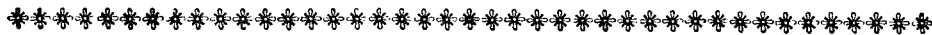


ANNO DECIMO-NONO

VICTORIÆ REGINÆ,

No. 8.



*By His Excellency SIR HENRY EDWARD FOX YOUNG, Knight,
Captain-General and Governor-in-Chief of the Island of Van
Diemen's Land and its Dependencies, with the Advice and
Consent of the Legislative Council.*

*AN ACT to facilitate the Performance of the Duties of
Justices of the Peace out of Sessions with respect to
Summary Convictions and Orders. [28th August, 1855.]*

WHEREAS it would conduce much to the improvement of the Administration of Justice, so far as respects summary Convictions and Orders to be made by Her Majesty's Justices of the Peace, that the duties of such Justices in respect of such summary Convictions and Orders should be clearly defined by positive enactment: Be it therefore enacted by His Excellency the Governor of Van Diemen's Land, by and with the advice and consent of the Legislative Council, as follows:—

PREAMBLE.

In all cases where an Information shall be laid before one or more of Her Majesty's Justices of the Peace that any person has committed or is suspected to have committed any offence or act for which he is or shall be 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 and 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

In cases where Information laid or Complaint made of offences committed, Justices may issue Summons to persons to answer the same.

How Summons to be served.

Justices not obliged to issue Summonses in certain cases. No objection allowed for want of form.

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 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 any other person to whom the same shall be delivered, upon the person to whom it is so directed, by delivering the same or a copy thereof to such person personally, or by leaving the same or a copy thereof with some person for him at his last or most usual place of abode; and the Constable or person who shall serve 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 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 defect 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 person so summoned and appearing 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.

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 Justices may proceed *ex parte*

2 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, 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 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 person so summoned, and to bring him before the same Justice or Justices, or before some other Justice or Justices of the Peace, to answer to the said Information or Complaint, and to be further dealt with according to law; or upon any such Information being laid as aforesaid for any offence punishable on conviction the Justice or Justices before whom such Information shall have been laid may, if he or they shall think fit, upon oath 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, 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 at the time and place appointed in and by the said Summons for the appearance of the person so summoned, such person shall fail to appear accordingly in obedience to such Summons, then and in every such case, if it be proved upon oath to the Justice or Justices then present that such Summons was duly served upon such

person 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 person had personally appeared before him or them in obedience to the said Summons.

3 Every such Warrant to apprehend a Defendant, that he may answer to any such Information or Complaint as aforesaid, shall be under the hand or hands of the Justice or Justices issuing the same, and may be directed either to any Constable or other person by name, or to the Chief Constable of this Colony, or to such Constable, person, or Chief Constable, and all Constables in this Colony, or generally to all Constables in this Colony, 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 person 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) to answer to the said Information or Complaint, 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 shall remain in full force until it shall be executed; and it shall be lawful for any Constable to execute such Warrant in like manner as if such Warrant were directed specially to such Constable by name: Provided always, that no objection shall be taken or allowed to any such 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 Informant or Complainant as herein-after mentioned; but if any such variance shall appear to the Justice or Justices present and acting at such hearing to be such that the person 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 some Gaol or 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. 1.), with or without a 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 a Notice (E. 2.) of such recognizance shall at the same time be given to the person or persons bound thereby: 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 mentioned in such Recognizance, the same shall thereupon become forfeited, and the said Justice or Justices who shall have taken the said Recognizance, or any other Justice or Justices who may then and there be present, shall certify (F.) upon the back of such forfeited Recognizance the non-appearance of the Defendant.

Form of Warrant.

How Warrant may be executed.

No objection allowed for want of form in the Warrant, or for any variance between it and evidence adduced; but if the party charged is deceived by the variation, the case may be adjourned.

If party bailed and fail to re-appear, Justice to certify same upon Recognizance.

4 In any Information or Complaint, or the 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

Description of the property of partners, &c. ;

of the property in materials for roads, &c.

to mention, for any purpose whatsoever, any Partners, Joint Tenants, Parceners, or Tenants in Common, it shall be sufficient to describe them in manner aforesaid; 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 under the direction of any public Trustees, or of any materials for the making, altering, or repairing of the same, they may be therein described as the property of such Trustees without naming them; and all materials or tools provided for making or repairing any road, and buildings, gates, lamps, boards, stones, posts, fences, or other things erected or provided for the purpose of any such road, may be described as the property of the Trustees of the Road District within which such road is situate, without naming them.

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

5 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 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.

Power to Justice to summon witnesses to attend and give evidence;

6 If it shall be made to appear to any Justice of the Peace, by the oath of any credible person, that any person is likely to give material evidence on behalf of the Informant or Complainant or Defendant, such Justice may issue and is hereby required to issue his Summons (G. 1.) to such person under his hand, 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 as shall then be there, to testify what he shall know concerning the matter of 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 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, and that a reasonable sum was paid or tendered to him, or to such last-mentioned person in his behalf, for his costs and expenses in that behalf,) 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 hand or hands 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 as shall then be there, to testify as aforesaid; or if the Justice shall be satisfied by evidence upon oath that it is probable that any person likely to give material evidence in the matter of any Information or Complaint 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 if on the appearance of any person so summoned before the Justice or Justices, either 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 concerning the premises, or shall refuse to take such oath, or, having taken such oath, 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 may by Warrant (G. 4.) under his hand commit the person so

If Summons be not obeyed, Justices may issue Warrant;

In certain cases may issue Warrant in the first instance.

Persons appearing and refusing to be examined may be committed.

refusing to some Gaol or House of Correction, there to remain and be imprisoned for any time not exceeding Fourteen Days, unless he shall in the meantime consent to be examined and to answer concerning the premises.

7 If any person so summoned as a Witness 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, every such person shall, for any such offence, forfeit and pay a penalty of not more than Fifty Pounds, to be recovered in a summary way.

Penalty for Witnesses neglecting to attend upon Summons.

8 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 the law upon which such complaint shall be framed.

Complaints for an Order need not be in writing.

9 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 such information and the evidence adduced in support thereof as to the place in which the offence or act shall be alleged to have been committed shall not be deemed material; 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 person 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 some Gaol or 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. 1.), with or without a 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 mentioned in such Recognizance, the same shall thereupon become forfeited, and the said Justice or Justices who shall have taken the said Recognizance, or any other Justice or Justices who may then and there be present, shall certify (F.) upon the back of such forfeited Recognizance the nonappearance of the Defendant.

As to proceedings upon informations for offences punishable on summary convictions.

If the party charged is deceived by variation between information and evidence, the case may be adjourned.

If party bailed and fail to re-appear, Justice to certify same upon Recognizance.

10 Every such complaint upon which a Justice or Justices of the Peace is or are or shall be authorised by law to make an Order, and every information for any offence or act punishable upon summary conviction, unless some particular Law shall otherwise require, may respectively be made or laid without any oath 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

Manner of making complaint or laying information.

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

the oath 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 authorised in that behalf.

Time limited for complaints or informations.

11 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 Law relating to each particular case, such complaint shall be made and such information shall be laid within six months from the time when the matter of such complaint or information respectively arose.

As to the hearing of complaints and informations.

12 Every such complaint and 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 law upon which such complaint or information shall be framed, or such other law as there may be in that behalf; and if there be no such direction in any such law, then such complaint or information may be heard, tried, determined, and adjudged by any one Justice of the Peace; and the room or building 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 person 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 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.

Places in which complaints, &c. heard to be deemed open Courts.

Parties allowed to plead by Counsel.

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

13 If at the time 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 (B.) in manner herein-before directed, and shall adjourn the hearing of the said 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, who shall thereupon, either by his or their Warrant (H.), commit such Defendant to some Gaol or House of Correction, or other Prison, Lock-up House, or place of security, or if he or they so 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 at the time and place so ap-

Defendant

pointed in and by the Summons as aforesaid such Defendant shall attend voluntarily in obedience to the Summons in that behalf served upon him, or if he shall be brought before the said Justice or Justices by virtue of any Warrant, then, if the Complainant or Informant (having, in the case of the Defendant having been apprehended by Warrant as aforesaid, had such notice as aforesaid) do not appear by himself, his Counsel or Attorney, the said Justice or Justices may dismiss such complaint or information with or without costs, as to such Justice or Justices shall seem fit, unless for some reason he or they shall think proper to adjourn the hearing of the same to some future 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 Gaol or 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. 1.), with or without a 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, the same shall thereupon become forfeited, and the said Justice or Justices who shall have taken the said recognizance, or any other Justice or Justices who may then and there be present, shall certify (F.) on the back of such forfeited recognizance the non-appearance of the Defendant; but if both parties appear, either personally or by their respective Counsel or Attornies, before the Justice or Justices who are to hear and determine such complaint or information, then the said Justice or Justices may proceed to hear and determine the same.

appear, and Complainant does not, Justice may dismiss the complaint, or at discretion adjourn hearing.

If party bailed and fail to re-appear, the Justice to certify same upon recognizance.

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

14 Where 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 show why he should not be convicted, or why an order should not be made against him, as the case may be, and if he thereupon admit the truth of such information or complaint, and show 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 or complaint as aforesaid, then the said Justice or Justices shall proceed to hear the Informant or Complainant, and such evidence as he may adduce, in support of his information or complaint respectively, and also to hear the Defendant and such evidence as he may adduce in his defence, and also to hear such evidence as the Informant or Complainant may adduce in reply, if such Defendant shall have given any evidence other than as to his the Defendant's general character; but the Informant 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 Informant 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 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

Proceedings on the hearing of complaints and informations.

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 or hands, and he or they shall cause the same to be lodged with the Clerk or Deputy Clerk of the Peace for the District in which such conviction shall be had; or, if there be none such, to the Clerk or Deputy Clerk of the Peace for the nearest District for which there shall be a Clerk or Deputy Clerk of the Peace, to be by him filed among the records of the General 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, if he or they shall think fit, being required so to do, to make an Order of Dismissal of the same (L.), and such Justice or Justices shall give the Defendant in 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 person.

Proof of exemption to lie upon Defendant.

15 It shall not be necessary in any information or complaint for the Informant or Complainant to negative, either by allegation or proof, any exemption, exception, proviso, or condition contained in the law on which the same shall be framed; but where any such exemption, exception, proviso, or condition shall be relied upon by the Defendant, the proof thereof shall lie upon him.

Witnesses to be examined upon oath, &c.

16 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.

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;

17 Before or during such hearing of any such information or complaint it shall be lawful for the Justice or Justices present, in his or 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 their respective Attornies 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 some Gaol or 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 may discharge such Defendant upon his entering into a Recognizance (E. 1) with or without a surety or sureties, at the discretion of such Justice or 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 Attornies 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 Informant or Complainant shall not appear, the said Justice or Justices may dismiss such information or complaint, with or without costs, as to such Justice or Justices shall seem fit—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 mentioned in such recognizance, the same shall thereupon become forfeited, and the said Justice or Justices who shall have taken the said

if he fail to re-appear, Justice to certify same upon recognizance.

recognizance, or any other Justice or Justices who may then and there be present, shall certify (F.) upon the back of such forfeited recognizance the non-appearance of the Defendant.

18 In all cases of conviction where no particular form of such conviction is or shall be given by the Law creating the offence or regulating the prosecution for the same, and in all cases of conviction upon Laws heretofore made, 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 to this Act contained as may be applicable to such case, or to the like effect; and where an order shall be made, and no particular form of order is or shall be given by the Law giving authority to make such order, and in all cases of orders to be made under the authority of any Laws heretofore made, whether any particular form of order shall 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 where by any Law 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.

Form of convictions and orders.

19 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 Informant or Complainant respectively such costs as to such Justice or Justices shall seem just and 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 Informant or Complainant respectively shall pay to the Defendant such costs as to such Justice or Justices shall seem just and 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 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 labour, for any time not exceeding One Month, unless such costs shall be sooner paid.

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

20 In all cases where a conviction adjudges a pecuniary penalty or compensation to be paid, or where an order requires the payment of a sum of money, except cases in which the Law authorising such conviction or order makes no provision for such penalty, compensation, or sum being levied by distress, but directs that in default of payment the Defendant shall be imprisoned, it shall be lawful for the

Power to Justice to issue warrant of distress.

Where the issuing a warrant would be ruinous to Defendant, or where there are no goods, Justice may commit him to prison.

Justice or Justices making such conviction or order, or for any other Justice or Justices of the Peace, to issue his or their 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 of the Justice making the same: Provided always, that whenever it shall appear to the Justice or Justices 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 wherever it shall appear to such Justice or Justices by the confession of the Defendant or otherwise, that he hath no goods or chattels whereon to levy such distress, then and in every such case it shall be lawful for such Justice or Justices, if he or they shall deem fit, instead of issuing such warrant of distress, to commit such Defendant to some Gaol or House of Correction, there to be imprisoned, with or without hard labour, for such time and in such manner as by this Act such Defendant might be so committed in case such warrant of distress had issued, and no goods or chattels could be found whereon to levy such penalty or sum and costs aforesaid.

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; if he fail to re-appear, Justice to certify same upon recognizance.

21 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 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 mentioned in such recognizance, the same shall thereupon become forfeited, and the said Justice who shall have taken the said recognizance, or any other Justice or Justices who may then and there be present, shall certify (F.) on the back of such forfeited recognizance the non-appearance of the Defendant.

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

22 If at the time and place appointed for the return of any such warrant of distress the constable who shall have had the execution of the same shall return on such Warrant (N. 3.) that he could find no goods or chattels or no sufficient goods or chattels whereon he could levy the sum or sums therein mentioned, together with the costs of or occasioned by the levying of the same, it shall be lawful for the Justice of the Peace before whom the same shall be returned to issue his Warrant of Commitment (N. 4.) under his hand, directed to any 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 some Gaol or House of Correction, and there to deliver him to the Keeper thereof, and requiring such Keeper to receive the Defendant into such Gaol or House of Correction, and there to imprison him, or (if the Justice shall so think fit to order) to imprison him and keep him to hard labour until 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 stated in such commitment), shall be paid unless the Law on which the conviction or

order mentioned in such warrant of distress was founded prescribes a limited period or particular mode of imprisonment, in which case such Warrant of Commitment shall require the Defendant to be imprisoned in such manner and for such time as shall be directed and appointed by such Law, 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 stated in such Commitment), shall be sooner paid.

23 Where by any Law Justices of the Peace are authorised to issue warrants of distress to levy penalties or other sums recovered before them by distress and sale of the offender's goods, but no further remedy is thereby provided in case no sufficient distress be found whereon to levy such penalties; and in all cases of convictions or orders where the Law on which the same are respectively founded provides no remedy in case it shall be returned to a warrant of distress thereon that no sufficient goods of the person against whom such warrant shall have been issued can be found, it shall be lawful for the Justice to whom such return is made, or for any other Justice of the Peace, if he shall think fit, by his Warrant as aforesaid, to commit the Defendant to some Gaol or House of Correction for any term not exceeding Three Months, there to be imprisoned with or without hard labour at the discretion of such Justice, unless the sum or sums adjudged to be paid, and all costs and charges of the distress, and 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 stated in such commitment), shall be sooner paid.

In all cases of penalties, convictions, or orders, where the Law provides no remedy in default of distress, Justice may commit Defendant to prison.

24 In all cases where the Law by virtue of which a conviction for a penalty or compensation, or an order for the payment of money, is made, makes no provision for such penalty or compensation or sum being levied by distress, but directs that if the same be not paid forthwith, or within a certain time therein mentioned, or to be mentioned in such conviction or order, the Defendant shall be imprisoned, or imprisoned and kept to hard labour, for a certain time, unless such penalty, compensation, or sum shall be sooner paid, in every such case such penalty, compensation, or sum shall not be levied by distress; but if the Defendant do not pay the same, together with costs, if awarded, forthwith, or at the time specified in such conviction or order for the payment of the same, it shall be lawful for the Justice or Justices making such conviction or order, or for any other Justice or Justices of the Peace, to issue his or their Warrant of Commitment (O. 1. 2.) under his or their hand or hands requiring the constable or constables to whom the same shall be directed to take and convey such Defendant to some Gaol or House of Correction, and there to deliver him to the Keeper thereof, and requiring such Keeper to receive such Defendant into such Gaol or House of Correction, and there to imprison him, or to imprison him and keep him to hard labour, as the case may be, in such manner and for such time as the Law on which such conviction or order is founded as aforesaid shall direct, unless the sum or sums adjudged to be paid, and also the costs and charges of the commitment and conveying the Defendant 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.

Power to Justices to order commitment in the first instance for nonpayment of a penalty or of a sum ordered to be paid.

Power to Justices to order commitment where the conviction is not for a penalty, nor the order for payment of money, and the punishment is by imprisonment, &c.

25 Where a conviction does not order the payment of any penalty, but that the Defendant be imprisoned, or imprisoned and kept to hard labour, for his offence, or where an order is not for the payment of money, but for the doing of some other act, and directs that in case of the Defendant's neglect or refusal to do such act he shall be imprisoned, or imprisoned and kept to hard labour, and the Defendant neglects or refuses to do such act, in every such case it shall be lawful for the Justice or Justices making such conviction or order, or for any other Justice or Justices of the Peace, to issue his or their Warrant of Commitment (P. 1. 2.) under his or their hand or hands, and requiring the constable or constables to whom the same shall be directed to take and convey such Defendant to some Gaol or House of Correction, as the case may be, and there to deliver him to the Keeper thereof, and requiring such Keeper to receive such Defendant into such Gaol or House of Correction, and there to imprison him, or to imprison him and keep him to hard labour, as the case may be, for such time as the Law on which such conviction or order is founded as aforesaid shall direct; and in all such cases, where by such conviction or order any sum for costs shall be adjudged to be paid by the Defendant to the Informant or Complainant, such sum may, if the Justice or Justices shall think fit, be levied by Warrant of Distress (P. 3. 4.) in manner aforesaid, and in default of distress the Defendant may, if such Justice or Justices shall think fit, be committed (P. 5.) to the same Gaol or House of Correction in manner aforesaid, there to be imprisoned, with or without hard labour, for any time not exceeding One Month, to commence at the termination of the imprisonment he shall then be undergoing, unless such sum for costs, and all costs and charges of the said distress, and also the costs and charges of the commitment and conveying of the Defendant to prison, if such Justice or Justices shall think fit so to order, shall be sooner paid.

Costs may be levied by distress, and in default Defendant may be committed for a further term.

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

26 Where a Justice or Justices of the Peace shall upon any such information or complaint as aforesaid adjudge the Defendant to be imprisoned, and such Defendant shall then be in prison undergoing imprisonment upon a conviction for any other offence, the warrant of commitment for such subsequent offence shall in every such case be forthwith delivered to the 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.

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

27 Where 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 Informant or Complainant in manner aforesaid; and in default of distress or payment such Informant or Complainant may be committed (Q. 2.) to some Gaol or House of Correction in manner aforesaid, there to be imprisoned, with or without hard labour, for any time not exceeding One Month, unless such sum, and all costs and charges of the distress, and of the commitment and conveying of such Informant or Complainant to prison, (the amount thereof being ascertained and stated in such commitment,) shall be sooner paid.

After appeal

28 After an appeal against any such conviction or order as afore-

said shall be decided, if the same shall be decided in favour of the Respondents, or if the conviction or order appealed against shall not be quashed, but be varied, the Justice or Justices who made such conviction or order, or any other Justice or Justices of the Peace, may issue such warrant of distress or commitment as aforesaid for execution of the same, as if no such appeal had been brought, or, where the conviction or order is varied on appeal, as if such conviction or order had originally stood as so varied; and if upon any such appeal the Court of General Sessions of the Peace shall order either party to pay costs, such order shall direct such costs to be paid to the Clerk or Deputy 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, such Clerk or Deputy Clerk of the Peace, upon application of the party entitled to such costs, or of any person on his behalf, 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 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 person against whom such warrant shall have issued in manner herein-before mentioned for any time not exceeding Three Months, unless the amount of such costs, and all costs and charges of the distress, and also the costs of the commitment and conveying of the said person 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.

against conviction or order Justice may issue warrant of distress for execution of the same.

Costs of appeal, how recovered.

29 In all cases where any person against whom a warrant of distress shall issue as aforesaid 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 shall be imprisoned as aforesaid for nonpayment 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.

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

30 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 necessary acts and matters subsidiary or preliminary to the hearing, even in cases where by the law in that behalf such information or 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 law 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

In cases of summary proceedings one Justice may issue summons or warrant, &c. and after conviction or order may issue warrant of distress, &c.

must be present and acting together during the whole of the hearing and determining of the case.

Regulations as to
the payment of
Clerks' Fees.

31 The fees which any Clerk or Deputy Clerk of the Peace, Police Clerk, or Clerk of the Petty Sessions shall be entitled to demand shall be ascertained, appointed, and regulated in manner following; (that is to say,) the Justices of the Peace at a General Sessions for the District of *Hobart Town*, shall from time to time as they shall see fit make a Table of the Fees which in their opinion such Clerks and Deputy Clerks of the Peace, Police Clerks, and Clerks of Petty Sessions as aforesaid should be entitled to demand, and every such Table, being signed by the Chairman of such Court of General Sessions, shall be laid before the Governor; and it shall be lawful for the Governor with the advice of the Executive Council, from time to time, to alter any such Table of Fees, and to subscribe a certificate or declaration that such fees so settled are proper to be demanded and received by the several Clerks and Deputy Clerks of the Peace, Police Clerks, and Clerks of Petty Sessions throughout the Colony; and copies of every such Table of Fees shall be distributed to the several Clerks and Deputy Clerks of the Peace, Police Clerks, and Clerks of Petty Sessions; 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 any such Table then in force, he shall for every such demand or receipt forfeit and pay the sum of Five Pounds, to be recovered in a summary way before any one Justice of the Peace: Provided always, that until any such Table of Fees shall be framed and settled and distributed as aforesaid it shall be lawful for such Clerks to demand and receive such fees as they now are by law authorised to demand and receive.

Table of Fees to
be exhibited.
Act not to be
done till fee paid.

32 A Copy of the Table of Fees in force for the time being shall be kept affixed or otherwise conspicuously exhibited in the Justice-room at every Police Office, or place of holding Petty Sessions, and it shall be lawful for any Justice of the Peace and for any such Clerk as aforesaid to refuse to do any act or thing, in respect of which any such fee shall be payable, unless such fee be first duly paid; and if any such act or thing shall be done and the fee due thereon shall not be paid, it shall be lawful for the Clerk to whom such fee should have been paid to recover the same in a summary way before any one Justice of the Peace—Provided that in any case wherein it shall appear to be conducive to the ends of justice that any such fee should be remitted or paid back, or that the person by whom the same is payable is unable to pay the same, it shall be lawful for any Justice of the Peace to remit such fee, or to direct the same to be paid back, or to direct that the same shall not be payable, and thereupon such fee shall be remitted or paid back or not be payable, as the case may be.

By whom fees
payable.

33 In every case where it shall not be otherwise expressly appointed, every such fee as aforesaid shall, in the first instance, be payable and paid by the party (whether Prosecutor or otherwise) on whose behalf or at whose instance the particular act or thing shall be done or be required to be done, but be eventually repaid to him by the Defendant or adverse party in case the Justice or Justices deciding the case think fit so to order.

34 It shall be lawful for any Justice of the Peace, and he is hereby required, to administer to any Naval or Military Pensioner the oath necessary to be made for the receipt of his pension without any charge being made for the same. No fee for Pensioner's oath.

35 All such fees as aforesaid received under this Act by any such Clerk or Deputy Clerk of the Peace, Police Clerk, or Clerk of Petty Sessions, shall be applied to the use of Her Majesty, Her Heirs and Successors. Appropriation of fees.

36 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 Police Clerk of, or some Clerk of a Court of Petty Sessions held in, the District in which such warrant shall be issued, or to such other Officer as shall from time to time be appointed for that purpose by the Governor; and if any 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 or other Officer; and if any person committed to prison upon any conviction or order as aforesaid for nonpayment 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 or other Officer; and all sums so received by any such Clerk or other Officer payable to the use of Her Majesty, or in aid of the General Revenue, or in respect of which the law shall contain no directions for the payment thereof to any person, shall forthwith be paid over by the Clerk or other Officer receiving the same to the Colonial Treasurer, who shall give a receipt for the same; and all such sums so received by such Clerk or other Officer payable otherwise than as aforesaid, shall forthwith be paid over by him to the person by law entitled to receive the same, who shall give a receipt for the same; and every such Clerk or other Officer, and every such Gaoler or Keeper of a Prison, shall keep a true and exact account of all such monies received by him, of whom and when received, and to whom and when paid in the Form (T.) in the Schedule to this Act annexed, or to the like effect, and shall once in every month, or at such other times as the Governor shall appoint for the purpose, render a fair copy of every such account unto the Colonial Treasurer under the penalty of Forty Shillings, to be recovered by distress in manner aforesaid: Provided that no Town Clerk shall be required to account to the Colonial Treasurer as aforesaid. Regulations as to whom penalties, &c. to be paid.

37 All Recognizances taken and forfeited under this Act shall forthwith, on the breach thereof being certified thereon as aforesaid, be transmitted by the Justice or Justices of the Peace so certifying to the Clerk or Deputy Clerk of the Peace for the District within which such Recognizance shall have been taken if any Court of General Sessions of the Peace shall be holden therein, or, if there be none such, to the Clerk or Deputy Clerk of the Peace for the nearest District within which any such Court shall be holden, to be proceeded upon as a forfeited Recognizance under the provisions of the Act of Council passed in the twelfth year of the Reign of Her present Majesty, No. 13, in like manner as any forfeited Recognizance to be of good behaviour is thereby directed to be proceeded upon, and the Certificate indorsed Clerks, &c., to keep accounts of all monies received.

Forfeited Recognizances to be proceeded upon under 12 Vic. No. 13.

on any such forfeited Recognizance shall be deemed sufficient *prima facie* evidence of the facts therein mentioned.

Distribution of penalties.

38 The penalty awarded by a Justice or Justices shall in all cases (except where otherwise specially provided by any Law) be applied and distributed, one moiety thereof to the use of Her Majesty, Her Heirs and Successors, and the other moiety to the use of the Informer or person prosecuting.

Substitutes this Act for "The Summary Proceedings Act."

39 Wherever, by this Act or by any Law now or hereafter in force, any proceeding is or shall be authorised or directed to be had, or any matter to be heard and determined in a summary way (and no other mode of proceeding is or shall be in that behalf directed), and wherever by any Law any proceeding is authorised or directed to be had, or any matter to be heard and determined by or before one or more Justice or Justices of the Peace in the mode prescribed by the Act of Council passed in the ninth year of the reign of His late Majesty King George the Fourth, intituled *An Act to regulate Summary Proceedings before Justices of the Peace*, such proceeding may lawfully be had, and such matter heard and determined, in the mode prescribed by this Act.

Parties entitled to obtain copies of depositions, &c.

40 In every case where a summary conviction or order before or by any Justice or Justices shall have been had or made, all parties interested therein shall be entitled to demand and have copies of the information or complaint (if in writing), and of the warrant, and of the depositions (if any), and of such conviction or order, on payment for the same at the rate of Four-pence for each folio of seventy-two words.

Forms in the Schedule deemed valid.

41 The several Forms in the Schedule to this Act contained, or such Forms varied to suit the circumstances of the case, or Forms to the same or the like effect, shall be deemed good, valid, and sufficient in law; and all Convictions, Orders, Judgments, Warrants, and other Proceedings whatsoever shall be sufficient without Seal.

Commencement of Act.

42 This Act shall commence and take effect on the First day of *October* next.

Following Statutes and Acts repealed; 18 Eliz. c. 5, s. 1, in part. 31 Eliz. c. 5, s. 5, in part. 27 G. 2, c. 20, ss. 1, 2. 18 G. 3, c. 19, ss. 1, 2, 3, 5. 33 G. 3, c. 55, s. 3. 3 G. 4, c. 23. 5 G. 4, c. 18. 6 & 7 W. 4, c. 114, s. 2. 9 Geo. 4, No. 3. 5 Vic. No. 2. 8 Vic. No. 15.

43 The Statutes and parts of Statutes repealed by the thirty-sixth section of the Act of Parliament passed in the twelfth year of the reign of Her present Majesty, chapter forty-three, and all other Statutes and parts of Statutes which are inconsistent with the provisions of this Act, shall not, on, from, and after the day on which this Act shall commence and take effect, be applied in the administration of justice in this Colony; and on, from, and after the day on which this Act shall commence and take effect, the Act of Council passed in the ninth year of the reign of His late Majesty King George the Fourth, No. 3; and also a certain other Act of Council passed in the fifth year of the reign of Her present Majesty, No. 2; and also a certain other Act of Council passed in the eighth year of the reign of Her said Majesty, No. 15; and all other Acts and parts of Acts of Council which are inconsistent with the provisions of this Act shall be repealed: except as to proceedings then pending to which the said Statutes or Acts of Council or any of them are applicable.

Short Title

44 In referring to this Act it shall be sufficient to use the expression "*The Magistrates Summary Procedure Act.*"

SCHEDULE.

(A.)

Sect. 1.

Summons to the Defendant upon an Information or Complaint.

VAN DIEMEN'S LAND } To A.B.
TO WIT. }

WHEREAS information has this day been laid [or complaint has this day been made] before [me, one] of Her Majesty's Justices of the Peace for the Colony of Van Diemen's Land 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 before [me] on at o'clock in the noon at or before such other Justice or Justices of the Peace 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, this day of 1855 at
in the Colony aforesaid.

J. S.

(B.)

Sects. 2. 13.

Warrant where the Summons is disobeyed.

VAN DIEMEN'S LAND } To the Chief Constable, and to all Constables in the Colony of
TO WIT. } Van Diemen's Land.

WHEREAS on last past information was laid [or complaint was made] before [me, one] of Her Majesty's Justices of the Peace for this Colony, for that A.B. [&c., as in the Summons]: And whereas [I] then issued [my] Summons unto the said A.B., commanding him, in Her Majesty's Name, to be and appear before [me] on at o'clock in the noon at or before such other Justice or Justices of the Peace as might then be there, to answer to the said information [or complaint], and to be further dealt with according to Law: And whereas the said A.B. has neglected to be or appear at the time and place so appointed in and by the said Summons, although it has now been proved to [me] upon oath that the said Summons has 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 to answer to the said information [or complaint], and to be further dealt with according to Law.

Given under [my] hand, this day of 1855, at
in the Colony aforesaid.

J. S.

(C.)

Sect. 2.

Warrant in the first instance.

VAN DIEMEN'S LAND } To the Chief Constable, and to all Constables in the Colony of
TO WIT. } Van Diemen's Land.

WHEREAS information has this day been laid before [me, one] of Her Majesty's Justices of the Peace for this Colony, for that A.B. [here state shortly the matter of the 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 to answer to the said information, and to be further dealt with according to Law.

Given under [my] hand, this day of 1855, at
in the Colony aforesaid.

J. S.

Sects. 3, 9, 13, 17.

(D.)

Warrant of Committal for safe Custody during an Adjournment of the Hearing.
 VAN DIEMEN'S LAND } To the Chief Constable, and to all Constables in the Colony
 TO WIT. } of Van Diemen's Land, and to the Keeper of the [Gaol] at
 in the said Colony.

WHEREAS on last past information was laid [or complaint was made] before [me, one] of Her Majesty's Justices of the Peace for this Colony, 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 noon at and it is necessary that the said *A.B.* should in the meantime be kept in safe custody: These are therefore to command you the said Constables, in Her Majesty's name, forthwith to convey the said *A.B.* to the [Gaol] at , and there deliver him into the custody of 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 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 Justice or Justices of the Peace 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, this day of 1855, at
 in the Colony aforesaid.

J.S.

Sects. 3, 9, 13, 17.

(E. 1.)

Recognizance with a Surety for the Appearance of the Defendant where the Case is adjourned, or not at once proceeded with.

VAN DIEMEN'S LAND } BE it remembered, That on the day of 1855, *A.B.*
 TO WIT. } of *Labourer*, and *L.M.* of *Grocer*,
 personally came before [me, one] of Her Majesty's Justices of the Peace for this Colony, 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 Pounds, and the said *L.M.* the sum of Pounds, to be made and levied of their several goods, chattels, and lands 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 hereunder written.

The condition of the above written Recognizance is such, that if the said *A.B.* shall personally appear on the day of instant at o'clock in the noon at before such Justice or Justices of the Peace as may then be there, to answer further to the information [or complaint] of *C.D.* 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.

Taken and acknowledged, the day and year }
 first above mentioned, at }
 before [me], J.S. }

Sect. 3

(E. 2.)

Notice of such Recognizance to be given to the Defendant and his Surety.

VAN DIEMEN'S LAND } TAKE notice, That you *A.B.* are bound in the sum of
 TO WIT. } Pounds, and you *L.M.* in the sum of Pounds, that you
A.B. appear personally on at o'clock in the noon at
 before such Justice or Justices of the Peace 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 1855.

J. S.

Sects. 3, 9, 13, 17,
21.

(F.)

Certificate of Nonappearance to be indorsed on the Defendant's Recognizance.

I HEREBY certify, That the said *A.B.* has not appeared at the time and place in the said condition mentioned, but therein has made default, by reason whereof the within-written Recognizance is forfeited.

J. S.

(G. 1.)

Sect. 6.

Summons of a Witness.

VAN DIEMEN'S LAND } To *E.F.*
TO WIT. }

WHEREAS information was laid [*or* complaint was made] before [*me, one*] of Her Majesty's Justices of the Peace for this Colony for that [*&c., as in the Summons*]; and it has been made to appear to [*me*] upon [*oath*] that you are likely to give material evidence on behalf of the Informant [*or* Complainant, *or* Defendant] in this behalf: These are therefore to require you to be and appear before [*me*] on at o'clock in the noon at or before such other Justice or Justices of the Peace as may then be there, to testify what you shall know concerning the matter of the said information [*or* complaint].

Given under [*my*] hand, this day of 1855, at in the Colony aforesaid.

J.S.

(G. 2.)

Sect. 6.

Warrant where a Witness has not obeyed a Summons.

VAN DIEMEN'S LAND } To the Chief Constable, and to all Constables in the Colony of
TO WIT. } Van Diemen's Land.

WHEREAS information was laid [*or* complaint was made] before [*me, one*] of Her Majesty's Justices of the Peace for this Colony, for that [*&c., as in the Summons*]; and it having been made to appear to [*me*] upon [*oath*] that one *E.F.* was likely to give material evidence on behalf of the [*Informant*], [*I*] did duly issue my Summons to the said *E.F.*, requiring him to be and appear before [*me*] on at o'clock in the noon of the same day at or before such other Justice or Justices of the Peace as might then be there, to testify what he should know concerning the matter of the said information [*or* complaint]: And whereas proof has this day been made before [*me*] upon [*oath*] of such Summons having been duly served upon the said *E.F.*, and of a reasonable sum having been paid [*or* tendered] to him for his costs and expenses in that behalf: And whereas the said *E.F.* has 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 take the said *E.F.*, and to bring and have him before [*me*] on at o'clock in the noon at or before such other Justice or Justices of the Peace as may then be there, to testify what he shall know concerning the matter of the said information [*or* complaint].

Given under [*my*] hand, this day of 1855, at in the Colony aforesaid.

J. S.

(G. 3.)

Sect. 6.

Warrant for a Witness in the first instance.

VAN DIEMEN'S LAND } To the Chief Constable, and to all Constables in the Colony of
TO WIT. } Van Diemen's Land.

WHEREAS information was laid [*or* complaint was made] before [*me, one*] of Her Majesty's Justices of the Peace for this Colony, for that [*&c., as in the Summons*]; and it being made to appear before [*me*] upon [*oath*] that one *E.F.* is likely to give material evidence on behalf of the [*Informant*] 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 noon at or before such other Justice or Justices of the Peace as may then be there, to testify what he shall know concerning the matter of the said information [*or* complaint].

Given under [*my*] hand, this day of 1855, at in the Colony aforesaid.

J. S.

Sect. 6.

(G. 4.)

Commitment of a Witness for refusing to be sworn or to give Evidence.

VAN DIEMEN'S LAND } To the Chief Constable and to all Constables in the Colony
TO WIT. } of Van Diemen's Land, and to the Keeper of the [Gaol] in
the said Colony.

WHEREAS information was laid [or complaint was made] before [me, one] of Her Majesty's Justices of the Peace for this Colony, 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, has now refused so to do [or being duly sworn as a witness in the matter of the said information [or complaint] refuses to answer certain questions concerning the premises which are now here put to him] without offering any just excuse for such his refusal: These are therefore to command you the said Constables to take the said *E.F.*, and him safely convey to the [Gaol] 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 [Gaol] to receive the said *E.F.* into your custody in the said [Gaol], and there imprison him for such his contempt for the space of days, unless he shall in the meantime consent to be sworn and examined and to answer concerning the premises [or to be examined and to answer concerning the premises]; and for your so doing this shall be your sufficient warrant.

Given under [my] hand, this day of 1855, at
in the Colony aforesaid.

J.S.

Sect. 13.

H.

Warrant to remand a Defendant when apprehended.

VAN DIEMEN'S LAND } To the Chief Constable, and to all Constables in the Colony
TO WIT. } of Van Diemen's Land, and to the Keeper of the [Gaol]
at in the said Colony.

WHEREAS information was laid [or complaint was made] before [me, one] of Her Majesty's Justices of the Peace for this Colony, for that [§c., as in the Summons or Warrant]: And whereas the said *A.B.* has 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 the said Constables, in Her Majesty's name, forthwith to convey the said *A.B.* to the [Gaol] at aforesaid, 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 [Gaol], and there safely keep him until next the day of instant, when you are hereby commanded to convey and have him at at o'clock in the noon of the same day, before such Justice or Justices of the Peace 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, this day of 1855, at
in the Colony aforesaid.

J. S.

Sects. 14, 18.

(I. 1.)

Conviction for a Penalty to be levied by Distress, and in default of sufficient Distress Imprisonment.

VAN DIEMEN'S LAND } BE it remembered, That on the day of
TO WIT. } 1855, at in the Colony of Van Diemen's Land,
A.B. is convicted before [me, one] of Her Majesty's Justices of the Peace for this Colony, for that he the said *A.B.*, [§c., stating the offence]; 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 this Colony [*there to be 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*] if ordered] shall be sooner paid.

Given under [*my*] hand, the day and year first above mentioned, at in the Colony aforesaid.

J. 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, "then, inasmuch as it has now been made to appear to me [that the issuing of a Warrant of Distress in this behalf would be ruinous to the said *A.B.* and his family," or "that the said *A.B.* has no goods or chattels whereon to levy the said sums by distress], I adjudge," &c., as above to the end.

(I. 2.)

Sects. 14, 18.

Conviction for a Penalty, and in default of Payment Imprisonment.

VAN DIEMEN'S LAND } BE it remembered, that on the _____ day of
TO WIT. } 1855, at _____ in
the Colony of Van Diemen's Land, *A.B.* is convicted before [*me, one*] of Her Majesty's Justices of the Peace for this Colony, for that he the said *A.B.* [*&c., stating the offence*]; 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*] adjudge the said *A.B.* to be imprisoned in the [*House of Correction*] at _____ in this Colony [*there to be kept to hard labour*] for the space of _____ unless the said several sums [and the costs and charges of the commitment and conveying of the said *A.B.* to the said [*House of Correction*],] shall be sooner paid.

Given under [*my*] hand, the day and year first above mentioned, at in the Colony aforesaid.

J. S.

(I. 3.)

Sects. 14, 18.

Conviction when the Punishment is by Imprisonment, &c.

VAN DIEMEN'S LAND } BE it remembered, that on the _____ day of
TO WIT. } 1855, at _____ in
the Colony of Van Diemen's Land, *A.B.* is convicted before [*me, one*] of Her Majesty's Justices of the Peace for this Colony, for that he the said *A.B.*, [*&c., stating the offence*]; and [*I*] adjudge the said *A.B.* for his said offence to be imprisoned in the [*House of Correction*] at _____ in this Colony [*there to be kept to hard labour*] for the space of _____ and [*I*] also adjudge the said *A.B.* to pay 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 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* [*I*] adjudge the said *A.B.* to be imprisoned in the said [*House of Correction*] [*there to be kept to hard labour*] for the space of _____ to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs and all costs and charges of the said distress [and of the commitment and conveying of the said *A.B.* to the said [*House of Correction*] if ordered] shall be sooner paid.

Given under [*my*] hand, the day and year first above mentioned, at in the Colony aforesaid.

J. 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 has 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.* has no goods or chattels whereon to levy the said sum for costs by distress], I adjudge," &c.

Sects. 14, 18.

(K. 1.)

Order for Payment of Money to be levied by Distress, and in default of Distress Imprisonment.

VAN DIEMEN'S LAND } BE it remembered, that on _____ at
 TO WIT. } complaint was made before [me, one] of Her Majesty's Justices
 of the Peace for this Colony, for that [stating the facts entitling the Complainant
 to the Order]; 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, does 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 which required him to be and appear here at this day before such Justices of
 the Peace for this Colony 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 Law 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] 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 this Colony, [there to be 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] if
 ordered], shall be sooner paid.
 Given under [my] hand, this _____ day of _____ 1855,
 at _____ in the Colony aforesaid.

J.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, "then, inasmuch as it has now been made to appear to me [that the issuing of a Warrant of Distress in this behalf would be ruinous to the said A.B. and his family, " or "that the said A.B. has no goods or chattels whereon to levy the said sums by distress], I adjudge," &c.

Sects. 14, 18.

(K. 2.)

Order for Payment of Money, and in default of Payment Imprisonment.

VAN DIEMEN'S LAND } BE it remembered, that on _____ at
 TO WIT. } complaint was made before [me, one] of Her Majesty's
 Justices of the Peace for this Colony, for that [stating the facts entitling the Complainant
 to the Order]; 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, does 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 which required him to be and appear here on this day before such
 Justices of the Peace for this Colony as should now be here, to answer the said com-
 plaint, 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
 Law 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 this Colony [there to be kept to hard
 labour] for the space of _____ unless the said several sums [and the costs and
 charges of the commitment and conveying the said A.B. to the said [House of Cor-
 rection] if ordered] shall be sooner paid.
 Given under [my] hand, this _____ day of _____ 1855,
 at _____ in the Colony aforesaid.

J. S.

(K. 3.)

Sects. 14, 18.

Order for any other Matter where the disobeying of it is punishable with Imprisonment.

VAN DIEMEN'S LAND } BE it remembered, that on _____ at _____
 TO WIT. } complaint was made before [me, one] of Her Majesty's
 Justices of the Peace for this Colony, for that [stating the facts entitling the Com-
 plainant to the Order]; 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, does 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, which required him to be and appear here on this day, before such
 Justices of the Peace for this Colony 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 adjudge the said A.B. to [here state the matter
 required to be done], and if upon a copy of a 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 this Colony, [there to be kept to hard labour] for
 the space of _____ [unless the said Order be sooner obeyed, if the law
 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 [I] adjudge the said A.B. to be imprisoned in the said [House of
 Correction], [there to be kept to hard labour] for the space of _____ to
 commence at and from the termination of his imprisonment aforesaid, unless the said
 sum for Costs and all costs and charges of the said distress [and of the commitment and
 conveying of the said A.B. to the said [House of Correction] if ordered] shall be
 sooner paid.

Given under [my] hand, this _____ day of _____ 1855,
 at _____ in the Colony aforesaid.

J. S.

(L.)

Sect. 14.

Order of Dismissal of an Information or Complaint.

VAN DIEMEN'S LAND } BE it remembered, That on _____ at _____ information
 TO WIT. } was laid [or complaint was made] before [me, one] of Her
 Majesty's Justices of the Peace for this Colony, for that [ſc., as in the Summons to the
 Defendant], and now at this day, to wit, on _____ at _____
 the said parties appear before [me] in order that I should hear and determine the said
 information [or complaint], [or the said A.B. appears before [me], but the said
 C.D., although duly called, does 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 _____ next], [I] order
 the same to be levied by distress and sale of the goods and chattels of the said C.D.,
 and in default of sufficient distress [I] adjudge the said C.D. to be imprisoned in the
 [House of Correction] at _____ in this Colony [there to be kept to hard labour]
 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 C.D. to the said
 [House of Correction] if ordered] shall be sooner paid.

Given under [my] hand, this _____ day of _____ 1855, at _____
 in the Colony aforesaid.

J. S.

* If the Informant or Complainant do not appear these words may be omitted.

Sect. 14.

(M.)

Certificate of Dismissal.

VAN DIEMEN'S LAND } [I] HEREBY certify, That an information [or complaint] pre-
 TO WIT. } ferred by C.D. against A.B., for that [ſc., as in the
 Summons], was this day considered by [me, one] of Her Majesty's Justices of the
 Peace for the Colony of Van Diemen's Land, and was by [me] dismissed [with
 Coſts].

Dated this day of 1855.

J.S.

Sect. 20.

(N. 1.)

Warrant of Distress upon a Conviction for a Penalty.

VAN DIEMEN'S LAND } To the Chief Constable, and to all Constables in the Colony of
 TO WIT. } Van Diemen's Land.

WHEREAS A.B. was on this day [or on last past] duly convicted before
 [me, one] of Her Majesty's Justices of the Peace for this Colony, 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 [ſc., 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 in default of sufficient distress the said A.B.
 should be imprisoned in the [House of Correction] at in this Colony [there
 to be 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]], 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 has not paid the same or any part
 thereof, but therein has 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 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, that then you do sell the said goods and chattels so by you
 distrained, and do pay the money arising by such sale unto the [Police
 Clerk of the District of in this Colony] 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 the Law appertains.

Given under [my] hand, this day of 1855, at
 in the Colony aforesaid.

J. S.

Sect. 20.

(N. 2.)

Warrant of Distress upon an Order for the Payment of Money.

VAN DIEMEN'S LAND } To the Chief Constable, and to all Constables in the Colony of
 TO WIT. } Van Diemen's Land.

WHEREAS ON last past, at a complaint was made before
 [me, one] of Her Majesty's Justices of the Peace for this Colony, for that [ſc., as
 in the Order], and afterwards, to wit, on at the said
 parties appeared before me [or as in the Order], and thereupon having heard 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 then next], and also to pay to the
 said C.D. the sum of for his Coſts in that behalf; and [I] thereby 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 thereby also adjudged that in default of sufficient distress in
 that behalf, the said A.B. should be imprisoned in the [House of Correction] at
 in this Colony [there to be kept to hard labour] 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 has elapsed, but
 the said C.D. has not paid the same or any part thereof, but therein has 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 [Police Clerk of the District of _____ in this Colony] that he may pay and apply 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 the Law appertains.

Given under [my] hand, this _____ day of _____ 1855, at _____ in the Colony aforesaid.

J.S.

(N. 3.)

Sect. 22

Constable's Return of Nulla Bona to a Warrant of Distress.

I, *W. T.*, Constable, do hereby certify, that by virtue of this Warrant I have made diligent search for the goods and chattels of the said *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 _____ 1855.

W. T.

(N. 4.)

Sect. 22.

Warrant of Commitment for Want of Distress.

VAN DIEMEN'S LAND } To the Chief Constable, and to all Constables in the Colony
TO WIT. } of Van Diemen's Land, and to the Keeper of the [House of Correction] at _____ in the said Colony.

WHEREAS [sic., as in either of the foregoing Distress Warrants, (N. 1. 2.) 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 the Chief Constable, and to all Constables in the Colony of Van Diemen's Land, commanding 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 of *W. T.*, a Constable, to the said Warrant of Distress as otherwise, that he has 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 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 labour] until 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 paid unto you the said Keeper [or there to imprison him [and keep him to hard labour] 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; and for your so doing this shall be your sufficient Warrant.

Given under my hand, this _____ day of _____ 1855, at _____ in the Colony aforesaid.

J. S.

Sect. 24.

(O. 1.)

Warrant of Commitment upon a Conviction for a Penalty in the first instance.

VAN DIEMEN'S LAND } To the Chief Constable, and to all Constables in the Colony
TO WIT. } of Van Diemen's Land, and to the Keeper of the [*House of*
Correction] at in the said Colony.

WHEREAS *A.B.* was on this day duly convicted before [*me, one*] of Her Majesty's Justices of the Peace for this Colony, 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 the sum of [*&c., 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 this Colony [*there to be kept to hard labour*] for the space of unless the said several sums [and the costs and charges of the commitment and 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 has elapsed, but the said *A.B.* has not paid the same or any part thereof, but therein has made default: These are therefore to command you the said Constables to take the 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 labour*] for the space of unless the said several sums [and the costs and charges of the commitment and conveying of him the said *A.B.* 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, this day of 1855, at
in the Colony aforesaid.

J. S.

Sect. 24.

(O. 2.)

Warrant of Commitment on an Order in the first instance.

VAN DIEMEN'S LAND } To the Chief Constable, and to all Constables in the Colony
TO WIT. } of Van Diemen's Land, and to the Keeper of the [*House*
of Correction] at in the said Colony.

WHEREAS ON last past, at a complaint was made before [*me, one*] of Her Majesty's Justices of the Peace for this Colony, for that [*&c., as in the Order*], and afterwards, to wit, on at the parties appeared before [*me*] the said Justice [*or as 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 this Colony [*there to be kept to hard labour*] for the space of unless the said several sums [and the costs and charges of the commitment and conveying of him 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 has elapsed, but the said *A.B.* has not paid the same or any part thereof, but therein has made default: These are therefore to command you the said Constables to take the 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 labour*] for the space of unless the said several sums [and the costs and charges of the commitment and conveying of him the said *A.B.* 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, this day of 1855,
in the Colony aforesaid.

J. S.

(P. 1.)

Sect. 25.

Warrant of Commitment on a Conviction where the Punishment is by Imprisonment.

VAN DIEMEN'S LAND } To the Chief Constable, and to all Constables in the Colony
TO WIT. } of Van Diemen's Land, and to the Keeper of the [*House of Correction*] at in the said Colony.

WHEREAS *A.B.* was this day, at _____ duly convicted before [*me, one*] of Her Majesty's Justices of the Peace for this Colony, for that [*stating the offence as in the Conviction*], and it was thereby adjudged that the said *A.B.* for his said offence should be imprisoned in the [*House of Correction*] at _____ in this Colony, [*there to be kept to hard labour*] for the space of _____ : These are therefore to command you the said Constables 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 labour*] for the space of _____ ; and for your so doing this shall be your sufficient Warrant.

Given under [*my*] hand, this _____ day of _____ 1855,
at _____ in the Colony aforesaid.

J. S.

(P. 2.)

Sect. 25.

Warrant of Commitment on an Order where the disobeying of it is punishable by Imprisonment.

VAN DIEMEN'S LAND } To the Chief Constable, and to all Constables in the Colony
TO WIT. } of Van Diemen's Land, and to the Keeper of the [*House of Correction*] at in the said Colony.

WHEREAS ON _____ last past, at _____ complaint was made before [*me, one*] of Her Majesty's Justices of the Peace for this Colony, for that [*&c., as in the Order*], and afterwards, to wit, on _____ at _____ the said parties appeared before [*me*] the said Justice [*or as in the Order*], and thereupon having heard the matter of the said complaint [*I*] adjudged the said *A.B.* to [*&c., as in the Order*], and that if, upon a copy of the minute of that Order being duly 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 should neglect or refuse to obey the same, [*I*] adjudged that in such case the said *A.B.* for such his disobedience should be imprisoned in the [*House of Correction*] at _____ in this Colony, [*there to be kept to hard labour*] for the space of _____ [*unless the said Order should be sooner obeyed*]: And whereas it is now proved to me that after the making of the said Order a copy of the minute thereof was duly served upon the said *A.B.*, but he then refused [*or has neglected*] to obey the same, and has not as yet obeyed the said Order: These are therefore to command you the said Constables 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 labour*] for the space of _____ , and for so doing this shall be your sufficient Warrant.

Given under [*my*] hand, this _____ day of _____ 1855,
at _____ in the Colony aforesaid.

J. S.

(P. 3.)

Sect. 25.

Warrant of Distress for Costs upon a Conviction where the Offence is punishable by Imprisonment.

VAN DIEMEN'S LAND } To the Chief Constable, and to all Constables in the Colony
TO WIT. } of Van Diemen's Land.

WHEREAS *A.B.* was on _____ last past duly convicted before [*me, one*] of Her Majesty's Justices of the Peace for this Colony, for that [*stating the offence as in the Conviction*], and it was thereby adjudged that the said *A.B.* for his said offence should be imprisoned in the [*House of Correction*] at _____ in this Colony, [*there to be kept to hard labour*] for the space of _____ ; and

it was also thereby adjudged that the said *A.B.* should pay to the said *C.D.* the sum of _____ for his Costs in that behalf; and it was thereby ordered that if the said sum of _____ for costs should not be paid [*forthwith*] the same should be levied by distress and sale of the 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 said [*House of Correction*] [*there to be kept to hard labour*] for the space of _____ to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs, and all costs and charges of the said distress, and of the commitment and conveying of him 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 required to pay the said sum of _____ for Costs, has not paid the same or any part thereof, but therein has 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 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 Police Clerk for the District of _____ in this Colony], that he may pay the same as by Law directed, and may render the overplus, if any, on demand to the said *A.B.*, and if no such distress can be found, then that you certify the same unto [*me*] to the end that such proceedings may be had therein as to the Law appertains.

Given under [*my*] hand, this _____ day of _____ 1855,
at _____ in the Colony aforesaid.

J. S.

Sect. 25.

(P. 4.)

Warrant of Distress for Costs upon an Order where the disobeying of the Order is punishable with Imprisonment.

VAN DIEMEN'S LAND } To the Chief Constable, and to all Constables in the Colony
TO WIT. } of Van Diemen's Land.

WHEREAS on _____ last past, at _____ complaint was made before [*me, one*] of Her Majesty's Justices of the Peace for this Colony, for that [*&c., as in the order*], and afterwards, to wit, on _____ at _____, the said parties appeared before [*me*] as such Justice as aforesaid [*or as in the Order*], and thereupon having heard the matter of the said complaint, [*I*] adjudged the said *A.B.* to [*&c., as in the Order*]; and that if upon a copy of the minute of that Order being served upon the said *A.B.*, either personally or by leaving the same for him at his last or most usual abode, he should neglect or refuse to obey the same, [*I*] adjudged that in such case the said *A.B.* for such his disobedience should be imprisoned in the [*House of Correction*] at _____ in this Colony [*there to be kept to hard labour*] for the space of _____ [unless the said Order should be sooner obeyed]; and [*I*] thereby also adjudged the said *A.B.* to pay to the said *C.D.* the sum of _____ for his Costs in that behalf; and [*I*] ordered that if the said sum of _____ for Costs should not be paid [*forthwith*] the same should be levied by distress and sale of the goods and chattels of the said *A.B.*; [and [*I*] thereby adjudged that in default of sufficient distress in that behalf the said *A.B.* should be imprisoned in the said [*House of Correction*] [*there to be kept to hard labour*] for the space of _____, to commence at and from the termination of his imprisonment aforesaid, unless the said sum for Costs, and all costs and charges of the said distress, and of the commitment and conveying of him the said *A.B.* to the said [*House of Correction*], should be sooner paid]: And whereas after the making of the said order a copy of the minute thereof was duly served upon the said *A.B.*, but the said *A.B.* did not then pay, nor has he paid, the said sum of _____ for Costs or any part thereof, but therein has 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 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 [Police Clerk for the District of _____ in this Colony], that he may pay the same as by Law directed, and may render the overplus, if any, on demand, to the said *A.B.*, and if no such distress can be found, then that you certify the same unto [*me*], to the end that such proceedings may be had therein as to the Law appertains.

Given under [*my*] hand, this _____ day of _____ 1855, at _____ in the Colony aforesaid.

J. S.

(P. 5.)

Sect. 25.

Warrant of Commitment for Want of Distress in either of the last Two Cases.

VAN DIEMEN'S LAND } To the Chief Constable, and to all Constables in the Colony
TO WIT. } of Van Diemen's Land, and to the Keeper of the [House of
Correction] at in the said Colony.

WHEREAS [§c., as in the last two Forms respectively, to the Asterisk, (*) and then thus]: And whereas afterwards, on the day of in the year aforesaid, [I] issued a Warrant to [as in address of (N. 3, 4).] commanding [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 of W. T., a Constable, to the said Warrant of Distress as otherwise, that he has made diligent search for the goods and chattels of the said A.B., but that no sufficient distress whereon to levy the sum above mentioned could be found: These are therefore to command 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 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 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 him the said A.B. 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, this day of 1855, at in the Colony aforesaid.

J. S.

(Q. 1.)

Sect. 27.

Warrant of Distress for Costs upon an Order of Dismissal of an Information or Complaint.

VAN DIEMEN'S LAND } To the Chief Constable, and to all Constables in the Colony of
TO WIT. } Van Diemen's Land.

WHEREAS ON last past information was laid [or complaint was made] before [me, one] of Her Majesty's Justices of the Peace for this Colony, for that [§c., as in the Order of Dismissal]; and afterwards, to wit, on at both parties appearing before [me] 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 this Colony [there to be kept to hard labour] 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 him the said C.D. to the said [House of Correction]], should be sooner paid: (*) And whereas the said C.D., being now required to pay unto the said A.B. the said sum for Costs, has not paid the same or any part thereof, but therein has 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, 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 [Police Clerk for the District of in this Colony] 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], to the end that such proceedings may be had therein as to the Law appertains.

Given under [my] hand, this day of 1855, at in the Colony aforesaid.

J. S.

Sect. 27.

(Q. 2.)

Warrant of Commitment for Want of Distress in the last Case.

VAN DIEMEN'S LAND } To the Chief Constable, and to all Constables in the Colony of
TO WIT. } Van Diemen's Land, and to the Keeper of the [House of
Correction] at in the said Colony.

WHEREAS [*&c.*, as in the last 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 [as in address of (Q. 1.)] commanding [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 of W.T., a Constable, to the said Warrant of Distress as otherwise, that he has 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 to take the said C.D., and him safely to convey to the [House of Correction] 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 [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 costs and charges of the said distress, [and of the commitment and conveying of him the said C.D. 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, this day of 1855, at
in the Colony aforesaid.

J. S.

Sect. 28.

(R.)

Certificate of Clerk of the Peace that the Costs of an Appeal are not paid.

Office of the Clerk [or Deputy Clerk] of the Peace for the District of
(Title of the Appeal.)

I HEREBY certify that at a Court of General Sessions of the Peace holden at for the said District of 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 for this Colony, came on to be tried, and was then heard and determined, and the said Court of General Sessions thereupon ordered that the said Conviction [or Order] should be confirmed [or quashed or varied as the case may be], and that the said [Appellant] should pay 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 [or Deputy Clerk] of the Peace for 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 1855.

G. H.

Clerk [or Deputy Clerk] of the Peace for the District of

Sect. 28.

(S. 1.)

Warrant of Distress for Costs of an Appeal against a Conviction or Order.

VAN DIEMEN'S LAND } To the Chief Constable, and to all Constables in the Colony of
TO WIT. } Van Diemen's Land.

WHEREAS [*&c.*, 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 Sessions of the Peace for the District of 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 Respondent, and which said Appeal came on to be tried, and was heard and determined, at the last General Sessions of the Peace for the said District holden at on , and the said Court of General Sessions thereupon ordered that the said Conviction [or Order] should be confirmed [or quashed or varied as the case may be], 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 [or Deputy Clerk] of the Peace for the said District on or before the day of 1855, to be by him handed over to the

said [C.D.]: And whereas the Clerk [*or* Deputy Clerk] of the Peace for the said District has, on the _____ day of _____ instant, duly certified that the said sum for Costs had not then 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 [Police Clerk for the District of _____ in this Colony] that he may pay and apply 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 the Law appertains.

Given under [my] hand, this _____ day of _____ 1855, at _____ in the Colony aforesaid.

J. N.

(S. 2.)

Sect. 28.

Warrant of Commitment for Want of Distress in the last Case.

VAN DIEMEN'S LAND } To the Chief Constable, and to all Constables in the Colony
 TO WIT. } of Van Diemen's Land, and to the Keeper of the [House of
 Correction] at _____ in the said Colony.

WHEREAS [*§c., as in the last Form to the asterisk (*), and then thus*]: And whereas afterwards, on the _____ day of _____ in the year aforesaid, [I] issued a Warrant to [*as in address of (S. 1.)*] commanding [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 of W.T., a Constable, to the said Warrant of Distress as otherwise, that he has made diligent search for the goods and chattels of the said A.B., but that no sufficient distress whereon to levy the sum above mentioned could be found: These are therefore to command 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; 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 him the said A.B. 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, this _____ day of _____ 1855, at _____ in the Colony aforesaid.

J. N.

Sect. 36.

(T.)

Account of Police Clerk, or Clerk of Petty Sessions, and of Keeper of a Gaol.

MONTHLY RETURN for the District of _____ of Fines and Sums of Money received by the [Police Clerk] of the said District [or by the Keeper of the [Gaol] at _____], and how applied, from the _____ Day of 1855, to the _____ Day of 1855.

Name of Party convicted.	Date.	Offence.	Costs.	Amount thereof paid.	Fine.	Amount thereof paid.	Amount of Fine received for the Crown.	Amount of Fine otherwise applied.	Punishment when Fine not paid.	Names of convicting Magistrates.	Reasons of Nonpayment, or other Observations.

A. B.
Police Clerk of [or Clerk of Petty Sessions for] the said District.
[or Keeper of the above [Gaol].]

MICHAEL FENTON, *Speaker.*

Passed the Legislative Council this twenty-first day of August, one thousand eight hundred and fifty-five.

FR. HARTWELL HENSLOWE,
Clerk of the Council.

In the name and on the behalf of Her Majesty I assent to this Act.

H. E. F. YOUNG,
Governor.

*Government House, Hobart Town,
28th August, 1855.*