of the same.

Proviso.

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

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

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

Power to Justices to adjourn the hearing of cases, and commit defendant, or suffer him to go at large, or discharge him upon his own Recognizance.

Prosecutor

But if he fail to re-appear, the Justice may transmit the Recognizance to the Clerk of the Peace.

Form of Convictions and Orders.

Power to Justice to award costs, which shall be specified in conviction or order of dismissal, and may be recovered by distress.

Power to Justice to issue Warrant of Distress.

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

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

XVII. And be it enacted, That in all cases of Summary Conviction, or of Orders made by a Justice or Justices of the Peace, it shall be lawful for the Justice or Justices making the same, in his or their discretion, to award and order in and by such Conviction or Order that the Defendant shall pay to the Prosecutor or Complainant respectively such costs as to the said Justice or Justices shall seem reasonable in that behalf; and in cases where such Justice or Justices, instead of convicting or making an Order as aforesaid, shall dismiss the information or complaint, it shall be lawful for him or them, in his or their discretion, in and by his or their Order of Dismissal, to award and order that the Prosecutor or Complainant, respectively, shall pay to the Defendant such costs as to the said Justice or Justices shall seem reasonable, and the sums so allowed for costs shall in all cases be specified in such Conviction or Order, or Order of Dismissal as aforesaid, and the same shall be recoverable in the same manner and under the same Warrants as any penalty or sum of money adjudged to be paid in and by such Conviction or Order is to be recoverable; and in cases where there is no such penalty or sum of money to be thereby recovered, then such costs shall be recoverable by distress and sale of the goods and chattels of the party, and in default of such distress, by imprisonment, with or without hard labor, for any time not exceeding one calendar month, unless such costs shall be sooner paid.

XVIII. And be it enacted, That where a Conviction adjudges a pecuniary penalty or compensation to be paid, or where an Order requires the payment of a sum of money, and by the Statute authorizing such Conviction or Order, such penalty, compensation, or sum of money is to be levied upon the goods and chattels of the Defendant, by distress and sale thereof; and also in cases where, by the Statute in that behalf, no mode of raising or levying such penalty, compensation or sum of money, or of enforcing the payment of the same, is stated or provided, it shall be lawful for the Justice or

any

any one of the Justices making such Conviction or Order, or for any Justice of the Peace for the same District, to issue his Warrant of Distress (N 1, 2) for the purpose of levying the same, which said Warrant of Distress shall be in writing, under the Hand and Seal of the Justice making the same; and if, after delivery of such Warrant of Distress to the Constable or Constables to whom the same shall have been directed to be executed, sufficient distress shall not be found within the limits of the jurisdiction of the Justice granting such Warrant, then upon proof alone being made upon oath of the handwriting of the Justice granting such Warrant, before any Justice of any other District, such Justice of such other District shall thereupon make an endorsement (N 3) on such Warrant, signed with his Hand, authorizing the execution of such Warrant within the limits of his jurisdiction, by virtue of which said Warrant and endorsement the penalty or sum aforesaid, and costs, or so much thereof as may not have been before levied or paid, shall and may be levied by the person bringing such Warrant, or by the person or persons to whom such Warrant was originally directed, or by any Constable or other Peace Officer of such last mentioned District, by distress and sale of the goods and chattels of the Defendant in such other District: Provided always that whenever it shall appear to any Justice of the Peace to whom application shall be made for any such Warrant of Distress as aforesaid, that the issuing thereof would be ruinous to the Defendant and his family, or whenever it shall appear to the said Justice, by the confession of the Defendant or otherwise, that he hath no goods and chattels whereon to levy such distress, then and in every such case it shall be lawful for such Justice, if he shall deem it fit, instead of issuing such Warrant of Distress, to commit such Defendant to the House of Correction, or, if there be no House of Correction within his jurisdiction, then to the Common Gaol, there to be imprisoned with or without hard labor, for such time and in such manner as by law such Defendant might be so committed in case such Warrant of Distress had issued, and no goods or chattels had been found whereon to levy such penalty or sum and costs aforesaid.

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

XX. And be it enacted, That if at the time and place appointed for the Return of any such Warrant of Distress, the Constable, who shall have had execution of the same, shall return (N 4) that he could find no goods or chattels or no sufficient goods or chattels whereon he could levy the sum or sums therein mentioned, together with the costs of, or occasioned by, the levy of the same, it shall be lawful for the Justice of the Peace before whom the same shall be returned, to issue his Warrant of Commitment (N 5), under his Hand and Seal, directed to the same or any other Constable, reciting the Conviction or Order, shortly, the issuing of the Warrant of Distress, and the Return thereto, and requiring such Constable to convey such Defendant to the House of Correction, or if there be no House of Correction, then to the Common Gaol

How Warrant to be backed.

When the issuing a Warrant would be ruinous to defendant, or when there are no goods, Justice may commit him to prison.

Justice, after issuing Warrant, may suffer defendant to go at large or order him into custody, until return be made, unless he gives security by Recognizance.

But if he fail to re-appear, Justice may transmit Recognizance to the Clerk of the Peace.

In default of sufficiency of distress, Justice may commit defendant to prison.

of

of the District for which such Justice shall then be acting, and there to deliver to the Keeper thereof, and requiring such Keeper to receive the Defendant into such House of Correction or Gaol, and there to imprison him, or to imprison him and keep him to hard labor, in such manner and for such time as shall have been directed and appointed by the Statute on which the Conviction or Order mentioned in such Warrant of Distress was founded, unless the sum or sums adjudged to be paid, and all costs and charges of the distress, and also the costs and charges of the commitment and conveying of the Defendant to prison, if such Justice shall think fit so to order (the amount thereof being ascertained and mentioned in such commitment), shall be sooner paid.

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

XXII. And be it enacted, That when any information or complaint shall be dismissed with costs as aforesaid, the sum which shall be awarded for costs in the Order for Dismissal may be levied by distress (Q 1) on the goods and chattels of the Prosecutor or Complainant in the manner aforesaid; and in default of distress or payment, such Prosecutor or Complainant may be committed (Q 2) to the House of Correction or to the Common Gaol, in manner aforesaid, for any time not exceeding one calendar month, unless such sum, and all costs and charges of the distress, and of the commitment and conveying of such Prosecutor or Complainant to prison (the amount thereof being ascertained and stated in such commitment), shall be sooner paid.

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

XXIV. And be it enacted, That in all cases where a Warrant of Distress shall issue as aforesaid against any person, and such person shall pay or tender to the Constable having the execution of the same, the sum or sums in such Warrant mentioned, together with the amount of the expenses of such distress up to the time of such payment or tender, such Constable shall cease to execute the same; and in all cases in which any person

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

If information be dismissed, costs may be recovered by distress upon prosecutor, &c. who, in default, may be committed.

After appeal against conviction or order, Justice may issue Warrants of Distress for execution of the same.

On payment of Penalty, &c. distress not to be levied, or the party, if imprisoned for non-payment, shall be discharged.

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

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

In cases of summary proceedings, one Justice may issue Summons or Warrant, &c. and after conviction or order may issue Warrant of Distress, &c.

Proviso.

XXVI. And be it enacted, That the Fees to which any Clerk of the Peace, Clerk of the Special Sessions or Clerk of the Weekly Sessions, or Clerk to any Justice or Justices out of Sessions, shall be entitled, shall be ascertained, appointed and regulated in manner following, that is to say: the Justices of the Peace, at their General or Quarter Sessions for the several Districts, shall, within six months from the coming into force of this Act, and afterwards from time to time, as they shall see fit, respectively make Tables of the Fees which in their opinion should be paid to the Clerks of the Peace, to the Clerks of the Special and Weekly Sessions, and to the Clerks of the Justices of the Peace within their several jurisdictions, and which said Tables respectively, being signed by the Chairman of every such Court of General or Quarter Sessions respectively, shall be laid before the Secretary of this Province, and it shall be lawful for such Secretary, if he sees fit, to alter such Table or Tables of Fees, and to subscribe a Certificate or Declaration that the Fees specified in such Table or Tables as made by such Justices, or as altered by such Secretary, are proper to be demanded and received by the Clerks of the Peace, Clerks of the Special Sessions and Weekly Sessions, and the Clerks of the several Justices of the Peace respectively throughout this Province, and such Secretary of the Province shall cause copies of such Table or Set of Tables of Fees to be transmitted to the several Clerks of the Peace throughout the Province, to be by them distributed to the Justices within their several Districts respectively, and to be by the said Justices placed in the hands of their Clerks respectively; and if after such copy shall be received by any such Clerk, he shall demand or receive any other or greater Fee or Gratuity for any business or act transacted or done by him as such Clerk than such as is set down in such Table or Set of Tables, he shall forfeit for every such demand or receipt the sum of Twenty Pounds, to be recovered by action of debt in any Court having jurisdiction for that amount by any person who will sue for the same; Provided always, that until such Tables or Set of Tables shall be framed and confirmed, and distributed as aforesaid, it shall be lawful for such Clerk or Clerks to demand and receive such Fees as they are now by any Rule or Regulation of a Court of General or Quarter Sessions, or otherwise, authorized to demand and receive.

Regulations as to the payment of clerks' fees.

Proviso.

XXVII. And be it enacted, That in every Warrant of Distress to be issued as aforesaid, the Constable or other person to whom the same shall be directed, shall be thereby ordered to pay the amount of the sum to be levied thereunder unto the Clerk of the Peace, Clerk of the Special Sessions, Clerk of the Weekly Sessions, or Clerk

Regulations as to whom penalties, &c. to be paid to.

Clerk of the Justices of the Peace, as the case may be, for the place wherein the Justice or Justices issued such Warrant, and if a person convicted of any penalty, or ordered by a Justice or Justices of the Peace to pay any sum of money, shall pay the same to any Constable or other person, such Constable or other person shall forthwith pay the same to such Clerk of the Peace, Clerk of the Special Sessions, Clerk of the Weekly Sessions, or Clerk of the Justice of the Peace, as the case may be; and if any person committed to prison upon any Conviction or Order as aforesaid for non-payment of any penalty, or of any sum thereby ordered to be paid, shall desire to pay the same and costs before the expiration of the time for which he shall be so ordered to be imprisoned by the Warrant for his commitment, he shall pay the same to the Gaoler or Keeper of the prison in which he shall be so imprisoned, and such Gaoler or Keeper shall forthwith pay the same to the said Clerk of the Peace, Clerk of the Special Sessions, Clerk of the Weekly Sessions, or Clerk of the Justice of the Peace, as the case may be, and all sums so received by the said Clerk shall forthwith be paid by him to the party or parties to whom the same respectively are to be paid, according to the directions of the Statute on which the information or complaint in that behalf shall have been framed; and if such Statute shall contain no such directions for the payment thereof to any person or persons, then such Clerk shall pay the same to the Treasurer of the District, Municipality, City, Town or Borough in which such person shall have been so condemned to pay the said sum, and for which such Treasurer shall give him a receipt; and every such Clerk of the Special Sessions, Clerk of the Weekly Sessions, or Clerk of the Justice of the Peace, and every such Gaoler or Keeper of a prison shall keep a true and exact account of all such moneys by him received, of whom and when received, and to whom and when paid, and shall, once in every three months, render a fair copy of every such accounts to the Clerk of the Peace for the District in which such payment was made, who shall likewise, every three months, render a similar account to the Justices assembled at the Quarterly Sessions of the Peace for the said District, as also, once every month to the Justices assembled at the Weekly Sessions of the Peace.

Forms in Schedule valid.

Inspector and Superintendent of Police, Police Magistrate or Stipendiary Magistrate may act alone.

Inspector and Superintendent of Police, Police Magistrate or Stipendiary Magistrate to have power for preserving order;

And for enforcing execution of Process.

Clerks of the Peace to act as Clerks of Justices, &c.

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

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

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

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

XXXII. And be it enacted, That in all the Cities, Towns, and other places where General or Quarter Sessions of the Peace are or shall be hereafter held, the Clerk or Clerks of the Peace shall act as Clerk or Clerks of the Justices of the Peace and of the Inspectors or Superintendents of Police in such Cities, Towns, and other places, as well

well at all Special as at all Weekly Sessions of the Peace held or hereafter to be held therein.

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

Inconsistent enactments repealed.

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

Act how to apply.

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

When to commence.

SCHEDULES.

(A.)

SUMMONS TO THE DEFENDANT UPON AN INFORMATION AND COMPLAINT.

Province of Canada, }
District of }

To A. B. of (laborer),

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

Given under my Hand and Seal, this day of in the year of our Lord , at , in the (District) aforesaid. J. S. [L. s.]

(B.)

WARRANT WHEN THE SUMMONS IS DISOBEYED.

Province of Canada, }
District of }

To all or any of the Constables or other Peace Officers in the District of :

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

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

J. S. [L. s.]

(C.)

WARRANT IN THE FIRST INSTANCE.

Province of Canada, }
 District of }

To all or any of the Constables or other Peace Officers in the said District of

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

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

J. S. [L. s.]

(D.)

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

Province of Canada, }
 District of }

To all and any of the Constables or Peace Officers in the District of and to the Keeper of the (*House of Correction*) at

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

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

J. S. [L. s.]

(E.)

(E.)

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

Province of Canada, }
District of }

Be it remembered, That on _____, A. B. of _____, (*laborer*,) and L. M. of _____, (*grocer*,) personally came and appeared before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said District of _____, and severally acknowledged themselves to owe to our Sovereign Lady the Queen the several sums following, that is to say: the said A. B. the sum of _____, and the said L. M. the sum of _____, of good and lawful current money of this Province, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, Her Heirs and Successors, if he the said A. B. shall fail in the condition endorsed.

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

J. S.

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

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

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

Dated this _____ day of _____, 18 ____.

J. S.

(F.)

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

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

J. S.

(G 1.)

SUMMONS OF A WITNESS.

Province of Canada, }
District of }

To E. F. of _____, in the said District of _____ :

Whereas information was laid (*or* complaint was made) before _____ (*one*) of Her Majesty's Justices of the Peace in and for the said District of _____, for _____

for that (*ſc. as in the Summons,*) and it hath been made to appear to me upon (*oath,*) that you are likely to give material evidence on behalf of the (Prosecutor or Complainant, or Defendant) in this behalf; These are therefore to require you to be and appear on _____, at _____ o'clock in the (*fore*) noon, at _____ before such Justices of the Peace for the said District as may then be there, to testify what you shall know concerning the matter of the said information (*or complaint.*)

Given under my Hand and Seal, this _____ day of _____ in the year of our Lord _____, at _____, in the (*District*) aforesaid.
J. S. [L. s.]

(G 2.)

WARRANT WHERE A WITNESS HAS NOT OBEYED A SUMMONS.

Province of Canada, }
District of _____ }

To all or any of the Constables and other Peace Officers in the said District of _____ :

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

Given under my Hand and Seal, this _____ day of _____ in the year of our Lord _____, at _____, in the District aforesaid.
J. S. [L. s.]

(G 3.)

WARRANT FOR A WITNESS IN THE FIRST INSTANCE.

Province of Canada, }
District of _____ }

To all or any of the Constables, or other Peace Officers in the said District of _____ :

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

the Peace for the said District as may then be there, to testify what he shall know concerning the matter of the said information (*or* complaint).

Given under my Hand and Seal, this day of , in the year of our Lord , at , in the District aforesaid.

J. S. [L. s.]

(G 4.)

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

Province of Canada, }
District of }

To all or any of the Constables, or other Peace Officers in the said District of and to the Keeper of the (*House of Correction*) at :

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

Given under my Hand and Seal, this day of , in the year of our Lord , at , in the District aforesaid.

J. S. [L. s.]

(H.)

WARRANT TO REMAND A DEFENDANT WHEN APPREHENDED.

Province of Canada, }
District of }

To all or any of the Constables, or other Peace Officers in the said District of and to the Keeper of the (*House of Correction*) at :

Whereas complaint was made (*or*, information was laid) before , (*one*) of Her Majesty's Justices of the Peace in and for the District of , for that (*&c. as in the Summons or Warrant*); And whereas the said A. B. hath been apprehended under and by virtue of a Warrant upon such information (*or*, complaint) and is now brought before me as such Justice as aforesaid; These are therefore to command you, any one of the said Constables or Peace Officers, in Her Majesty's name forthwith to convey the said A. B. to the (*House of Correction*) at , and there to deliver him to the said Keeper thereof, together with this Precept; and I do hereby command you the said Keeper to receive the said A. B. into your custody in the said (*House of Correction*), and there safely keep him until next, the day of (*instant*), when you are hereby commanded to

to

to convey and have him at _____, at _____ o'clock in the _____ noon of the same day, before such Justice or Justices of the Peace of the said (District) as may then be there, to answer to the said information (*or*, complaint) and to be further dealt with according to law.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the District aforesaid.

J. S. [L. s.]

(I 1.)

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

Province of Canada, }
District of }

Be it remembered, That on the _____ day of _____, in the year of our Lord _____, at _____, in the said District, A. B. is convicted before the undersigned, (*one*) of Her Majesty's Justices of the Peace for the said District, for that (he the said A. B., *§c. stating the offence, and the time and place when and where committed*), and I adjudge the said A. B. for his said offence to forfeit and pay the sum of _____ (*stating the penalty, and also the compensation, if any*) to be paid and applied according to law, and also to pay to the said C. D. the sum of _____, for his costs in this behalf; and if the said several sums be not paid forthwith (*or*, on or before _____ next, * I order that the same be levied by distress and sale of the goods and chattels of the said A. B., and in default of sufficient distress, * I adjudge the said A. B. to be imprisoned in the (*House of Correction*) at _____, in the said District (*there to be kept to hard labor*) for the space of _____, unless the said several sums and all costs and charges of the said Distress (*and of the commitment and conveying of the said A. B. to the said House of Correction*) shall be sooner paid.

Given under my Hand and Seal, the day and year first above mentioned, at _____ in the District aforesaid.

J. S. (L. s.)

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

(I 2.)

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

Province of Canada, }
District of }

Be it remembered, That on the _____ day of _____, in the year of our Lord _____, at _____, in the said District, A. B. is convicted before the undersigned (*one*) of Her Majesty's Justices of the Peace for the said District, for that (he the said A. B., &c. *stating the offence, and the time and place when and where it was committed*), and I adjudge the said A. B. for his said offence, to forfeit and pay the sum of _____ (*stating the penalty, and the compensation, if any*), to be paid and applied according to law; and also to pay to the said C. D. the sum of _____ for his costs in this behalf; and if the said several sums be not paid forthwith

forthwith (or, on or before next), I adjudge the said A. B. to be imprisoned in the (House of Correction), at , in the said District (and there to be kept at hard labour) for the space of , unless the said several sums (and the costs and charges of conveying the said A. B. to the said House of Correction) shall be sooner paid.

Given under my Hand and Seal, the day and year first above mentioned, at , in the District aforesaid.

J. S. [L. s.]

(I 3.)

CONVICTION WHEN THE PUNISHMENT IS BY IMPRISONMENT, &c.

Province of Canada, }
District of }

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

Given under my Hand and Seal, the day and year first above mentioned at in the district aforesaid.

J. S. [L. s.]

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

(K 1.)

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

Province of Canada, }
District of }

Be it remembered, That on complaint was made before the undersigned (one) of Her Majesty's Justices of the Peace in and for the said District of , for that (stating the facts entitling the complainant to the order, with the time and place when and where they occurred), and now at this day, to wit, on , at , the parties aforesaid appear before me the said Justice, (or the said C. D. appears before me the said Justice, but the said A. B. although duly called doth not appear by himself, his Counsel or Attorney, and it is now satisfactorily proved to me on oath that the said A. B. has been duly served with the Summons on this behalf, which required him to be and appear here at this day before such Justice or Justices of the Peace for this said District

District as should now be here, to answer the said complaint, and to be further dealt with according to law); and now having heard the matter of the said complaint, I do adjudge the said A. B. (to pay to the said C. D. the sum of forthwith, or on or before next, or as the statute may require), and also to pay to the said C. D. the sum of for his costs in this behalf; and if the said several sums be not paid forthwith (or on or before next) * I hereby order that the same be levied by distress, and sale of the goods and chattels of the said A. B. (and in default of sufficient distress in that behalf * I adjudge the said A. B. to be imprisoned in (*House of Correction*) at , in the said District (*and there kept to hard labour*) for the space of , unless the said several sums, and all costs and charges of the said distress (*and of the commitment and conveying of the said A. B. to the said House of Correction*) shall be sooner paid.

Given under my Hand and Seal, this day of , in the year of our Lord , at , in the District aforesaid.

J. S. [L. s.]

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

(K 2.)

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

Province of Canada, }
District of }

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

Given under my Hand and Seal, this day of , in the year of our Lord , at , in the District aforesaid.

J. S. [L. s.]

(K 3.)

(K 3.)

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

Province of Canada, }
District of }

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

Given under my Hand and Seal, this day of , in the year of our Lord , at , in the District aforesaid.

J. S. [L. s.]

(L.)

ORDER OF DISMISSAL OF AN INFORMATION OR COMPLAINT.

Province of Canada, }
District of }

Be it remembered, That on information was laid (*or complaint was made*) before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said District of , for that (*&c., as in the Summons to the defendant*), and now at this day, to wit, on , at , both the said parties appear before me in order that I should hear and determine the said information (*or complaint*), (*or the said A. B. appeareth before me, but the said C. D. although duly called doth not appear*), whereupon the matter of the said information (*or complaint*) being by me duly considered (*it manifestly appears to me that the said information (or complaint) is not proved**) and I do therefore dismiss the same, (and do adjudge that the said C. D. do pay to the said A. B. the sum of for his costs incurred by him in his defence in this behalf; and if the said sum for costs be not paid forthwith, (*or, on or before*) I order that the same be levied by distress and sale of the goods and chattels

* If the informant or complainant do not appear, these words may be omitted.

chattels of the said C. D. and in default of sufficient distress in that behalf I adjudge the said C. D. to 'be imprisoned in the (*House of Correction*) at _____, in the said District (*and there to be kept at hard labor*) for the space of _____, unless the said sum for costs and all costs and charges of the said distress (*and of the commitment of the said C. D. to the said House of Correction*) shall be sooner paid.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the District aforesaid.

J. S. [L. s.]

(M.)

CERTIFICATE OF DISMISSAL.

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

Dated this _____ day of _____, 18 _____.

J. S. [L. s.]

(N 1.)

WARRANT OF DISTRESS UPON A CONVICTION FOR A PENALTY.

Province of Canada, }
District of _____ }

To all or any of the Constables, or other Peace Officers in the said District of _____ :

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

Sic.

Given

Given under my Hand and Seal, this _____ day of _____ in the year of our Lord _____, at _____ in the District aforesaid. J. S.

[L. S.]

(N 2.)

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

Province of Canada, }
District of }

To all or any of the Constables, or other Peace Officers, in the said District of

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

Given under my Hand and Seal, this _____ day of _____ in the year of our Lord _____, at _____ in the District aforesaid. J. S.

[L. S.]

(N 3.)

ENDORSEMENT IN BACKING A WARRANT OF DISTRESS.

Province of Canada, }
District of }

Whereas proof upon oath hath this day been made before me, one of Her Majesty's Justices of the Peace in and for the said District, that the name of J. S. to the within Warrant subscribed, is of the hand-writing of the Justice of the Peace within mentioned, I do therefore authorize U. T. who bringeth me this Warrant, and all other persons to whom

whom this Warrant was originally directed, or by whom the same may be lawfully executed, and also all Constables and other Peace Officers in the said District of to execute the same within the said District of

Given under my Hand, this _____ day of _____, 18 _____.

J. B.

(N 4.)

CONSTABLE'S RETURN TO A WARRANT OF DISTRESS.

I, W. T., Constable of _____, in the District of _____, hereby certify to J. S., Esquire, one of Her Majesty's Justices of the Peace for the said District, that by virtue of this Warrant, I have made diligent search for the goods and chattels of the within mentioned A. B., and that I can find no sufficient goods or chattels of the said A. B., whereon to levy the sums within mentioned.

Witness my Hand, this _____ day of _____, 18 _____.

W. T.

(N 5.)

WARRANT OF COMMITMENT FOR WANT OF DISTRESS.

To all or any of the Constables and other Peace Officers, in the district of _____, and to the Keeper of the (House of Correction) at _____, in the said District of _____:

Whereas (Sic. as in either of the foregoing Distress Warrants N. 1, 2, to the asterisk (*) and then this): And whereas afterwards, on the _____ day of _____, in the year aforesaid, I, the said Justice, issued a Warrant to all or any of the Constables or other Peace Officers of the District of _____, commanding them, or any of them, to levy the said sums of _____, and _____ by distress and sale of the goods and chattels of the said A. B.; And whereas it appears to me, as well by the return to the said Warrant of Distress, by the Constable who had the execution of the same, as otherwise, that the said Constable hath made diligent search for the goods and chattels of the said A. B., but that no sufficient distress whereon to levy the sums above mentioned could be found: These are therefore to command you, the said Constables or Peace Officers, or any one of you, to take the said A. B., and him safely to convey to the (House of Correction) at _____ aforesaid, and there deliver him to the said Keeper, together with this Precept; and I do hereby command you, the said Keeper of the said (House of Correction) to receive the said A. B. into your custody, in the said (House of Correction) there to imprison him, (and keep him to hard labor) for the space of _____, unless the said several sums, and all the costs and charges of the said distress, (and of the commitment and conveying of the said A. B. to the said House of Correction) amounting to the further sum of _____, shall be sooner paid unto you the said Keeper; and for so doing, this shall be your sufficient Warrant.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____ in the District aforesaid.

J. S. [L. s.]

(O 1.)

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

Province of Canada, }
District of _____ }

To all or any of the Constables, or other Peace Officers in the said District of _____, and to the Keeper of the (House of Correction) at _____, in the said District of _____:

Whereas A. B., late of _____ (laborer) was on this day convicted before the undersigned, (one) of Her Majesty's Justices of the Peace, in and for the said District, for _____

for that (*stating the offence as in the conviction*), and it was thereby adjudged that the said A. B., for his said offence should forfeit and pay the sum of _____ (*ſc., as in the conviction*), and should pay to the said C. D., the sum of _____ for his costs in that behalf; and it was thereby further adjudged, that if the said several sums should not be paid (*forthwith*) the said A. B. should be imprisoned in the (*House of Correction*), at _____, in the said District, (*and there kept to hard labor*) for the space of _____, unless the said several sums (*and the costs and charges of conveying the said A. B. to the said House of Correction*) should be sooner paid; And whereas the time in and by the said conviction appointed for the payment of the said several sums hath elapsed, but the said A. B. hath not paid the same or any part thereof, but therein hath made default; These are therefore to command you, the said Constables or Peace Officers, or any one of you, to take the said A. B., and him safely to convey to the (*House of Correction*) at _____ aforesaid, and there to deliver him to the Keeper thereof, together with this Precept; and I do hereby command you the said Keeper of the said (*House of Correction*), to receive the said A. B. into your custody in the said (*House of Correction*), there to imprison him (*and keep him to hard labor*) for the space of _____, unless the said several sums (*and the costs and charges of carrying him to the said House of Correction*) amounting to the further sum of _____, shall be sooner paid; and for your so doing, this shall be your sufficient Warrant.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the District aforesaid.

J. S. [L. s.]

(O 2.)

WARRANT OF COMMITMENT ON AN ORDER IN THE FIRST INSTANCE.

Province of Canada, }
District of _____ }

To all or any of the Constables and other Peace Officers in the said District of _____, and to the Keeper of the (*House of Correction*), at _____, in the said District of _____:

Whereas on _____ last past, complaint was made before the undersigned, (*one*) of Her Majesty's Justices of the Peace in and for the said District of _____, for that (*ſc. as in the order*), and afterwards, to wit, on _____, at _____, the parties appeared before me the said Justice (*or as it may be in the order*), and thereupon having considered the matter of the said complaint, I adjudged the said A. B. to pay to the said C. D. the sum of _____, on or before the _____ day of _____ then next, and also to pay to the said C. D. the sum of _____ for his costs in that behalf; and I also thereby adjudged that if the said several sums should not be paid on or before the _____ day of _____ then next, the said A. B. should be imprisoned in the House of Correction, at _____, in the said District, (*and there to be kept to hard labor*) for the space of _____, unless the said several sums (*and the costs and charges of conveying the said A. B. to the said House of Correction*) should be sooner paid; And whereas the time in and by the said order appointed for the payment of the said several sums of money hath elapsed, but the said A. B. hath not paid the same or any part thereof, but therein hath made default; These are therefore to command you the said Constables and Peace Officers, or any one of you, to take the said A. B. and him safely to convey to the said (*House of Correction*), at _____ aforesaid, and there to deliver him to the Keeper thereof, together with this Precept; and I do hereby command you the said Keeper of the said (*House of Correction*) to receive the said A. B. into your custody, in the said (*House of Correction*), there to imprison him (*and keep him to hard labor*) for the space of _____, unless the said several sums (*and costs and charges of conveying him to the said House of Correction*) amounting to the _____

the further sum of), shall be sooner paid unto you the said Keeper ; and for your so doing, this shall be your sufficient Warrant.

Given under my Hand and Seal, this day of , in the year of our Lord , at , in the District aforesaid.

J. S. [L. s.]

(Q 1.)

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

Province of Canada, }
District of }

To all or any of the Constables, or other Peace Officers in the said District of :

Sic. Whereas on last past, information was laid (*or* information was made) before (*one*) of Her Majesty's Justices of the Peace in and for the said District of , for that (*Sc. as in the order of dismissal,*) and afterwards, to wit, on , at , both parties appearing before , in order that (I) should hear and determine the same, and the several proofs adduced to (me) in that behalf being by (me) duly heard and considered, and it manifestly appearing to (me) that the said information (*or* complaint) was not proved, (I) therefore dismissed the same, and adjudged that the said C. D. should pay to the said A. B. the sum of for his costs incurred by him in his defence in that behalf; and (I) ordered that if the said sum for costs should not be paid (*forthwith,*) the same should be levied of the goods and chattels of the said C. D. and (I) adjudged that in default of sufficient distress in that behalf, the said C. D. should be imprisoned in the (*House of Correction,*) at in the said District, (*and there kept at hard labor*) for the space of , unless the said sum for costs, and all costs and charges of the said distress, and of the commitment and conveying of the said A. B. to the said (*House of Correction,*) should be sooner paid: (*); And whereas the said C. D. being now required to pay to the said A. B. the said sum for costs, hath not paid the same, or any part thereof, but therein hath made default; These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said C. D., and if within the space of days next after the making of such distress, the said last mentioned sum, together with the reasonable charges of taking and keeping the said distress, shall not be paid, then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale to the Clerk of the Peace for the said District of (*or* to the Clerk of the Special Sessions for the said District of *or* to the Clerk of the Weekly Sessions of the said District of *or* to the Clerk of the Justice who made such order or dismissal, *as the case may be,*) that he may pay and apply the same as by law directed, and may render the overplus (if any,) on demand to the said C. D., and if no such distress can be found, then that you certify the same unto me, (*or to any other Justice of the Peace for the same District,*) to the end that such proceedings may be had therein as to the law doth appertain.

Given under my Hand and Seal, this day of , in the year of our Lord , at , in the District aforesaid.

J. S. [L. s.]

(Q 2.)

(Q 2.)

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

Province of Canada, }
District of }

To all or any of the Constables, or Peace Officers, in the said District of
and to the Keeper of the (*House of Correction*) at _____, in the said District of _____ :

Whereas (*§c. as in the form to the asterisk (*) and then thus*) : And whereas, afterwards, on the _____ day of _____, in the year aforesaid, I, the said Justice issued a Warrant to all or any of the Constables or other Peace Officers of the said District, commanding them, or any one of them, to levy the said sum of _____ for costs, by distress and sale of the goods and chattels of the said C. D. ; And whereas it appears to me, as well by the return to the said Warrant of Distress of the Constable (*or, Peace Officer*) charged with the execution of the same, as otherwise, that the said Constable hath made diligent search for the goods and chattels of the said C. D., but that no sufficient distress whereon to levy the sum above mentioned could be found ; These are therefore to command you, the said Constables and Peace Officers, or any one of you, to take the said C. D. and him safely convey to the (*House of Correction*) at _____ aforesaid, and there deliver him to the Keeper thereof, together with this Precept ; and I hereby command you, the said Keeper of the said (*House of Correction*), to receive the said C. D. into your custody in the said (*House of Correction*), there to imprison him (*and keep him to hard labour*) for the space of _____, unless the said sum, and all the costs and charges of the said distress (*and of the commitment and conveying of the said C. D. to the said House of Correction*), amounting to the further sum of _____, shall be sooner paid unto you the said Keeper, and for your so doing, this shall be your sufficient Warrant.

Given under my Hand and Seal, this _____ day of _____, in the
year of our Lord _____, at _____, in the District aforesaid.
J. S. [L. S.]

(R)

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

Office of the Clerk of the Peace for the
District of _____

(*Title of the Appeal.*)

I hereby certify, that at a Court of General Quarter Sessions of the Peace, holden at _____, in and for the said District, on _____ last past, an appeal by A. B. against a conviction (*or order*) of J. S., Esquire, one of Her Majesty's Justices of the Peace in and for the said District, came on to be tried, and was there heard and determined, and the said Court of General Quarter Sessions thereupon ordered that the said conviction (*or order*) should be confirmed (*or quashed*), and that the said (*Appellant*) should pay to the said (*Respondent*) the sum of _____ for his costs incurred by him in the said appeal, and which sum was thereby ordered to be paid to the Clerk of the Peace of the said District, on or before the _____ day of _____ instant, to be by him handed over to the said (*Respondent*), and I further certify that the said sum for costs has not, nor has any part thereof been paid in obedience to the said order.

Dated the _____ day of _____, 18 _____

G. H.
(*Deputy*) Clerk of the Peace.

[S 1.]

(S 1.)

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

Province of Canada, }
District of }

To all or any of the Constables, or other Peace Officers, in the said District of

Whereas (*Sc. as in the Warrants of Distress, N 1 2, ante, to the end of the Statement of the Conviction or Order, and then thus*): And whereas the said A. B. appealed to the Court of General Quarter Sessions of the Peace for the said District, against the said conviction or order, in which appeal the said A. B. was the Appellant, and the said C. D. (*or, J. S. Esquire, the Justice of the Peace who made the said conviction or order*) was the Repondent, and which said appeal came on to be tried and was heard and determined at the last General Quarter Sessions of the Peace for the said District, holden at _____, on _____, and the said Court of General Quarter Sessions thereupon ordered that the said conviction (*or order*) should be confirmed (*or quashed*), and that the said (*Appellant*) should pay to the said (*Respondent*) the sum of _____ for his costs incurred by him in the said appeal, which said sum was to be paid to the Clerk of the Peace of the said District, on or before the day of _____, 18____, to be by him handed over to the said (C. D.); And whereas the (Deputy) Clerk of the Peace of the said District, hath, on the _____ day of _____ instant, duly certified that the said sum for costs had not been paid; (*) These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said (A. B.), and if within the space of _____ days next after the making of such distress, the said last mentioned sum, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then, you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale to the Clerk of the Peace for the said District of _____, (*or to the Clerk of the Special Sessions for the said District of _____, or to the Clerk of the Weekly Sessions for the said District of _____, or to the Clerk of the Justice of the Peace who made such conviction or order, as the case may be*), that he may pay and apply the same as by law directed; and if no such distress can be found, then that you certify the same unto me or any other Justice of the Peace for the same District, to the end that such proceedings may be had therein as to the law doth appertain.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the District aforesaid.
J. N. [L. s.]

(S 2.)

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

Province of Canada, }
District of }

To all or any of the Constables, or other Peace Officers, in the said District of _____, and to the Keeper of the (*House of Correction*) at _____ in the said District _____:

Whereas (*Sc., as in the last form to the asterisk, (*) and then thus*): And whereas, afterwards, on the _____ day of _____, in the year aforesaid, I, the undersigned, issued a Warrant to all or any of the Constables and other Peace Officers in the said District of _____, commanding them, or any of them, to levy the said sum of _____, for costs, by distress and sale of the goods and chattels of the said A. B.; And whereas it appears to me, as well by the return to the said Warrant of Distress of the Constable (*or Peace Officer*), who was charged with the execution of _____ the

the same, as otherwise, that the said Constable hath made diligent search for the goods and chattels of the said (A. B.), but that no sufficient distress whereon to levy the said sum above mentioned could be found ; These are therefore to command you, the said Constables or Peace Officers, or any one of you, to take the said A. B., and him safely to convey to the (*House of Correction*), at _____ aforesaid, and there deliver him to the said Keeper thereof, together with this Precept thereof ; And I do hereby command you, the said Keeper of the said (*House of Correction*) to receive the said A. B. into your custody in the said (*House of Correction*), there to imprison him (*and keep him to hard labour*) for the space of _____, unless the said sum and all costs and charges of the said Distress, (*and of the commitment and conveying of the said A. B. to the said House of Correction*) amounting to the further sum of _____, shall be sooner paid unto you, the said Keeper, and for so doing, this shall be your sufficient Warrant.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the District aforesaid.
 J. N. [L. s.]

CAP. XCVI.

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

[30th August, 1851.]

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

Preamble.

For what offense a Justice of the Peace may grant a Warrant or Summons to cause a person charged therewith to be brought before him.

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

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