

Laws of Her Majesty's Province of United Canada, passed in the year 1851. Quebec: Stewart Derbyshire and George Desbarts, 1852.

16 Victoria – Chapter 179

An Act to facilitate the performance of the duties of Justices of the Peace, out of Sessions, in Upper Canada, with respect to persons charged with Indictable Offences. Assented to 14th June, 1853.

Whereas it would conduce much to the improvement of the administration of Criminal Justice in Upper 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 Territorial Division in Upper 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 Territorial Division, 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 Territorial Division 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 Summons, then, and in every such case, the said Justice or Justices, or any other Justice or Justices of the Peace for the same Territorial Division, may issue his or their Warrant (D) to apprehend such person so charged or complained against, and cause such person to be brought lie fore him or them, or before some other Justice or Justices of the Peace for the same Territorial Division, to answer to the said charge or complaint, and to be further dealt with according to law: Provided nevertheless, that nothing herein contained shall prevent any Justice or

Justices of the Peace from issuing the Warrant hereinbefore first mentioned, at any time before or after the time mentioned in such Summons for the appearance of the said accused party.

II. And be it enacted, That when any indictment shall be found by the Grand Jury in any Court of Oyer and Terminer or General Gaol Delivery, or in any Court of General or Quarter Sessions of the Peace, against any person who shall then be at large, and whether such person shall be bound by any Recognizance to appear to answer to any such charge or not, the person who shall act as Marshal at such Court of Oyer and Terminer or Goal Delivery, or as Clerk of the Peace at such Sessions at which the said indictment shall be found, shall, at any time afterwards after the end of the Sessions of Oyer and Terminer or Goal Delivery, or Sessions of the Peace, at which such indictment shall have been found, upon application of the Prosecutor, or of any person on his behalf, and on payment of a fee of One Shilling, if such person shall not have already appeared and pleaded to such indictment, grant unto such Prosecutor or person a Certificate (F) of such indictment having been found; and upon production of such Certificate to any Justice or Justices of the Peace for the County or United Counties in which the offence shall in such indictment be alleged to have been committed, or in which the person indicted in and by such indictment shall reside or be, or be supposed or suspected to reside or be, it shall be lawful for such Justice or Justices, and he or they are hereby required to issue his or their Warrant (G) to apprehend such person so indicted, and to cause him to be brought before such Justice or Justices or any other Justice or Justices for the same District, to be dealt, with according to law: and afterwards if such person be thereupon apprehended and brought before any such Justice or Justices, such Justice or Justices, upon its being proved upon oath or affirmation before him or them, that the person so apprehended is the same person who is charged and named in such indictment, shall, without further inquiry or examination, commit (H) him for trial or admit him to bail in manner hereinafter mentioned; or if such person so indicted shall be confined in any gaol or prison for any other offence than that charged in the said indictment at the time of such application and production of such Certificate to such Justice or Justices as aforesaid, it shall be lawful for such Justice or Justices, and he or they are hereby required, upon its being proved before him or them upon oath or affirmation, that the person so indicted and the person so confined in prison are one and the same person, to issue his or their Warrant (I), directed to the Gaoler or Keeper of the gaol or prison in which the person so indicted shall then be confined as aforesaid, commanding him to detain such person in his custody, until, by Her Majesty's Writ of *Habeas Corpus*, he shall be removed therefrom for the purpose of being tried upon the said indictment, or until he shall be otherwise removed or discharged out of his custody by due course of law: Provided always, that nothing herein contained shall prevent or be construed to prevent the issuing or execution of Bench Warrants, whenever any Court of competent jurisdiction may think proper to order the issuing of any such Warrant.

III. And be it enacted, That it shall be lawful for any Justice or Justices of the Peace to grant or issue any Warrant as aforesaid, or any Search Warrant, on a Sunday as well as on any other day.

IV. And be it enacted, That in all cases when a charge or complaint for any indictable offence shall be made before such Justice or Justices aforesaid, if it be intended to issue a Warrant in the first instance against such party or parties so charged, an information and complaint thereof (A) in

writing, on the oath or affirmation of the informant, or of some witness or witnesses in that behalf, shall be laid before such Justice or Justices: Provided always, that in those cases only when it is intended to issue a Summons instead of a Warrant in the first instance, and where it is so specially provided in some Act of Parliament, it shall not be necessary that such information and complaint shall be in writing, or be sworn to or affirmed in manner aforesaid; but in every such case so provided for in some Act of Parliament as aforesaid, such information and complaint may be by parol merely, and without any oath or affirmation whatsoever to support or substantiate the same: Provided also, that no objection shall be taken or allowed to any such information or complaint for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the prosecution, before the Justice or Justices who shall take the examination of the witnesses on that behalf as hereinafter mentioned; and if any credible Witness shall prove upon oath (E 1) before a Justice of the Peace, that there is reasonable cause to suspect, that any property whatsoever, on or with respect to which any larceny or felony shall have been committed, is in any dwelling house, out-house, garden, yard, croft or other place or places, the Justice may grant a Warrant (E 2) to search such dwelling house, garden, yard, croft or other place or places, for such property.

V. And be it enacted, That upon such Information and complaint being so laid as aforesaid, the Justice or Justices receiving the same may, if he or they shall think fit, issue his or their Summons or Warrant respectively as hereinbefore directed, to cause the person charged as aforesaid to be and appear before him or them, or any other Justice or Justices of the Peace for the same Territorial Division, to be dealt with according to law: and every Summons (C) shall be directed to the party so charged in and by such information, and shall state shortly the matter of such information, and shall require the party to whom it is directed to be and appear at a certain time and place therein mentioned, before the Justice who shall issue such Summons, or before such other Justice or Justices of the Peace for the same Territorial Division as may then be there, to answer to the said charge, and to be further dealt with according to law; and every such Summons shall be served by a Constable or other Peace Officer upon the person to whom it is so directed, by delivering the same to the party personally, or, if he cannot conveniently be met with, then by leaving the same for him with some person at his last or most usual place of abode; and the Constable or other Peace Officer who shall have served the same in manner aforesaid, shall attend at the time and place, and before the Justice or Justices in the said Summons mentioned, to depose, if necessary, to the service of such Summons; and if the person so served shall not be and appear before such Justice or Justices, at the time and place mentioned in such Summons, in obedience to the same, then it shall be lawful for such Justice or Justices, to issue his or their Warrant (D) for apprehending the party so summoned, and bringing him before such Justice or Justices, or before some other Justice or Justices for the same Territorial Division, to answer the charge in the said information and complaint mentioned, and to be further dealt with according to law: Provided always, that no objection shall be taken or allowed to any such Summons or Warrant for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the Prosecutor before the Justice or Justices who shall take the examination of the Witnesses in that behalf as hereinafter mentioned; but if any such variance shall appear to such Justice or Justices to be such that the party charged has been thereby deceived or misled, it shall be lawful for such Justice or Justices, at the request of the party so charged, to adjourn the hearing

of the case to some future day, and, in the meantime, to remand the party so charged, or admit him to bail in manner hereinafter mentioned.

VI. And be it enacted, That every Warrant (B) hereafter to be issued by any Justice or Justices of the Peace to apprehend any person charged with any indictable offence, 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 or Peace Officers in the Territorial Division within which the Justice or Justices issuing the same has or have jurisdiction, or generally to all the Constables or Peace Officers within such last mentioned Territorial Division; and it shall state shortly the offence on which it is founded, and shall name or otherwise describe the offender; and it shall order the person or persons to whom it is directed to apprehend the offender, and bring him before the Justice or Justices issuing such Warrant, or before some other Justice or Justices of the Peace for the same Territorial Division, to answer to the charge contained in the said information, and to be further dealt with according to law; and it shall not be necessary to make such Warrant returnable at any particular time, but the same may remain in force until it shall be executed; and such Warrant may be executed by apprehending the offender at any place within the Territorial Division within which the Justice or Justices issuing the same shall have jurisdiction, or, in case of fresh pursuit, at any place in the next adjoining Territorial Division, and within seven miles of the border of such first mentioned Territorial Division, without having such Warrant backed, as hereinafter mentioned; and in all cases where such Warrant shall be directed to all Constables or other Peace Officers within the Territorial Division within which such Justice or Justices shall have jurisdiction, it shall be lawful for any Constable or other Peace Officer for any place within such Territorial Division to execute the said Warrant at any place within the jurisdiction for which the said Justice or Justices shall have acted when he or they granted such Warrant, in like manner as if such Warrant were directed specially to such Constable by name, and notwithstanding the place within which such Warrant shall be executed shall not be within the place for which he shall be Constable or Peace Officer; Provided always, that no objection shall be taken or allowed to any such Warrant for any defect therein, in substance or in form, or for any variance between it and the evidence adduced on the part of the prosecution, before the Justice or Justices who shall take the examination of the witnesses in that behalf as hereinafter mentioned; but if any such variance shall appear to any such Justice or Justices to be such that the party charged has been thereby deceived or misled, it shall be lawful for such Justice or Justices, at the request of the party so charged, to adjourn the hearing of the case to some future day, and in the meantime to remand the party so charged, or to admit him to bail in manner hereinafter mentioned.

VII. And be it enacted, That if the person against whom any such Warrant shall be issued, as aforesaid, shall not be found within the jurisdiction of the Justice or Justices by whom the same shall be 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 in Lower Canada out of the jurisdiction of the Justice or Justices issuing such Warrant, it shall and may be lawful for any Justice of the Peace within the jurisdiction of whom such person shall so escape or go, or in which he shall reside or be, or be supposed or suspected to be, upon proof alone being made on oath of the hand-writing of

the Justice issuing the same, and without any security being given, to make an endorsement (K) on such Warrant, signed with his name, authorizing the execution of such Warrant within the jurisdiction of the Justice making such endorsement, and which endorsement shall be sufficient authority to the person bringing such Warrant, and to all other persons to whom the same was originally directed, and also to all Constables and other Peace Officers of the Territorial Division where such Warrant shall be so endorsed, to execute the same in such other Territorial Division, and to carry the person against whom such Warrant shall have issued, when apprehended, before the Justice or Justices of the Peace who first issued the said Warrant, or before some other Justice or Justices of the Peace for the same Territorial Division, or before some Justice or Justices of the Territorial Division where the offence in the said Warrant mentioned appears therein to have been committed: Provided always, that if the Prosecutor or any of the Witnesses upon the part of the prosecution shall then be in the Territorial Division where such person shall have been so apprehended, the Constable, or other person or persons who shall have so apprehended such person, may, if so directed by the Justice backing such Warrant, take and convey him before the Justice who shall have so backed the said Warrant, or before some other Justice or Justices for the same Territorial Division; and the said Justice or Justices may thereupon take the examination of such Prosecutor or Witnesses, and proceed in every respect in manner hereinafter directed with respect to persons charged before a Justice or Justices of the Peace, with an offence alleged to have been committed in another Territorial Division than that in which such persons have been apprehended.

VIII. 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 for the prosecution, and will not voluntarily appear for the purpose of being examined as a witness at the time and place appointed for the examination of the witnesses against the accused, such Justice may and is hereby required to issue his Summons (L 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 same Territorial Division as shall then be there, to testify what he shall know concerning the charge made against such accused party; 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 with some person for him at his last or most usual place of abode,) it shall be lawful for such Justice or Justices before whom such person should have appeared, to issue a Warrant (L 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 Territorial Division as shall then be 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 unless compelled so to do, then, instead of issuing such Summons, it shall be lawful for him to issue his Warrant (L 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,

cither in obedience to the said 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 giving any just excuse for such refusal, any Justice of the Peace then present and having there jurisdiction, may, by Warrant (L 4) under his Hand and Seal, commit the person so refusing to the Common Gaol of the County where such person so 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.

IX. And be it enacted, That in all cases where any person shall appear or be brought before any Justice or Justices of the Peace charged with any indictable offence, whether committed in this Province or upon the high seas, or on land beyond the sea, or whether such person appear voluntarily upon Summons or have been apprehended, with or without Warrant, or be in custody for the same or any other offence, such Justice or Justices before he or they shall commit such accused person to prison for trial, or before he or they shall admit him to bail, shall in the presence of such accused person, who shall be at liberty to put questions to any witness produced against him, take the statement (M) on oath or affirmation of those who shall know the facts and circumstances of the case, and shall put the same in writing, and such depositions shall be read over to and signed respectively by the witnesses who shall have been so examined, and shall be signed also by the Justice or Justices taking the same; and the Justice or Justices before whom any such witness shall appear to be examined as aforesaid, shall, before such witness is examined, administer to such witness the usual oath or affirmation, which such Justice or Justices shall have full power and authority to do; and if upon the trial of the person so accused as first aforesaid, it shall be proved upon the oath or affirmation of any credible witness, that any person whose deposition shall have been taken as aforesaid is dead, or is so ill as not to be able to travel, and if also it be proved that such deposition was taken in presence of the person so accused, and that he or his Counsel or Attorney, had a full opportunity of cross-examining the witness, then if such deposition purports to be signed by the Justice by or before whom the same purports to have been taken, it shall be lawful to read such deposition as evidence in such prosecution without further proof thereof, unless it shall be proved that such deposition was not in fact signed by the Justice purporting to sign the same.

X. And be it enacted, That after the examinations of all the witnesses on the part of the prosecution as aforesaid shall have been completed, the Justice of the Peace, or one of the Justices by or before whom such examination shall have been so completed as aforesaid, shall, without requiring the attendance of the witnesses, read or cause to be read to the accused the depositions taken against him, and shall say to him these words, or words to the like effect: "Having heard the evidence, do you wish to say any thing in answer to the charge? You are not obliged to say any thing unless you desire to do so, but whatever you say will be taken down in writing, and may be given in evidence against you upon your trial." And whatever the prisoner shall then say in answer thereto shall be taken down in writing (N) and read over to him, and shall be signed by the said Justice or Justices, and kept with the depositions of the witnesses, and shall be transmitted with them as hereinafter mentioned; and afterwards, upon the trial of the said

accused person, the same may, if necessary, be given in evidence against him without further proof thereof, unless it shall be proved that the Justice or Justices purporting to sign the same did not in fact sign the same: Provided always, that the said Justice or Justices, before such accused person shall make any statement, shall slate to him and give him clearly to understand that he has nothing to hope from any promise of favor, and nothing to fear from any threat which may have been holden out to him to induce him to make any admission or confession of his guilt, but that whatever he shall then say may be given in evidence against him upon his trial, notwithstanding such promise or threat: Provided nevertheless, that nothing herein contained or enacted shall prevent the prosecutor in any case from giving in evidence any admission or confession, or other statement of the person accused or charged, made at any lime which by law would be admissible as evidence against such person.

XI. And be it declared and enacted, That the room or building in which such Justice or Justices shall take such examination and statement as aforesaid, shall not be deemed an open Court for that purpose; and it shall be lawful for such Justice or Justices, in his or their discretion, to order that no person shall have access to or be or remain in such room or building without the consent or permission of such Justice or Justices, if it appear to him or them that the ends of Justice will be best answered by so doing.

XII. And be it enacted, That it shall be lawful for any such Justice or Justices before whom any such witness shall be examined as aforesaid, to bind by Recognizance (O 1) the Prosecutor, and every such witness, to appear at the next Court of competent Criminal Jurisdiction at which the accused is to be tried, then and there to prosecute or prosecute and give evidence, or to give evidence, as the case may be, against the party accused, which said Recognizance shall particularly specify the profession, art, mystery or trade of every such person entering into or acknowledging the same, together with his Christian and surname, and the Township or place of his residence, or if his residence be in a City, Town or Borough, the Recognizance shall also particularly specify the name of the said City, Town or Borough, and when convenient so to do, of the street and the number (if any) of the house in which he resides, and whether he is owner or tenant thereof, or lodger therein; and the said Recognizance, being duly acknowledged by the person so entering into the same, shall be subscribed by the Justice or Justices before whom the same shall be acknowledged, and a notice (O 2) thereof, signed by the said Justice or Justices, shall at the same time be given to the person bound thereby; and the several Recognizances so taken, together with the written information (if any), the depositions, the statement of the accused, and the Recognizance of Bail (if any) in every such case shall be delivered by the said Justice or Justices, or he or they shall cause the same to be delivered to the proper Officer of the Court in which the trial is to be had, before or at the opening of the said Court on the first day of the sitting thereof, or at such other time as the Judge, Justice or person who is to preside at such Court at tire said trial shall order and appoint; Provided always, that if any such witness shall refuse to enter into or acknowledge such Recognizance as aforesaid, it shall be lawful for the Justice or Justices of the Peace by his or their Warrant (P 1) to commit him to the Common Gaol for the County in which the accused party is to be tried, there to be imprisoned and safely kept until after the trial of such accused party, unless in the meantime such witness shall duly enter into such Recognizance as aforesaid before some one Justice of the Peace for the Territorial Division in which such Gaol shall be situate: Provided

nevertheless, that if afterwards, for want of sufficient evidence in that behalf, or other cause, the Justice or Justices before whom such accused party shall have been brought shall not commit him or hold him to bail for the offence with which he is charged, it shall be lawful for such Justice or Justices, or for any other Justice or Justices for the same Territorial Division, by his or their Order (P 2) in that behalf, to order and direct the Keeper of such Common Gaol where such witness shall be so in custody, to discharge him from the same, and such Keeper shall thereupon forthwith discharge him accordingly.

XIII. And be it enacted, That if from the absence of witnesses, or from any other reasonable cause, it shall become necessary or advisable to defer the examination or further examination of the witnesses for any time, it shall be lawful to and for the Justice or Justices before whom the accused shall appear or be brought, by his or their Warrant (Q 1) from time to time to remand the party accused for such time as by such Justice or Justices in their discretion shall be deemed reasonable, not exceeding eight clear days at any one time, to the Common Gaol or House of Correction or other Prison, Lock-up House, or place of security in the Territorial Division for which such Justice or Justices shall then be acting; or if the remand be for a time not exceeding three clear days, it shall be lawful for such Justice or Justices verbally to order the Constable, or other person in whose custody such party accused may then be, or any other Constable or person to be named by the said Justice or Justices in that behalf, to continue or keep such party accused in his custody, and to bring him before the same or such other Justice or Justices as shall be there acting at the time appointed for continuing such examination: Provided always, that any such Justice or Justices may order such accused party to be brought before him or them, or before any other Justice or Justices of the Peace for the same Territorial Division, at anytime before the expiration of the time for which such party shall be remanded, and the Gaoler or Officer in whose custody he shall then be shall duly obey such order: Provided also, that instead of detaining the said accused party in custody during the period for which such accused party shall be so remanded, any one Justice of the Peace before whom such party shall so appear or be brought as aforesaid, may discharge him, upon his entering into a Recognizance (Q 2, 3,) with or without a Surety or Sureties, at the discretion of such Justice, conditioned for his appearance at the time and place appointed for the continuance of such examination; and if such accused party shall not afterwards appear at the time and place mentioned in such Recognizance, then the said Justice, or any other Justice of the Peace who may then and there be present, upon certifying (Q 4) upon the back of the Recognizance the non-appearance of such accused party, may transmit such Recognizance to the Clerk of the Peace for the Territorial Division 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 *primâ facie* evidence of such non-appearance of the said accused party.

XIV. And whereas it often happens that a person is charged before a Justice of the Peace with an offence alleged to have been committed in another Territorial Division than that in which such person has been apprehended, or in which such Justice has jurisdiction, and it is necessary to make provision as to the manner of taking the examination of the witnesses, and of committing the party accused or admitting him to bail in such a case: Be it therefore enacted, That whenever a person shall appear or be brought before a Justice or Justices of the Peace in the Territorial Division wherein such Justice or Justices shall have jurisdiction, charged with an offence alleged to

have been committed by him within any Territorial Division wherein such Justice or Justices shall not have jurisdiction, it shall be lawful for such Justice or Justices, and he or they are hereby required to examine such witnesses, and receive such evidence in proof of the said charge as shall be produced before him or them within his or their jurisdiction; and if in his or their opinion such testimony and evidence shall be sufficient proof of the charge made against such accused party, such Justice or Justices shall thereupon commit him to the Common Gaol for the County where the offence is alleged to have been committed, or shall admit him to bail as hereinafter mentioned, and shall bind over the prosecutor (if he have appeared before him or them) and the witnesses, by Recognizance accordingly as hereinbefore mentioned; but if such testimony and evidence shall not, in the opinion of such Justice or Justices be sufficient to put the accused party upon his trial for the offence with which he is so charged, then such Justice or Justices shall bind over such witness or witnesses as he shall have examined by Recognizance to give evidence as hereinbefore is mentioned; and such Justice or Justices shall, by Warrant (R 1) under his or their Hand and Seal, or Hands and Seals, order the said accused party to be taken before some Justice or Justices of the Peace in and for the Territorial Division where the offence is alleged to have been committed, and shall at the same time deliver up the Information and Complaint, and also the Depositions and Recognizances so taken by him or them to the Constable who shall have the execution of such last mentioned Warrant, to be by him delivered to the Justice or Justices before whom he shall take the accused, in obedience to the said Warrant, and which said Depositions and Recognizances shall be deemed to be taken in the case, and shall be treated to all intents and purposes as if they had been taken by or before the said last mentioned Justice or Justices, and shall, together with such Depositions and Recognizances as such last mentioned Justice or Justices shall take in the matter of such charge against the said accused party, be transmitted to the Clerk of the Court or other proper Officer where the said accused party is to be tried, in the manner and at the time hereinbefore mentioned, if such accused party shall be committed for trial upon the said charge, or shall be admitted to bail; and in case such accused party shall be taken before the Justice or Justices last aforesaid, by virtue of the said last mentioned Warrant, the Constable, or other person or persons to whom the said Warrant shall have been directed, and who shall have conveyed such accused party before such last mentioned Justice or Justices, shall be entitled to be paid his costs and expenses of conveying the said accused party before the said Justice or Justices; and upon the said Constable or other person producing the said accused party before such Justice or Justices, and delivering him into the custody of such person as the said Justice or Justices shall direct or name in that behalf, and upon the said Constable delivering to the said Justice or Justices the Warrant, Information (if any) Depositions and Recognizances aforesaid, and proving by oath the hand-writing of the Justice or Justices who shall have subscribed the same, such Justice or Justices before whom the said accused party is produced shall thereupon furnish such Constable with a Receipt or Certificate (R 2) of his or their having received from him the body of the said accused party, together with the said Warrant, Information (if any), Depositions and Recognizances, and of his having proved to him or them, upon oath, the hand-writing of the Justice who shall have issued the said Warrant; and the said Constable, on producing such Receipt or Certificate to the Sheriff or High Bailiff, if he shall have been employed by such Officer, and if not, then to the Treasurer of the County in which such accused party was apprehended, will be entitled to be paid all his reasonable charges, costs and expenses of conveying such accused party into such other County or Territorial Division, and returning from the same.

XV. And be it enacted, That when any person shall appear before any Justice of the Peace charged with a felony or suspicion of felony, and the evidence adduced shall in the opinion of such Justice be sufficient to put such accused party on his trial as hereinafter mentioned, but shall not furnish such a strong presumption of guilt as to warrant his committal for trial, it shall and may be lawful for such Justice jointly with some other Justice of the Peace to admit such person to bail upon his procuring and producing such surety or sureties as in the opinion of such two Justices will be sufficient to ensure the appearance of such person so charged, at the time and place when and where he is to be tried for such offence; and thereupon such two Justices shall take the Recognizance (S 1,2,) of the said accused person and his surety or sureties, conditioned for the appearance of such accused person at the time and place of trial, and that he will then surrender and take his trial and not depart the Court without leave; Provided firstly, that when the offence committed or suspected to have been committed is a misdemeanor, any one Justice may admit to bail in manner aforesaid; and such Justice or Justices may at their discretion require that such bail should justify upon oath as to their sufficiency, which oath the said Justice or Justices is and are hereby authorized to administer, and in default of such person procuring sufficient bail, then such Justice or Justices may commit him to prison, there to be kept until delivered according to law; Provided secondly, and it is hereby declared and enacted, that in all cases of felony, where the party accused shall be finally committed as hereinafter provided, it shall be lawful for any County Judge who may be also a Justice, of the Peace for the County within the limits of which such accused party is confined, in his discretion on application made to him for that purpose, to order such accused party or person to be admitted to bail on entering into Recognizance with sufficient sureties for such an amount, before two Justices of the Peace as the said Judge shall direct, and thereupon such Justices shall issue a warrant of deliverance (S 3,) as hereinafter provided, and shall attach thereto the order of the Judge directing the admitting of such party to bail; Provided lastly, that no Justice or Justices of the Peace, or County Judge shall admit any person to bail accused of treason or murder, nor shall any such person be admitted to bail, except by order of Her Majesty's Court of Queen's Bench or of Common Pleas, or one of the Judges thereof in vacation, and nothing herein contained, shall prevent such last mentioned Judges admitting any person accused of misdemeanor or felony to bail when they may think it right so to do.

XVI. And be it enacted, That in all cases where a Justice or Justices of the Peace shall admit to bail any person who shall admit be in any prison charged with the offence for which he shall be so admitted to bail, such Justice or Justices shall send to or cause to be lodged with the Keeper of such Prison, a Warrant of Deliverance (S 3,) under his or their Hand and Seal or Hands and Seals, requiring the said Keeper to discharge the person so admitted to bail if he be detained for no other offence, and upon such Warrant of Deliverance being delivered to or lodged with such Keeper, he shall forthwith obey the same.

XVII. And be it enacted, That, when all the evidence offered upon the part of the prosecution against the accused party shall have been heard, if the Justice or Justices of the Peace then present shall be of opinion that it is not sufficient to put such accused party upon his trial for any indictable offence, such Justice or Justices shall forthwith order such accused party, if in custody, to be discharged as to the Information then tendered in inquiry, but if in the opinion of such Justice or Justices

such evidence is sufficient to put the accused party upon his trial for an indictable offence, although it may not raise such a strong presumption of guilt as would induce such Justice or Justices to commit the accused for trial without bail, or if the offence with which the party is accused be a misdemeanor, then such Justices shall admit the party to bail as hereinbefore provided, but if the offence be a felony, and the evidence given be such as to raise a strong presumption of guilt, then such Justice or Justices shall by his or their warrant (T 1,) commit him to the Common Gaol for the Territorial Division to which he may now by Law be committed, or in the case of an indictable offence committed on the High Seas or on land beyond the Sea, to the Common Gaol of the Territorial Division within which such Justice or justices shall have jurisdiction, to be there safely kept until he shall thence be delivered by due course of Law.

XVIII. And be it enacted, That the Constable or any of the Constables, or other persons to whom any Warrant of Commitment shall be directed, authorized by this or any other Act, shall convey such accused person therein named or described to the Gaol or other Prison mentioned in such Warrant, and there deliver him, together with such Warrant, to the Gaoler, Keeper or Governor of such Gaol or Prison, who shall thereupon give such Constable or other person so delivering such prisoner into his custody a Receipt (T 2,) for such prisoner, setting forth the state and condition in which such prisoner was when he was delivered into the custody of such Gaoler, Keeper or Governor.

XIX. And be it enacted, That at any time after all the examinations aforesaid shall have been completed, and before the first day of the Sessions, or other first sitting of the Court at which any person so committed to prison or admitted to bail as aforesaid is to be tried, such person may require and shall be entitled to have, from the Officer or person having the custody of the same, copies of the depositions on which he shall have been committed or bailed, on payment of a reasonable sum for the same, not exceeding the rate of Three Pence for each folio of one hundred words.

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

XXI. And be it enacted, That any Inspector and Superintendent of Police, Police Magistrate or Stipendiary Magistrate, appointed or to be appointed for any Territorial Division, shall have full power to do alone whatever is authorized by this Act to be done by any two or more Justices of the Peace, and that the several forms in the Schedule to this Act annexed, may be varied so far as it may be necessary to render them applicable to such Inspector and Superintendent of Police, Police Magistrate or Stipendiary Magistrate aforesaid.

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

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

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

Schedules.

(A)

Information and Complaint for an Indictable Offence.

Province of Canada,
(County or United
Counties, or as the
case may be,) of _____

The information and complaint of C. D. of _____ (yeoman), taken this _____ day of _____, in the year of our Lord _____ before the undersigned, (one) of Her Majesty's Justices of the Peace in and for the said (County, or as the case may be) of _____, who saith that (&., stating the offence).

Sworn before (me), the day and year first above mentioned, at _____

J. S.

(B)

Warrant to Apprehend a Person Charged with an Indictable Offence.

Province of Canada,
(County or United
Counties, or as the
case may be,) of _____

To all or any of the Constables or other Peace Officers in the (County or United Counties, or as the case may be,) of _____:

Whereas A. B., of _____, (laborer), hath this day been charged upon oath before the undersigned, (one) of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be,) of _____, for that he, on _____, at _____, did (&c. stating shortly the offence); These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said A. B., and to bring him before (me) or some other of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be) of _____, to answer unto the said charge, and to be further dealt with according to law.

Given under (my) Hand and Seal, this _____ day of _____ at _____, in the (County, &c.) aforesaid.

J. S. [L. S.]

(C)

Summons to a Person Charged with an Indictable Offence.

Province of Canada,
(County or United
Counties, or as the
case may be,) of _____ }

To A. B. of _____, (laborer): _____

Whereas you have this day been charged before the undersigned (one) of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be,) of _____ for that you on _____, at _____, (&c., stating shortly the offence); These are therefore to command you, in Her Majesty's name, to be and appear before (me) on _____, at _____ o'clock in the (fore) noon, at _____, or before such other Justice or Justices of the Peace for the same (County or United Counties, or as the case may be,) of _____, as may then be there, to answer to the said charge, and to be further dealt with according to law. Herein fail not.

Given under (my) Hand and Seal, this _____ day of _____ in the year of our Lord _____, in the (Comity, &c.) aforesaid.

J. S. [L. S.]

(D 1.)

Warrant When the Summons is Disobeyed.

Province of Canada,
(County or United
Counties, or as the
case may be) of _____ }

To all or any of the Constables, or other Peace Officers in the said (County or United Counties, or as the case may be) of _____ :

Whereas on the _____ day of _____ (instant or last past) A. B. of the _____, was charged before (me or us,) the undersigned, (or name the Magistrate or Magistrates, or as the case may be) (one) of Her Majesty's Justices of the Peace in and for the said (County or United Counties, as the case may be,) of _____, for that (&c., as in the Summons); And whereas (the, the said Justice of the Peace, we, or they, the said Justices of the Peace) then issued (my, our, his or their) Summons to the said A. B., commanding him, in Her Majesty's name, to be and

appear before (me) on _____ at _____ o'clock in the (fore) noon, at _____, or before such other Justice or Justices of the Peace as should then be there, to answer to the said charge, and to be further dealt with according to law; And whereas the said A. B. hath neglected to be or appear at the time and place appointed in and by the said Summons, although it hath now been proved to (me) upon oath, that the said Summons was 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 (me) or some other of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be) of _____, to answer the said charge, 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 (County) of _____ aforesaid.

J. S. [L. S.]

(E 1.)

Information to Obtain a Search Warrant.

Province of Canada,
(County or United
Counties, or as the
case may be) of _____ }

The information of A. B. of the _____, of _____, in the said (County &c.) (yeoman), taken this _____ day of _____, in the year of our Lord _____, before me, W. S., Esquire, one of Her Majesty's Justices of the Peace, in and for the {County or United Counties, or as the case may be) of _____, who saith that on the _____ day of _____, (insert description of articles stolen,) of the goods and chattels of Deponent, were feloniously stolen, taken and carried away, from and out of the (Dwelling House &c.) of this Deponent, at the (Township, &c.) aforesaid, by (some person or persons unknown, or name the person,) and that he hath just and reasonable cause to suspect, and doth suspect that the. said goods and chattels, or some part of them, are concealed in the (Dwelling House, &c., of C. D.) of _____, in the said {County) (here add the causes of suspicion, whatever they maybe): Wherefore, (he) prays that a Search Warrant may be granted to him to search (the Dwelling House, &c.,) of the said C. D. as aforesaid, for the said goods and chattels so feloniously stolen, taken and carried away as aforesaid.

Sworn before me the day and year first above mentioned, at _____ in the said (County) of _____.

W. S.

J.P.

(E 2.)

Search Warrant.

Province of Canada,
(County or United
Counties, or as the
case may be,) of _____ }

To all or any of the Constables, or other Peace Officers, in the (County or United Counties, or as the case may be) of _____:

Whereas A. B. of the _____, of _____, in the said (County &c.) hath this day made oath before me the under-signed, one of Her Majesty's Justices of the Peace, in and for the said (County, or United Counties, or as the case may be,) of _____, that on the _____ day of _____ (copy information as far as place of supposed concealment); These are therefore in the name of our Sovereign Lady the Queen, to authorize and require you, and each and every of you, with necessary and proper assistance, to enter in the day time into the said (Dwelling House, &c., of the said, &c.) and there diligently search for the said goods and chattels, and if the same or any part thereof shall be found upon such search, that you bring the goods so found, and also the body of the said C. D. before me, or some other Justice of the Peace, in and for the said (County or United Counties, or as the case may be) of _____ to be disposed of and dealt with according to law.

Given under my Hand and Seal, at _____, in the said (County, &c.) this _____ day of _____, in the year of our Lord, one thousand eight hundred and _____
W. S. J. P. (Seal.)

(F.)

Certificate of Indictment Being Found.

I hereby certify that at a Court of (Oyer and Terminer, or General Gao] Delivery, or General Sessions of the Peace) holden in and for the (County or United Counties, or as the case may be,) of _____, at _____, in the said (County, &c.) on _____, a Bill of Indictment was found by the Grand Jury against A. B., therein described as A. B. late of (laborer,) for that he (&c., stating shortly the offence,) and that the said A. B. hath not appeared or pleaded to the said indictment.

Dated this _____, day of _____ one thousand eight hundred and _____
Z. X.

Clerk of the Crown or Deputy Clerk of the Crown for the (County or United Counties, as the case may be,)
or

Clerk of the Peace of and for the said (County or United
Counties, as the case may be.)

(G.)

Warrant to Apprehent a Person Indicted.

Province of Canada,
(County or United
Counties, or as the
case may be,) of _____ }
}

To all or any of the Constables, or other Peace Officers, in the said (County or United Counties, or
as the case may be) of _____:

Whereas it hath been duly certified by J. D., Clerk of the Crown of (name the Court) (or E. G.
Deputy Clerk of the Crown, or Clerk of the Peace, as the case may be) in and for the (County or
United Counties, or as the case may be) of _____ that (&c., stating the certificate); These are
therefore to command you, in Her Majesty's name, forthwith to apprehend the said A. B., and to
bring him before (me), or some other Justice or Justices of the Peace in and for the said (County or
United Counties, or as the case may be,) to be dealt with according to law.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord
_____, at _____, in the (County, &c.) aforesaid.

J. S. [L. S.]

(H.)

Warrant of Commitment of a Person indicted.

Province of Canada,
(County or United
Counties, or as the
case may be) of _____ }
}

To all or any of the Constables, or other Peace Officers in the said (County, &c.) of _____ and
to the Keeper of the Common Gaol, at _____, in the said (County or United Counties, or as
the case may be) of _____:

Whereas by a Warrant under the Hand and Seal of _____, (one) of Her Majesty's Justices of
the Peace in and for the said (County or United Counties, or as the case may be,) of _____
under Hand and Seal _____, dated the day of _____, after reciting that it had been
certified by J. D. (&c. as in the certificate,) (_____) the said Justice of the Peace commanded
all or any of the Constables, in Her Majesty's name, forthwith to apprehend the said A. B. and to

bring him before (him) the said Justice of the Peace in and for the said (County or United Counties, or as the case may be) of _____ or before some other Justice or Justices in and for the said (County or United Counties, or as the case may be,) to be dealt with according to law; And whereas the said A. B. hath been apprehended under and by virtue of the said Warrant, and being now brought before (me) it is hereupon duly proved to (me) upon oath that the said A. B. is the same person who is named and charged by _____, in the said indictment; These are therefore to command you the said Constables and Peace Officers, or any of you, in Her Majesty's name, forthwith to take and convey the said A. B. to the said Common Gaol at _____, in the said (County or United Counties, or as the case may be) of _____, and there to deliver him to the Keeper thereof, together with this Precept; and (I) hereby command you the said Keeper to receive the said A. B. into your custody in the said Gaol, and him there safely to keep until he shall thence be delivered by due course of law.

Given under (my) Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the (County, &c.) aforesaid.

J. S. [L. S.]

(I)

Warrant to Detain a Person Indicted, Who Is Already in Custody for Another Offence.

Province of Canada,
(County or United
Counties, or as the
case may be) of _____ }
}

To the Keeper of the Common Gaol at _____ in the said {County or United Counties, or as the case may be) of _____ :

Whereas it hath been duly certified by J. D., Clerk of the Crown of (name the Court) or Deputy Clerk of the Crown, or Clerk of the Peace of and for the (County or United Counties, or as the case may be) of _____ that (&c. stating the Certificate); And whereas (I am) informed that the said A. B. is in your custody in the said Common Gaol at _____ aforesaid, charged with some offence, or other matter; and it being now duly proved upon oath before {me) that the said A. B. so indicted as aforesaid, and the said A. B., in your custody as aforesaid, are one and the same person; These are therefore to command you, in Her Majesty's name, to detain the said A. B. in your custody in the Common Gaol aforesaid, until by Her Majesty's Writ of *Habeas Corpus* he shall be removed therefrom for the purpose of being tried upon the said indictment, or until he shall otherwise be removed or discharged out of your custody by due course of law.

Given under (my) Hand and Seal, this day of _____, in the year of our Lord _____, at _____, in the (County, &c.,) aforesaid.

J. S. [L. S.]

(K)

Endorsement in Backing a Warrant.

Province of Canada,
(County or United
Counties, or as the
case may be) 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 (County or United Counties, or as the case may be) of _____, 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 hereby authorize W. T. who bringeth to me this Warrant, and all other persons to whom this Warrant was originally directed, or by whom it may be lawfully executed, and also all Constables and other Peace Officers of the said {County or United Counties, or as the case may be) of _____, to execute the same within the said last mentioned (County or United Counties, or as the case may be).

Given under my Hand, this _____ day of _____, in the year of our Lord _____, at _____, in the {County, &c.,) aforesaid.

J. L.

(L 1.)

Summons to a Witness.

Province of Canada,
(County or United
Counties, or as the
case may be) of _____ }
}

To E. F. of _____, (laborer,):

Whereas information hath been laid before the undersigned, one of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be) of _____, that A. B. (&c., as in the Summons or Warrant against the accused,) and it hath been made to appear to me upon (oath), that you are likely to give material evidence for (prosecution); These are therefore to require you to be and to appear before me on _____ next, at _____ o'clock in the (fore) noon, at _____, or before such other Justice or Justices of the Peace for the same (County or United Counties, or as the case may be) of _____, as may then be there, to testify what you shall know concerning the said charge so made against the said A. B. as aforesaid. Herein fail not.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the (County, &c.) aforesaid.

J. S. [L. S.]

(L 2.)

Warrant When a Witness Has not Obeyed a Summons.

Province of Canada,
(County or United
Counties, or as the
case may be) of _____ }

To all or any of the Constables, or other Peace Officers, in the said (County or United Counties, or as the case may be) of _____:

Whereas information having been laid before _____, (one) of Her Majesty's Justices of the Peace, in and for the said (County, &c.) of _____, that A. B., (&c., as in the Summons); And it having been made to appear to (me) upon oath that E. F. of _____, (laborer), was likely to give material evidence for the prosecution, (I) did duly issue (my) Summons to the said E. F., requiring him to be and appear before (me) on _____, at _____, or before such other Justice or Justices of the Peace for the same (County or United Counties, or as the case may be) as might then be there, to testify what he should know respecting the said charge so made against the said A. B. as aforesaid; And whereas proof hath this day been made upon oath before (me) 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 has been offered for such neglect; 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 Peace for the same (County or United Counties, or as the case may be) as may then be there, to testify what he shall know concerning the said charges so made against the said A. B. as aforesaid.

Given under (my) Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____ in the (County, &c.) aforesaid.

J. S. [L. S.]

(L 3.)

Warrant for a Witness in the First Instance.

Province of Canada,
(County or United
Counties, or as the
case may be) of _____

To all or any of the Constables or Peace Officers in the said (County or United Counties, or as the case may be) of _____:

Whereas information has been laid before the undersigned, (one) of Her Majesty's Justices of the Peace, in and for the said (County or United Counties, or as the case may be) of _____, that _____ as in the Summons); and it having been made to appear to (me) upon oath, that E. F. of _____, (laborer), is likely to give material evidence for the prosecution, and that it is probable that the said E. F. will not attend to give evidence unless compelled to do so; 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 Peace for the same (County or United Counties, or as the case may be) as may then be there, to testify what he shall know concerning the said charge so made against the said A. B. as aforesaid.

Given under my Hand and Seal, this _____ day of _____, in the year, of our Lord _____, at _____ in the (County, &c.,) aforesaid.

J. S. [L. S.]

(L 4.)

Warrant of Commitment of a Witness for Refusing to Be Sworn, or to Give Evidence.

Province of Canada,
(County or United
Counties, or as the
case may be) of _____

To all or any of the Constables or other Peace Officers in the (County or United Counties, or as the case may be) of _____, and to the Keeper of the Common Gaol at _____, in the said (County or United Counties, or as the case may be) of _____:

Whereas A. B. was lately charged before _____, (one) of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be) of _____, for that (&c. as in the Summons); And it having been made to appear to (me) upon oath that E. F. of _____, was likely to give material evidence for the prosecution, (I) duly issued (my) Summons to the said E. F. requiring him to be and appear before me on _____, at _____, or before such other Justice or Justices of the Peace for the same (County or United Counties, or as the case may be) as should then be there, to testify what he should know concerning the said charge so made against the said A. B. as aforesaid; And the said E. F. now

appearing before (me) (or being brought before (me) by virtue of a Warrant in that behalf, to testify as aforesaid,) and being required to make oath or affirmation as a witness in that behalf, hath now refused so to do, (or being duly sworn as a witness doth now refuse to answer certain questions concerning the premises which are now here put to him, and more particularly the following) _____ without offering any just excuse for such refusal; These are therefore to command you, the said Constables, Peace Officers, or any one of you, to take the said E. F. and him safely convey to the Common Gaol at _____, in the (County, &c.) 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 Common Gaol to receive the said E. F. into your custody in the said Common Gaol, and him there safely keep for the space of _____ days, for his said contempt, unless he shall in the meantime consent to be examined, and to answer concerning the premises; and for your so doing, this shall be your sufficient Warrant.

Given under (my) Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the (County, &c.) aforesaid.

J. S. [L. S.]

(M.)

Depositions of Witness.

Province of Canada,
(County or United
Counties, or as the
case may be) of _____ }

The examination of C. W. of _____, (farmer,) and E. F. of _____ (laborer), taken on (oath) this _____ day of _____, in the year of our Lord , at _____, in the (County, or as the case may be) aforesaid, before the undersigned, (one) of Her Majesty's Justices of the Peace for the said (County or United Counties, or as the case may be), in the presence and hearing of A. B. who is charged this day before (me) for that he, the said A. B. _____ at _____, (&c. describing the offence as in a Warrant of Commitment.)

This Deponent, C. D. upon his (oath) saith as follows: (&c. stating the depositions of the witness as nearly as possible in the words he uses. When his deposition is completed, let him sign it.)

And this Deponent, E. F. upon his (oath) saith as follows: (&c.)

The above depositions of C. D. and E. F. were taken and (sworn) before me, at _____ on the day and year first above mentioned.

J. S.

(N.)

Statement of the Accused.

Province of Canada,
(County or United
Counties, or as the
case may be,) of _____ }

A. B. stands charged before the undersigned, (one) of Her Majesty's Justices of the Peace, in and for the (County or United Counties, or as the case may be) aforesaid, this _____ day of _____ in the year of our Lord _____, for that the said A. B., on _____, at _____, (&c. as in the caption of the depositions;) And the said charge being read to the said A. B., and the witnesses for the prosecution C. D. and E. F. being severally examined in his presence, the said A. B. is now addressed by me as follows: "Having heard the evidence, do you wish to say any thing in answer to the charge? You are not obliged to say any thing, unless you desire to do so; but whatever you say will be taken down in writing, and may be given in evidence against you at your trial." Whereupon the said A. B. saith as follows: (Here state whatever the prisoner may say, and in his very words as nearly as possible. Get him to sign it if he will.)

A. B.

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

J. S.

(O 1.)

Recognizance to Prosecute or Give Evidence.

Province of Canada,
{County or United
Counties, or as the
case may be) of _____ }

Be it remembered, That on the _____ day of _____ in the year of our Lord _____, C. D. of _____, in the _____ of _____, in the (Township) of _____, in the said (County) of _____, (farmer,) {or C. D. of No. 2, _____ Street, _____, in the Town or City of _____, Surgeon, of which said house he is tenant,) personally came before me, one of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be) of _____, and acknowledged himself to owe to our Sovereign Lady the Queen the sum of _____, of good and lawful current money of this Province, to be made and levied of his goods and chattels, lands and tenements, to the use of our said Lady the Queen, Her Heirs and Successors, if he the said C. D. shall fail in the condition endorsed.

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

J. S.

Condition to Prosecute.

The condition of the within (or above) written Recognizance is such, that whereas one A. B. was thus day charged before me J. S. Justice of the Peace within mentioned, for that as in the caption of the depositions;) if, therefore, he, the said C. D. shall appear at the next Court of Oyer and Terminer or General Gaol Delivery, {or at the next Court of General or Quarter Sessions of the Peace,) to be holden in and for the {County ox United Counties, or as the case may be) of _____,* and there prefer or cause to be preferred a Bill of Indictment for the offence aforesaid, against the said A. B. and there also duly prosecute such indictment, then the said Recognizance to be void, or else to stand in full force and virtue.

Condition to Prosecute and Give Evidence.

(Same as the last form, to the asterisk * and then thus: — “And there prefer or cause to be preferred a Bill of Indictment against the said A. B. for the offence aforesaid, and duly prosecute such indictment, and give evidence thereon, as well to the Jurors who shall then enquire into the said offence, as also to them who shall pass upon the trial of the said A. B., then the said Recognizance to be void, or else to stand in full force and virtue.”

Condition to Give Evidence.

(Same as the last form but one, to the asterisk,* and then thus.) “And there give such evidence as he knoweth upon a Bill of Indictment to be then and there preferred against the said A. B. for the offence aforesaid, as well to the Jurors who shall there enquire of the said offence, as also to the Jurors who shall pass upon the trial of the said A. B. if the said Bill shall be found a True Bill, then the said Recognizance to be void, otherwise to remain in full force and virtue.”

(O 2.)

Notice of the said Recognizance to Be Given to the Prosecutor and His Wtiness.

Province of Canada,
(County or United
Counties, or as the
case may be) of _____ }
}

Take notice that you C. D. of _____, are bound in the sum of _____ to appear at the next Court of Oyer and Terminer and General Gaol Delivery, (or at the next Court of General Quarter Sessions of the Peace, in and for the (County or United Counties, or as the case may be) of _____, to be holden at _____, in the said (County, &c.) and then and there (prosecute and) give evidence against A. B., and unless you then appear there, (prosecute) and give evidence accordingly, the Recognizance entered into by you will be forthwith levied on you.

Dated this _____ day of _____ one thousand eight hundred and _____

J. S.

(P 1.)

Commitment of a Witness for Refusing to Enter into the Recognizance.

Province of Canada,
(County or United
Counties, or as the
case may be) of _____ }

To all or any of the Constables or other Peace Officers in the said (County or &c.) of _____,
and to the Keeper of the Common Gaol of the said (County or United Counties, or as the case may
be) at _____, in the said (County, or as the case may be) of _____:

Whereas A. B. was lately charged before the undersigned, (or name of Justice of the Peace, (one)
of Her Majesty's Justices of the Peace in and for the said (County, or &c.) of _____, for that
(&c. as in the Summons to the Witness), and it having been made to appear to (me) upon oath
that E. F., of _____, was likely to give material evidence for the prosecution, (I) duly issued
(my) Summons to the said E. F., requiring him to be and appear before (me) on _____, at
_____ or before such other Justice or Justices of the Peace as should then be there, to testify
what he should know concerning the said charge so made against the said A. B. as aforesaid) and
the said E. F. now appearing before (me) (or being brought before (me) by virtue of a Warrant in
that, behalf to testify as aforesaid), hath been now examined before (me) touching the premises,
but being by (me) required to enter into a Recognizance conditioned to give evidence against the
said A. B., hath now refused so to do; These are therefore to command you the said Constables or
Peace Officers, or any one of you, to take the said E. F. and him safely to convey to the Common
Gaol at _____ in the (County, &c.) 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
Common Gaol to receive the said E. F. into your custody in the said Common Gaol, there to
imprison and safely keep him until after the trial of the said A. B. for the offence aforesaid, unless
in the meantime the said E. F. shall duly enter into such Recognizance as aforesaid, in the sum of
_____, before some one Justice of the Peace for the said (County or United Counties, or as
the case may be,) conditioned in the usual form to appear at the next Court of (Oyer and
Terminer, or General Gaol Delivery, or General Quarter Sessions of the Peace), to be holden in and
for the said (County or United Counties, or as the case may be,) of and there to give evidence
before the Grand Jury upon any Bill of Indictment which may then and there be preferred against
the said A. B. for the offence aforesaid, and also to give evidence upon the trial of the said A. B. for
the said offence, if a True Bill should be found against him for the same.

Given under my Hand and Seal, this _____, day of _____, in the year of Our Lord
_____, at _____ in the (County, &c.), of _____ aforesaid.

J. S. [L. S.]

(P 2.)

Subsequent Order to Discharge the Witness.

Province of Canada,
(County or United
Counties, or as the
case may be) of _____
INSERT FORMAT (pg. 813)

To the Keeper of the Common Gaol, at _____, in the (County) of _____ aforesaid
_____: Whereas by (my) order dated the _____ day of _____ (instant), reciting
that A. B. was lately before then charged before (me) for a certain offence therein mentioned, and
that E. F. having appeared before (me), and being examined as a witness for the prosecution in
that behalf, refused to enter into a Recognizance to give evidence against the said A. B., and I
therefore thereby committed the said E. F. to your custody, and required you safely to keep him
until after the trial of the said A. B. for the offence aforesaid, unless in the meantime he should
enter into such Recognizance as aforesaid; And whereas for want of sufficient evidence against the
said A. B., the said A. B. has not been committed or holden to bail for the said offence, but on the
contrary thereof has been since discharged, and it is therefore not necessary that the said E. F.
should be detained longer in your custody; These are therefore to order and direct you the said
Keeper to discharge the said E. F. out of your custody, as to the said commitment, and suffer him
to go at large.

Given under my Hand and Seal, this _____ day of _____, in the year of Our Lord
_____, at _____, in the (County, &c.) of _____ aforesaid.

J. S. [L. S.]

(Q 1.)

Warrant Remanding a Prisoner.

Province of Canada,
(County or United
Counties, or as the
case maybe) of _____ }

To all or any of the Constables or other Peace Officers in the said (County or United Counties, or as
the case may be) of _____, and to the Keeper of the {Common Gaol or Lock-up House) at
_____, in the said (County, &c.,) of _____:

Whereas A. B. was this day charged before the undersigned (one) of Her Majesty's Justices of the Peace in and for the said {County or United Counties, or as the case may be) of _____, for that (&c., as in the Warrant to apprehend), and it appears to {me) to be necessary to remand the said A. B.; These are therefore to command you the said Constables or Peace Officers, or any one of you, in Her Majesty's name, forthwith to convey the said A. B. to the {Common Goal or Lock-up House), at _____, in the said (County, &c.), and there to deliver him to the Keeper thereof, together with this Precept; and I hereby command you the said Keeper to receive the said A. B. into your custody in the said {Common Goal or Lock-up House), and there safely keep him until the day of (instant), when I hereby command you to have him at _____, at _____ o'clock in the (fore) noon of the same day before {me) or before some other Justice or Justices of the Peace for the said (County or United Counties, or as the case may be) as may then be there, to answer further to the said charge, and to be further dealt with according to law, unless you shall be otherwise ordered in the meantime.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord, _____, at _____, in the (County, &c.) of _____ aforesaid.

J. S. [L. S.]

(Q 2.)

Recognizance of Bail Instead of Remand, on an Adjournment of Examination.

Province of Canada,
(County or United
Counties, or as the
case may be) of _____ }

Be it remembered, That on the _____, day of _____, in the year of our Lord _____, A. B. of _____, (laborer), L. M. of _____, (grocer), and N. O. of _____, (butcher), personally came before me, (one) of Her Majesty's Justices of the Peace for the said (County or United Counties, or as the case may be), and severally acknowledged themselves to owe to our Lady the Queen the several sums following, that is to say: the said A. B. the sum of _____, and the said L. M. and N. O. the sum of _____, each, 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. fail in the condition endorsed.

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

J. S.

Condition.

The condition of the within written Recognizance is such, that whereas the within bounden A. B. was this day (or, on _____ last past) charged before me for that (&c. as in the Warrant): And

whereas the examination of the Witnesses for the prosecution in this behalf is adjourned until the day of _____ (instant); If therefore the said A- B. shall appear before me on the said _____ day of _____ (instant), at _____ o'clock in the forenoon, or before such other Justice or Justices of the Peace for the said (County or United, Counties) of _____ as the case may be) as may then be there, to answer (further) to the said charge, and to be further dealt with according to law, then the said Recognizance to be void, or else to stand in full force and virtue.

(Q 3.)

Notice of Recognizance to Be Given to the Accused and His Sureties.

Province of Canada,
(County or United,
Counties, or as the
case may be) of _____ }
}

Take notice that you A. B. of _____, are bound in the sum of _____ and your Sureties L. M. and N. O. in the sum of _____, each, that you A. B. appear before me J. S., one of Her Majesty's Justices of the Peace for the (County or United Counties, or as the case may be) of _____ on _____, the _____ day of _____ (instant,) at _____ o'clock in the (fore) noon, at _____, or before such other Justice or Justices of the same (County or United Counties, or as the case may be) as may be then there, to answer (further) to the charge made against you by C. D., and to be further dealt with according to law; and unless you A. B. personally appear accordingly, the Recognizances entered into by yourself and Sureties will be forthwith levied on you and them."

Dated this _____ day of _____, one thousand eight hundred and _____

J. S.

(Q 4.)

Certificate of Non-Appearance to Be Endorsed on the Recognize.

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

J. S.

(R 1.)

Warrant to Convey the Accused Before a Justice of the County in Which the Offence Was Committed..

Province of Canada,
(County or United
Counties, or as the
case may be) of _____ }

To all or any of the Constables, or other Peace Officers, in the said (County or United Counties, or as the case may be) of _____:

Whereas A. B. of _____ (laborer), hath this day been charged before the undersigned (one) of Her Majesty's Justices of the Peace in and for the (County or United Counties, or as the case may be) of _____, for that as in the Warrant to apprehend); And whereas (I) have taken the deposition of C. D. a witness examined by (me) in this behalf, but inasmuch as (I) am informed that the principal witnesses to prove the said offence against the said A. B. reside in the (County or United Counties, or as the case may be) of _____ where the said offence is alleged to have been committed; These are therefore to command you, in Her Majesty's name, forthwith to take and convey the said A. B. to the said {County or United Counties, or as the case may be) of _____ and there carry him before some Justice or Justices of the Peace in and for that (County or United Counties, or as the case may be,) and near unto the (Township of _____) where the offence is alleged to have been committed, to answer further to the said charge before him or them, and to be further dealt with according to law; and (I) hereby further command you to deliver to the said Justice or Justices the information in this behalf, and also the said deposition of C. D. now given into your possession for that purpose, together with this Precept.

Given under my Hand and Seal, this day of _____, in the year of our Lord _____, at _____, in the (County, &c.) of _____ aforesaid.

J. S. [L. S.]

(R 2.)

Receipt to Be Given to the Constable by the Justice for the County in Which the Offence was Committed.

Province of Canada,
(County or United,
Counties, or as the
case way be) of _____ }

I, J. P. one of Her Majesty's Justices of the Peace, in and for the (County, &c.) of _____, hereby certify that W. T., Constable, or Peace Officer, of the (County or United Counties, or as the case may be) of _____, has on this day of _____, one thousand eight hundred and _____, by virtue of and in obedience to a Warrant of J. S. Esquire, one of Her Majesty's Justices of the Peace in and for the (County or United Counties, or as the case may be) of _____ produced, before me, one A. B. charged before the said J. S. with having (&c. stating shortly the offence,) and delivered him into the custody of _____ by my direction, to answer to the said

charge, and further to be dealt with according to law, and has also delivered unto me the said Warrant, together with the information (if any) in that behalf, and the deposition (s) of C. D. (and of _____) in the said Warrant mentioned, and that he has also proved to me upon oath, the hand-writing of the said J. S. subscribed to the same.

Dated the day and year first, above mentioned, at _____ in the said (County, &c.) of _____

J. P.

(S 1.)

Recognizance of Bail.

Province of Canada,
(County or United
Counties, or as the
case may be) of _____ }

Be it remembered, That on the _____ day of _____ in the year of our Lord _____, A. B. of _____, (laborer,) L. M. of _____, (grocer,) and N. O. of _____, (butcher,) personally came before (MS) the undersigned, two of Her Majesty's Justices of the Peace for the said {(County or United Counties, or as the case may be,) and severally acknowledged themselves to owe to our Lady the Queen, the several sums following, that is to say: the said A. B. the sum of _____, and the said L. M. and N. O. the sum of _____, each, 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., fail in the condition endorsed.

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

J. S.

J. N.

Condition.

The condition of the within written Recognizance is such, that whereas the said A. B. was this day charged before (us,) the Justices within mentioned for that (&c. as in the Warrant); If therefore the said A. B. will appear at the next Court of Oyer and Terminer or General Gaol Delivery (or Court of General Quarter Sessions of the Peace) to be holden in and for the (County or United Counties, or as the case may be) of _____, and there surrender himself into the custody of the Keeper of the (Common Gaol or Lock-up House) there, and plead to such Indictment as may be found against him by the Grand Jury, for and in respect to the charge aforesaid, and take his trial upon the same, and not depart the said Court without leave, then the said Recognizance to be void, or else to stand in full force and virtue.

(S 2.)

Notice of the said Recognizance to Be Given to the Accused and His Bail.

Take notice that you A. B., of _____, are bound in the sum of _____, and your Sureties (L. M. and N. O.) in the sum of _____, each, that you A. B. appear (&c. as in the condition of the Recognizance) and not depart the said Court without leave; and unless you, the said A. B., personally appear and plead, and take your trial accordingly, the Recognizance entered into by you and your Sureties shall be forthwith levied on you and them.

Dated this _____ day of _____, one thousand eight hundred and _____

J. S.

(S 3.)

Warrant of Deliverance on Bail Being Given for a Prisoner Already Committed.

Province of Canada,
(County or United
Counties, or as the
case may be) of _____ }

To the Keeper of the Common Gaol of the (County or United Counties, or as the case may be) at _____, in the said (County or United Counties, or as the case may be) of _____:

Whereas A. B., late of _____, (laborer), hath before (us,) (two) of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be) of _____, entered into his own Recognizance, and found sufficient sureties for his appearance at the next Court of Oyer and Terminer or General Gaol Delivery (or Court of General Quarter Sessions of the Peace) to be holden in and for the (County or United Counties, or as the case may be) of _____, to answer our

Sovereign Lady the Queen, for that (&c. as in the Commitment), for which he was taken and committed to your said Common Gaol; These are therefore to command you, in Her said Majesty's name, that if the said A. B. do remain in your custody in the said Common Gaol for the said cause, and for no other, you shall forthwith suffer him to go at large.

Given under our Hands and Seals, this _____ day of _____ in the year of our Lord _____, at _____, in the (County, &c.) of _____ aforesaid.

J. S. [L. S.]
J. N. [L. S.]

(T 1.)

Warrant of Commitment.

Province of Canada
(County or United
Counties, or as the
case may be) of _____ }

To all or any of the Constables, or other Peace Officers, in the (County or United Counties, or as the case may be) of _____, and to the Keeper of the Common Gaol of the (County or United Counties, or as the case may be) at _____, in the said (County, &c.) of _____:

Whereas A. B. was this day charged before (me) J. S. (one) of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be) of _____, on the oath of C. D., of _____ (farmer,) and others, for that, (&c. stating shortly the offence); These are therefore to command you the said Constables or Peace Officers, or any of you, to take the said A. B., and him safely convey to the Common Gaol at _____ aforesaid, and there deliver him to the Keeper thereof, together with this Precept; And I do hereby command you the said Keeper of the said Common Gaol to receive the said A. B. into your custody in the said Common Gaol, and there safely to keep him until he shall be thence delivered by due course of law.

Given under my Hand and Seal, this _____ day of _____, in (he year of our Lord _____, at _____, in the (County, &c.) of _____ aforesaid.

J. S. [L. S.]

(T 2.)

Gaoler's Receipt to the Constable for the Prisoner, and Justice's Order Thereon for the Payment of the Constable's Expences in Executing the Commitment.

I hereby certify that I have received from W. T., Constable, of the (County, &c.) of _____, the body of A. B., together with a Warrant under the Hand and Seal of J. S., Esquire, one of Her Majesty's Justices of the Peace for the said {County or United Counties, or as the case may be) of _____, and that the said A. B., was (sober, or as the case may be) at the time he was delivered into my custody.

P. K.
Keeper of the Common Gaol of the said (County, &c.)

at

To R. W. Esquire, Treasurer of the (County or United Counties, or as the case may be) of _____:

Whereas W. T., Constable, of the (County or United Counties, or as the case may be) of _____, hath produced unto me, J. P., one of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be) of _____, the above receipt of P.

K., Keeper of the Common Gaol at _____; And whereas in pursuance of the Statute in such case made and provided, I have ascertained that the sum which ought to be paid to the said W. T. for arresting and conveying the said A. B. from _____, in the (County of _____) to the said Common Gaol is _____, and that the reasonable expences of the said W. T. in returning will amount to the further sum of _____, making together the sum of _____; These are therefore to order you, as such Treasurer for the said {County or United Counties, or as the case may be) of _____, to pay unto the said W. T. the said sum of _____, according to the form of the Statute in such case made and provided, for which payment this Order shall be your sufficient voucher and authority.

Given under my Hand, this _____ day of _____ one thousand eight hundred and _____

J. P.

Received the _____ day of _____, one thousand eight hundred and _____, of the Treasurer of the (County or United Counties, or as the case may be) of _____, the sum of _____, being the amount of the above Order.

£ s. d.

W. T.