SAINT LUCIA

CHAPTER 3.01

CRIMINAL CODE

Revised Edition
Showing the law as at 31 December 2005

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This edition contains a consolidation of the following laws—

CRIMINAL CODE

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CHAPTER 3.01

CRIMINAL CODE

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CHAPTER 3.01

CRIMINAL CODE

(Act 9 of 2004)

AN ACT to provide for criminal offences and procedure and for matters incidental thereto.

Commencement [1 January 2005]

CHAPTER 1
GENERAL PROVISIONS

PART 1
PRELIMINARY

1. SHORT TITLE

This Code may be cited as the Criminal Code, and is hereinafter referred to as "this Code."

2. COMMENCEMENT

This Code comes into force on such day as the Attorney General may appoint by notice in the Gazette.[1]

3. APPLICATION OF CODE

Unless the contrary is expressly provided by an enactment, the provisions of this Code apply to all offences under any enactment and to all criminal proceedings under this Code or any enactment in respect of summary offences or indictable offences, as the case may be, whether such offences are created before or after the commencement of this Code.

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[1] *Editor's note: By order S.I.88/2004, 1 January 2005 was appointed as the commencement date.*

4. GENERAL CONSTRUCTION OF CODE

(1) This Code shall not be construed strictly, either as against Her Majesty or as against a person accused of any offence, but shall be construed amply and beneficially for giving effect to the purposes thereof.

(2) In construing the provisions of this Code, a Court shall not be bound by any judicial decision or opinion on the construction of any other enactment or of the common law, as to the definition of any offence or any element of any offence.

5. COMMON LAW PROCEDURE TO APPLY WHERE NECESSARY

Without prejudice to section 1083 where no provision is made in this Code with respect to the procedure concerning any criminal proceedings before a Court, such procedure at common law as appropriate shall be applied with such modification or adaptation as may be necessary.

6. INTERPRETATION

(1) In this Code, unless the context otherwise requires—

"**act**" includes any act or omission, and any series of acts or omissions, and any combination of acts and omissions;

"**account**" in relation to a company or corporation includes any book, register, balance sheet or document in writing or recorded in any other form or stored electronically, relating to the affairs of the company or corporation whether or not such affairs are the ordinary business or object of the company or corporation;

"**acts are done publicly**"—

(a) if they are done in a public place or premises as to be likely to be seen by a person, whether the person is or is not in a public place or public premises;

(b) if they are done in in a place or premises, not being a public place or public premises, as to be likely to be seen by any person in a public place or public premises;

"**administer**" when used in relation to administering any substance to a person means causing the substance to be taken or introduced into any part of a person's body, whether with or without his or her knowledge or consent;

"**animal**" means any domestic animal;

"**bail**" includes—

(a) bail which is granted in or in connection with proceedings for an offence to a person who is accused or convicted of the offence;

(b) bail which is granted in connection with an offence to a person who is under arrest for an offence or for whose arrest for the offence a warrant endorsed for bail is issued; or

(c) bail which is granted under any enactment for the time being in force;

"**betting-house**" means any building or premises kept or used by a person, without lawful authority, for the purpose of directly or indirectly making gain by providing facilities for betting or for playing of any game of chance for money or money's worth, but does not include a gaming house;

"***bona fide* representative of any newspaper or news agency**" means a person who produces proof to the satisfaction of the Registrar or Clerk of Court that he or she is such a representative;

"**cart**" includes any cart, wagon, truck, barrow, or other carriage on wheels used to carry loads or burdens;

"**cattle**" includes any horse, ass, mule, cows, sheep, goat, or swine, and any animal (other than a dog), which is ordinarily kept or used as a beast of burden, for draught, for riding, or for the production of wool or hair;

"**child**" means a person who is under the age of 12 years;

"**circumstance of aggravation**" includes any circumstance by reason of which an offender is liable to a greater punishment than that to which he or she would be liable if

the offence were committed without the existence of such circumstance;

"**clerk of Court**" in the case of a district court, includes the person appointed by the magistrate for any purpose in a case of emergency, where from any cause the services of a clerk are not available;

"**clerk**" includes any person—

(a) employed for any purpose as a clerk;

(b) employed as a collector of money, whether temporarily or part time;

(c) employed as a commission agent for the collection or disbursement of money or in any similar capacity;

"**company**" means a body corporate incorporated under the Companies Act and includes any partnership or association, whether corporate or incorporate;

"**complaint**" includes any information or charge;

"**complainant**" includes any informant or prosecutor;

"**conviction**" includes order, or minute or memorandum thereof;

"**corporation**" does not include a corporation sole;

"**correctional facility**" means any house, building, enclosure or place declared to be a correctional facility under the Correctional Services Act;

"**correctional officer**" means any person holding rank in the Correctional Services;

"**Court**" except where specifically stated, means the High Court or a district court as the case may be, in the exercise of its criminal jurisdiction, and includes the judge or a magistrate;

"**crime**" includes any offence;

"**dangerous**" in relation to an act means likely or calculated to cause dangerous harm;

"**deadly**" in relation to an act means likely to cause death or which causes death;

"**defendant**" means the person against whom complaint has been made;

"**deliver**" includes causing a person to receive a thing or permitting a person to take a thing, whether directly or indirectly;

"**Director of Correctional Services**" means the person for the time being appointed as such under the Correctional Services Act;

"**document**" includes any document in writing whether of a formal or informal character, any disc, tape, sound track or other device on or in which information is recorded or stored by mechanical, electronic or other means;

"**duress**" means any force, harm, constraint, or threat, used with intent to cause a person against his or her will to do or to abstain from doing any act;

"**fine**" includes any pecuniary penalty, forfeiture, or compensation payable under an order;

"**goods**" include any goods, chattels, or anything which may be the subject of stealing;

"**grievous harm**" means any harm which amounts to a maim or dangerous harm or which seriously or permanently injures health, or which is likely so to injure health, or which extends to permanent disfigurement or to any permanent or serious injury to any external or internal organ, limb or faculty;

"**guardian**" in relation to a child, includes the person who has charge of, or has control over, such child;

"**harm**" means any bodily injury, disease or disorder, whether permanent or temporary;

"**indictable offence**" means any offence punishable on indictment under this Code or any other enactment;

"**injury**" means any harm, damage or trespass whatsoever illegally caused to any person or property;

"**judicial proceeding**" includes any civil or criminal trial, and any inquiry or investigation held by a judicial officer in pursuance of any duty or authority;

"**judge**" means a judge of the High Court of Justice;

"**juror**" includes an alternate juror;

"**knowingly**" in relation to any expression denoting uttering or using, includes knowledge of the character of the thing uttered or used;

"**land**" includes any immovable property;

"**mental disorder**" means mental illness, arrested or incomplete development of mind, psychopathic disorder and any other disorder or disability of mind, except intoxication;

"**minor**" means any person below the age of 12 years;

"**money**" includes bank notes, bank drafts, bills of exchange, cheques, and any other orders, warrants, authorities or requests for the payment of money;

"**negligence**" has the meaning assigned to it in section 58;

"**newspaper**" includes periodical;

"**night**" means the time between the hour of 8 in the evening of a day and the hour of 6 in the following morning;

"**notified plant**" includes—

(a) arrowroot, bananas, beans, cassava, cocoa, coconuts, coffee, dasheen, Indian corn, kola, logwood, limes , manioc, nutmegs, peas, pimento, plantains, sweet potatoes, sugar cane, tanias, tobacco, tonka beans, vanilla, yams;

(b) any other plant which Cabinet may by Notice in the Gazette determine;

"**notified plant product**" means—

(a) the product of any notified plant, whether or not it is in its natural state or is raw, cured or prepared for commercial purposes;

(b) any other plant product which Cabinet by notice in the Gazette declare to be a notified plant product;

"**noxious matter**" includes matter which is noxious only by reason of quantity taken or administered or of the circumstances under which it is taken or administered, or the state of health or peculiar bodily susceptibilities of the person by whom it is taken or to whom it is administered;

"**offence**" is an act, attempt or omission punishable by law;

"**officer**" in relation to a company or corporation includes any officer, chairman, director, trustee, manager, secretary, treasurer, clerk, auditor, accountant or any other person performing any function in respect of the company;

"**officer of law**" includes a sheriff, police or any other officer or person having authority for the time being to serve documents or execute process;

"**order**" includes any conviction;

"**periodical**" includes any newspaper, review, magazine, or other periodical publication;

"**person**" whether expressed or implied as in the word "any person who" or otherwise, includes a body of persons whether corporate or unincorporate; and for the purposes of any provision of this Code relating to defrauding a person or to committing any offence against the property of the person, the Government of this State, or of any other country or state, is deemed to be a person;

"**plant**" includes tree or any species of vegetable or any part of any such vegetable;

"**poison**" includes matter which is poisonous only by reason of the quantity taken or administered or of the circumstances under which it is taken or administered or of the state of health or the peculiar bodily susceptibilities of the person by whom it is taken or to whom it is administered;

"**proper officer**" includes the Registrar, clerk of the district court, sheriff or other officer or person appointed or deputed to perform any particular act or duty;

"**property**" includes money and all other property, land or personal including things in action or other intangible property;

"**public officer**" or "**public official**" includes a person employed in the public service;

"**public place**" or "**public premises**" includes any public way, building, place or conveyance to which the public are entitled or permitted to have access either without condition or upon condition of making any payment, and any building or place which is used for any public or religious meeting or assembly or as a Court;

"**public service**" means service in a civil capacity of Government;

"**public way**" includes any highway, market place, square, street, bridge, or other way which is lawfully used by the public;

"**send**" includes causing, or attempting in any manner to cause a thing to be received by a person;

"**sentence**" includes an order;

"**special defence**" includes the defence of alibi, duress, automatism, necessity, insanity or any defence tending to affect the question of liability of the accused;

"**sum adjudged to be paid by order**" includes any compensation or costs adjudged to be paid by the order, the amount of which is fixed by the order;

"**summary offence**" means any offence punishable on summary conviction under this Code, or under any other enactment;

"**threat**" has the meaning assigned to it in section 61;

"**town**" includes any village under the Local Authorities Act 1887;

"**trust**" includes the acquiring, holding, receiving, or having control over, or being in any manner entrusted with, any property for or belonging to another person, including property which belonged to a deceased person at the time of his or her death;

"**trustee**" means a trustee of an express trust created by any deed, will or instrument in writing, or by parol, or otherwise, and includes the heir or personal representative

of a trustee, and any other person upon whom the duty of such trust devolves, whether by appointment of a Court or otherwise, and also an executor or administrator, and an official manager, assignee, liquidator or other like officer acting under any enactment relating to joint stock companies, bankruptcy or insolvency, and also includes the person who acquires, holds, receives, or has control over, or is in any manner entrusted with any property for, or belonging to another person, including property which belonged to a deceased person at the time of his or her death;

"**utter**" includes using or dealing with, and attempting to induce the person to use, deal with, or act upon, the thing in question;

"**valuable security**" includes any writing entitling or evidencing the title of the person to any share or interest in any public stock, annuity, fund or debt or to any deposit in any bank or any debenture, bill, note, warrant or other security for the payment of money or any authority for request for the payment of money;

"**vehicle**" includes any car, carriage, cart, wagon, wain, truck, barrow, tricycle bicycle, or other means of conveyance whatsoever, irrespective of how drawn or propelled;

"**vessel**" means any kind of ship, boat, or raft, whether used for navigating the sea or for any inland navigation;

"**violence**" means—

(a) any criminal force or harm to any person;

(b) any criminal damage to any property;

(c) any threat or threat of criminal force or harm or damage;

(d) the carrying or use of deadly, dangerous or offensive instrument in such a manner as is likely to cause in any person a reasonable apprehension of criminal force, harm, or damage to him or her or his or her property;

(e) such conduct as is likely to cause a reasonable apprehension of criminal force, harm or damage to him or her or his or her property;

"**will**" means any testamentary document, whether the same be formal or informal, complete or incomplete;

"**wreck**" includes the cargo, stores and tackle of any vessel and all parts of a vessel separated there from, and also the property of shipwrecked persons or property from any wrecked vessel;

"**writing**" includes typing, printing, lithography, photography or other mode of representing or reproducing words in a visible form;

"**young person**" means a person who is of or above the age of 12 years and under the age of 16 years.

(2) The expression "**intention to defraud**" in relation to any act of forgery, falsification or other unlawful act means an intent to cause by means of such forgery, falsification or other unlawful act, any gain capable of being measured in money, or the possibility of any such gain, to the person at the expense or to the loss of any other person.

(3) The expression "**a person employed in the Public Service**" includes a person who is by law authorized or required to discharge a particular duty to the public whether or not for a reward or remuneration and including, police officers and any person employed to execute any process of a Court.

(4) The expression "**be in possession**" or "**have possession**" includes not only having in one's own personal possession, but also—

(a) knowingly having—

(i) in the actual possession or custody of any other person;

(ii) in any place (whether belonging to or occupied by oneself or not) for the use or benefit of oneself or of any other person;

(b) where there are 2 or more persons, and any one or more of them, with the knowledge and the consent of the rest has or have anything in his or her or their

custody or possession it shall be deemed to be in the custody or possession of each and all of them.

(5) The expression "**public**" or "**the public**" refers not only to the whole of Her Majesty's subjects within the jurisdiction of the Courts but also to persons inhabiting or using any particular place thereof or any numbers of the persons, and also to such indeterminate persons as may happen to be affected by the conduct with reference to which the expression is used.

PART 2
JUSTIFICATIONS AND EXCUSES

General Provisions

7. CLAIM OF RIGHT

A person is not criminally responsible in respect of an offence relating to property, if the act done or omitted to be done by him or her with respect to the property was done in the exercise of an honest claim of right and without intention to defraud.

Consent and Related Justifications

8. CONSENT BY DECEIT OR DURESS VOID

Consent is void if it is obtained by means of deceit or duress.

9. CONSENT VOID BY INCAPACITY

Consent is void if the person giving it is—

(a) under 7 years of age; or

(b) by reason of mental disorder or of any other permanent or temporary incapacity, whether from intoxication or any other cause, unable to understand the nature and consequences of the act to which he or she consents.

10. CONSENT BY MISTAKE OF FACT

Consent is of no effect if it is given by reason of a mistake of fact.

11. CONSENT BY EXERCISE OF UNDUE AUTHORITY

Consent is void if it is obtained by the undue exercise of any official, parental, or other authority; and if such authority is exercised otherwise than in good faith for the purposes for which it is allowed by law.

12. CONSENT BY PERSON IN AUTHORITY NOT GIVEN IN GOOD FAITH

Consent given on behalf of a person by his or her parent, guardian, or any other person authorised by law to give or refuse consent on the person's behalf, is void if it is given otherwise than in good faith for the benefit of the person on whose behalf it is given.

13. EXERCISE OF AUTHORITY

For the purposes of provisions of this Part relating to consent, exercise of authority is not limited to exercise of authority by way of command, but includes influence or advice purporting to be used or given by virtue of an authority.

14. EXPLANATION OF AUTHORITY

Consent is deemed to have been obtained by means of deceit, duress, or undue exercise of authority, or to have been given by reason of a mistake of fact, if it would have been refused but for such deceit, duress, exercise of authority, or mistake of fact, as the case may be.

15. INVALID CONSENT NOT PREJUDICIAL

A person shall not be prejudiced by the invalidity of any consent if he or she did not know, and could not have known by the exercise of reasonable diligence of such invalidity.

16. EXTENT OF JUSTIFICATION

Subject to the provisions of sections 17 to 23, the use of force against a person may be justified on the ground of his or her consent to the use of such force.

17. CONSENT TO FIGHT CANNOT JUSTIFY HARM

A party to a fight, whether lawful or unlawful, cannot justify any force which he or she uses with intent to cause harm to the other party on the ground of the consent of the other party to the fight.

18. CONSENT TO KILLING UNJUSTIFIABLE

The killing of a person cannot be justified on the ground of consent.

19. CONSENT TO HARM OR WOUND

A wound or grievous harm cannot be justified on the ground of consent, unless the consent is given and the wound or harm is caused in good faith for purposes of, or in the course of medical or surgical treatment.

20. MEDICAL OR SURGICAL TREATMENT MUST BE PROPER

Consent to the use of force for purposes of medical or surgical treatment does not extend to any improper or negligent treatment.

21. MEDICAL OR SURGICAL OR OTHER FORCE TO MINORS OR OTHERS IN CUSTODY

Consent to the use of force against a person for purposes of medical or surgical treatment, or otherwise for his or her benefit, may be given against his or her will by his or her parent or guardian, or a person acting as his or her guardian, if he or she is under 16 years of age, or by the person lawfully having the custody of him or her if he or she is mentally disabled or is an inmate in any correctional facility or reformatory, and such consent when given on his or her behalf cannot be revoked by him or her.

22. USE OF FORCE, WHERE PERSON UNABLE TO CONSENT

Where a person is intoxicated or insensible, or is from any cause unable to give or withhold his or her consent, any force used in good faith and without negligence for purposes of medical or surgical treatment, or otherwise for his or her benefit is justifiable, unless the person authorised by him or her or by law to give or refuse such consent on his or her behalf objects to the use of such force.

23. REVOCATION ANNULS CONSENT

.(1) A person may revoke any consent which he or she has given for the use of force against him or her, and the use of force cannot be justified after the revocation of consent.

(2) Despite subsection (1) the consent given by a husband or wife at marriage for purposes of the marriage cannot be revoked until the parties are divorced or separated by a judgment or decree of a competent Court.

Ignorance or Mistake of Fact or Law

24. IGNORANCE OR MISTAKE OF FACT

A person is not to be punished for any act which, by reason of ignorance or mistake of fact in good faith, he or she believes to be lawful.

25. IGNORANCE OF LAW NO EXCUSE

Except as otherwise expressly provided in this Code, a person shall not be exempt from liability to punishment for any act on the ground of ignorance that such act is prohibited by law.

Age of Criminal Responsibility

26. AGE OF CRIMINAL RESPONSIBILITY

(1) A person under 12 years of age is not criminally responsible for any act which he or she does which is contrary to law.

(2) A person of 12 years of age and below 16 years of age is criminally responsible for any act done by him or her unless he or she is not of sufficient maturity of understanding to enable him or her to appreciate the nature and consequences of his or her conduct in respect of which he or she is accused.

27. PRESUMPTION OF MENTAL DISORDER

A person accused of committing a crime shall be deemed to have been mentally ill at the time he or she committed the act in respect of which he or she is accused—

(a) if he or she was prevented, by reason of mental disorder, from knowing the nature or consequences of the act in respect of which he or she is accused, or if he or she did know it, he or she did not know that what he or she was doing was contrary to law;

(b) if he or she did the act in respect of which he or she is accused under the influence of a delusion of such a nature as to render him or her, in the opinion of the jury or of the Court, an unfit person for punishment of any kind in respect of such act.

Intoxication

28. INTOXICATION, WHEN AN EXCUSE

(1) Except as provided in this section, intoxication does not constitute a defence to any criminal charge.

(2) Intoxication is a defence to a criminal charge if by any reason of the intoxication the person charged did not know at the time of the commission of the act that such act was wrong or did not know what he or she was doing and—

(a) the state of intoxication was caused without his or her consent by the malicious or negligent act of another person; or

(b) he or she was by reason of intoxication mentally ill, whether temporarily or otherwise, at the time of the commission of such act.

(3) Where the defence—

(a) under subsection (2)(a) is established, the accused shall be discharged by the Court;

(b) under subsection (2)(b) is established, the provisions of this Code relating to mental disorder shall apply.

(4) Despite sections 56 and 57 of this Part, intoxication shall be taken into account for the purpose of determining whether the person charged had formed any intention, specific or otherwise, in the absence of which he or she would not be guilty of the offence.

(5) For the purposes of this section, "**intoxication**" includes a state produced or induced by narcotics or drugs.

Use of force and self-defence

29. AIDER MAY JUSTIFY SAME FORCE AS PERSON AIDED

Any person who aids another person in a justifiable use of force is justified to the same extent and under the same conditions as that other person.

30. ARREST WITH OR WITHOUT PROCESS FOR CRIME

(1) A person may—

(a) with or without warrant or other legal process, arrest and detain another person whom he or she knows to have committed an indictable offence;

(b) if the other person, having notice or knowing that he or she is accused of an indictable offence, avoids arrest by resistance or flight or escapes or endeavours to escape from custody,

use any force which is necessary for the arrest, detention or recapture, and may kill that other person if that other person cannot otherwise be arrested, detained, or retaken by any other means.

(2) A person duly authorised by warrant or other legal process to arrest or detain a person for committing an indictable offence

may, if that other person has notice or believes that such warrant or other legal process is in force against him or her, may use such force as is reasonable for his or her arrest, detention, or recapture, and may kill that other person if that other person cannot otherwise be arrested, detained, or retaken by any other means even though the offence was not committed by the other person, or no such offence has in fact been committed.

31. ARREST, ETC., OTHER THAN FOR INDICTABLE OFFENCE

A person who has authority, by warrant or other legal process, or under the provisions of any enactment, to arrest, detain or search another person otherwise than for an indictable offence, may use such reasonable force as is necessary in the circumstance, if the other person has notice or believes that the force is used by virtue of any such authority.

32. BONA FIDE ASSISTANT AND CORRECTIONAL OFFICER

(1) Where a person, who is duly authorised to execute a warrant to arrest, arrests a person whom he or she believes in good faith and on reasonable and probable grounds is the person named in the warrant, he or she shall be protected from criminal responsibility to the same extent and subject to the same provisions of this Code, as if the person arrested is the person named in the warrant.

(2) If a person who is called upon to assist in an arrest under subsection (1) believes that the person whose arrest he or she is called upon to assist is the person in respect of whom the warrant was issued, he or she and the correctional officer who is required to receive and detain the person, shall be protected to the same extent and subject to the same provisions of this Code, as if the person arrested is the person named in the warrant.

33. BONA FIDE EXECUTION OF DEFECTIVE WARRANT OR PROCESS

(1) Subject to subsection (2), the person who acts under a warrant or process which is bad in law on account of a defect in

substance or form apparent on the face of it, shall be relieved of criminal responsibility to the same extent and subject to the same provisions of this Code, as if the warrant or process were good in law, if he or she believed in good faith and without culpable ignorance or negligence that the warrant or process was good in law.

(2) It is a question of law whether or not the facts adduced in evidence constitute culpable ignorance or negligence in his or her so believing the warrant or process is good in law.

34. REASONABLE USE OF FORCE IN SELF-DEFENCE

A person may use such force as is reasonable in the circumstances—

(a) to prevent crime;

(b) to protect himself or herself or another person from injury;

(c) to protect himself or herself or another person (with his or her authority) from trespass to himself or herself or the other person;

(d) to protect from injury or damage his or her property or property belonging to another person with that person's authority.

35. DEFENCE OF PROPERTY, POSSESSION OF RIGHT

Subject to the provisions of sections 36 to 46, a person may justify the use of force for the defence of property or possession or for overcoming an obstruction to the exercise of any legal right in relation to such property or possession.

36. FORCE TO REPEL TRESPASSER

A person in actual possession of a house, land or vessel, or goods, or any other person authorised by him or her, may use the force reasonable in the circumstances as is necessary for the purpose of resisting a person who attempts forcibly and unlawfully to enter such house, land or vessel, or to take possession of the goods.

37. FORCE TO REMOVE TRESPASSER

A person in actual possession of a house, land or vessel, or any other person authorised by him or her, may use such force reasonable in the circumstances as is necessary for removing a person who has unlawfully entered such house, land, or vessel, and who having been lawfully requested to depart, refuses to depart.

38. FORCE FOR RECOVERY OF POSSESSION OF GOODS

If a person wrongfully takes possession of or detains any goods, any other person who as against him or her, has a right to the possession of the goods, may upon his or her refusal to deliver up the goods on demand, use such force reasonable in the circumstances, either by himself or herself or by any other person, as is necessary for the purpose of recovering possession of the goods.

39. DEFENCE OF RIGHT

A person may use such force reasonable in the circumstances as is necessary for the purpose of overcoming any obstruction or resistance to the exercise by him or her of any legal right.

40. UNLAWFUL FIGHT NOT JUSTIFIABLE

(1) No force used in an unlawful fight is justifiable under any provision of this Code.

(2) A fight is an unlawful fight if a person engages, or maintains, such a fight otherwise than in circumstances justifiable under this Part.

41. FORCE AGAINST INTERFERER

A person who in using force against another person in circumstances justifiable under this Part, is obstructed or resisted by a third person, may use such force against the third person, reasonable in the circumstances as is necessary for the purpose of overcoming the obstruction or resistance, and if the obstruction or resistance amounts to a crime or to aiding and abetting a crime, may use such force reasonable in the circumstances as is necessary for the purpose of preventing such crime.

42. FORCE IN EXECUTION OF A SENTENCE

Any person who is authorised to execute any lawful sentence or order of a Court may use the force authorised in the order or sentence.

43. FORCE TO PRESERVE ORDER

A person who is authorised as a police officer or in any judicial or official capacity—

(a) to keep the peace or preserve order at any place;

(b) to remove or exclude a person from any place;

(c) to use force for any similar purpose,

may use such force reasonable in the circumstances as is necessary for the execution of such authority.

44. PRESERVATION OF ORDER ON VESSEL

The master of a vessel, or any person acting by his or her order, may use against any other person on board the vessel, such force reasonable in the circumstances as is necessary for suppressing any mutiny or disorder on board, whether among officers, seamen or passengers, whereby the safety of the vessel, or of any person therein or about to enter or leaving the vessel, is likely to be endangered, or the master is threatened to be subjected to the commands of any other person; and may kill any person who commits or aids and abets such mutiny or disorder, if the safety of the vessel or the preservation of any person cannot by any means be otherwise secured.

45. FORCE WITHIN STATUTORY AUTHORITY JUSTIFIABLE

Any person who is authorised under any enactment to use force may use such reasonable force as is necessary according to the terms and conditions of his or her authority.

46. FORCE AGAINST RIOTOUS OR UNLAWFUL ASSEMBLY

For the suppression or dispersion of a riotous or unlawful assembly, reasonable force may be used subject to the provisions of this Code with respect to riotous or unlawful assembly.

Automatism

47. AUTOMATISM

A person is not guilty of an offence if—

(a) he or she acts in a state of automatism where the act alleged to constitute the offence is committed by him or her involuntarily so that he or she has no control over his or her physical activities due to some external factor which causes him or her to be unconscious or otherwise act without his or her will; and

(b) the act or condition is not the result of anything done intentionally or recklessly or as a result of voluntary intoxication.

Duress

48. DURESS OF CIRCUMSTANCE

(1) No act of a person constitutes an offence if the act is done under duress of circumstance.

(2) A person does an act under duress of circumstance if—

(a) he or she knows or believes that it is immediately necessary to avoid death or serious injury to him or her or another person he or she is bound to protect;

(b) the danger that he or she knows or believes to exist is such that in all the circumstances he or she cannot reasonably be expected to act otherwise.

(3) It is for the defendant to show that the reason for his or her act is such knowledge or belief as is mentioned in subsection (2)(a).

(4) This section does not apply to a person who knowingly and without reasonable excuse exposed himself or herself to the danger known or believed to exist.

(5) If the question arises whether a person knowingly and without reasonable excuse exposed himself or herself to such danger; it is for him or her to show that he or she did not so expose himself or herself to such danger.

49. DURESS BY THREAT

.(1) No act of a person constitutes an offence if the act is done under duress by threat, unless the act constitutes murder or attempted murder.

(2) A person does an act under duress by threat if he or she does it because he or she knows or believes—

(a) that a threat has been made to cause death or serious injury to himself or herself or to another person he or she is bound to protect if the act is not done; and

(b) that the threat will be carried out immediately if he or she does not do the act or if not immediately before he or she or that other person can obtain any protection against the threat;

(c) that there is no other way of preventing the threat being carried out, and the threat is one which in all the circumstances he or she cannot reasonably be expected to resist.

(3) It is for the defendant to show that the reasons for his or her act is the knowledge or belief as is mentioned in subsection (2).

(4) This section does not apply to a person who knowingly and without reasonable excuse exposed himself or herself to such a risk; it is for him or her to show that he or she did not so expose himself or herself to such risk.

50. NECESSITY

No act of a person which, but for this section would constitute an offence, is an offence if—

(a) it was done in order to avoid consequences which could not otherwise be avoided and which if they had occurred would have inflicted upon him or her or another person

whom he or she was bound to protect inevitable or irreparable harm or damage;

(b) it was no more than was reasonably necessary for that purpose; and

(c) the harm inflicted by it was not disproportionate to the danger avoided.

51. PROOF OF DEFENCE OF AUTOMATISM, DURESS OR NECESSITY

(1) The burden of proof in respect of defence of automatism, duress or necessity lies on the defendant and the Court shall allow the prosecutor to adduce or elicit evidence to prove otherwise.

(2) Where a defendant relies on the defence of automatism, duress or necessity, he or she shall give 7 days notice prior to the trial to the prosecutor stating the particulars of his or her defence.

PART 3
LIABILITY AND MENS REA

Causing an Event

52. CAUSING EVENT BY INVOLUNTARY AGENT

(1) Where a person intentionally, recklessly or negligently causes any involuntary agent to cause an event, that person shall be deemed to have caused the event.

(2) Where a person outside the jurisdiction of the Courts causes an involuntary agent to cause an event within the jurisdiction of the Courts, he or she shall be deemed to have caused the event within the jurisdiction of the Courts.

(3) "**Involuntary agent**", means any animal or other thing, or the person who is exempted from liability to punishment for causing the event, by reason of infancy, or mental disorder, or otherwise under the provisions of this Part of this Chapter.

53. SEVERAL PERSONS CAUSING EVENT

(1) Where an event is caused by acts of several persons acting either jointly or independently, each of those persons who has intentionally, recklessly or negligently contributed to cause the event shall, subject to the provisions of Part 4 of this Chapter, be deemed to have caused the event.

(2) Any excuse or justification applicable in respect of any one of those persons shall be applicable to any person regardless of whether such excuse or justification is applicable in respect of any of the other persons.

54. EVENT CAUSED BY INTERVENING CIRCUMSTANCES

(1) A person shall not be convicted of having intentionally, recklessly or negligently caused an event if, although his or her act and the acts of the person acting jointly with him or her, the event would not have happened but for the existence of some state of facts or the intervention of some other event or of some other person, the probability of the existence or intervention of which other event or person the accused person did not take into consideration, and had no reason to take into consideration.

(2) The provisions of subsection (1) shall not apply where a person is charged with having caused an event by an omission to perform a duty to prevent the occurrence of the event.

55. LIABILITY FOR ATTEMPTS AND NEGLIGENCE OR RECKLESSNESS

A person is not by reason of any provisions of this Part relieved of any liability—

(a) in respect of an attempt to cause an event;

(b) in respect of negligent or reckless conduct, if such negligent or reckless conduct is punishable under this Code irrespective of whether it actually causes any event.

Intent

56. INTENT

(1) A person who voluntarily commits an act is presumed to intend the consequence of the act if he or she believes in the probability of the consequence occurring or commits the act with the purpose of achieving the consequence.

(2) In determining whether a person has committed an offence with the requisite intent, the Court may infer the requisite intent from the act committed by the person and the relevant surrounding circumstances taking into account the following factors—

(a) the emotional motive which prompted the person to commit the act;

(b) the person's reasons or purposive motive for committing the act or the ultimate purpose which the person sought to achieve by committing the act;

(c) the person's desire for the consequence of the act;

(d) the person's subjective foresight or belief in the degree of probability of the consequence of the act; and

(e) the person's subjective honest or actual belief in the existence of certain circumstances which motivated the commission of the act.

57. TRANSFERRED INTENTION

Where a person intends to commit a particular crime and brings about the elements which constitute that crime he or she may be guilty of that crime although the crime takes effect in a manner which was unintended or unforeseen.

Negligence and Recklessness

58. DEFINITION OF NEGLIGENCE

A person causes an event negligently, if without intending to cause the event, he or she causes it by a voluntary act done—

(a) without such skill and caution as are reasonably necessary under the circumstances; or

(b) without such skill and caution as in the particular case he or she is bound by law to exercise for the purpose of preventing the causing of the event.

59. NEGLIGENCE WHERE ACT LIKELY TO CAUSE UNJUSTIFIABLE EVENT

Where an act is such that, despite the exercise of skill and caution, it is likely to cause an event which there is no justification for causing, the act (if not done with intent to cause that event), is negligently done with reference to causing that event, even though it is done with skill and caution.

60. RECKLESSNESS

A person causes an event recklessly if the act causing the event involves an obvious and serious risk of causing injury or damage and the person fails to give any thought to the possibility of there being any such risk or having recognized that there is some risk involved, he or she nonetheless goes on to take the risk.

Threats

61. DEFINITION OF THREAT

(1) In this Code, unless the context otherwise requires, "**threat**" means—

(a) any threat of criminal force or harm;

(b) any threat of criminal damage to property;

(c) any threat of libel or slander;

(d) any threat that a person shall be prosecuted on a charge of having committed any offence, whether such alleged offence is punishable under this Code or under any other law, and whether it has or has not been committed.

(2) Any expression in this Code with reference to a threat includes any offer to abstain from doing or to procure any other person

to abstain from doing, anything which constitutes a threat under subsection (1) of this section.

(3) It is immaterial whether the threat or offer is conveyed to the person by words, or by writing, or in any other manner, and whether it is conveyed directly, or through another person or in any other manner.

(4) It is immaterial whether the threat is executed by the person making the threat, or by any other person or is executed against or with respect to the person to whom the threat is made or by, or against, or with respect to any other person.

PART 4
PARTICIPATION AND INCHOATE OFFENCES

Participation

62. AIDING AND ABETTING A CRIME

Any person who—

(a) directly or indirectly instigates, commands, counsels, procures or solicits;

(b) in any manner intentionally aids, facilitates, encourages or promotes; or

(c) does any act for the purpose of aiding, facilitating, encouraging or promoting,

the commission of a crime by any other person commits the offence of aiding and abetting that crime and of aiding and abetting the other person in respect of that crime and shall be deemed an accomplice.

63. AIDING AND ABETTING CRIME WITHIN, FROM OUTSIDE JURISDICTION

Any person who, within the jurisdiction of the Courts, aids and abets the doing outside the Courts' jurisdiction of an act which, if done within the Courts' jurisdiction would be a crime, is liable as an accomplice.

64. AIDING AND ABETTING CRIME COMMITTED

An accomplice who aids and abets a crime commits the crime if the crime is actually committed as aided and abetted by him or her.

65. PUNISHMENT WHERE CRIME AIDED AND ABETTED IS NOT COMMITTED

An accomplice who aids and abets a crime where the crime is not actually committed due to accident, or circumstances, or events independent of his or her will shall—

(a) if the crime he or she aided and abetted was murder, be liable to imprisonment for life; or

(b) if the crime he or she aided and abetted was a crime other than murder, be punishable in the same manner as if the crime had been actually committed in pursuance of the abetment.

66. PUNISHMENT WHERE DIFFERENT CRIME IS COMMITTED

Where an accomplice—

(a) aids and abets a particular crime; or

(b) aids and abets a crime against or in respect of a particular person or thing, and

the person aided and abetted actually commits a different crime or commits the crime against or in respect of a different person or thing in a manner different from that which was aided and abetted by him or her, the accomplice shall—

(i) if it appears that the crime actually committed was not a probable consequence of the endeavours to commit or was not substantially the same as the crime which he or she intended to aid and abet, be punishable for the crime which he or she intended to aid and abet in the manner provided in this Part for a crime which is not actually committed, or

(ii) in any other case, he or she shall be deemed to have aided and abetted the crime which was actually committed, and shall be liable to be punished in accordance with the provisions of this Part.

67. AIDING AND ABETTING RIOT, ETC.

If a person aids and abets a riot or unlawful assembly, with the knowledge that unlawful violence is intended or is likely to be used, he or she commits the offence of aiding and abetting violence of any kind or degree which is committed by any other person in executing the purposes of the riot or assembly, although he or she did not expressly intend to aid and abet violence of that kind or degree.

68. TRIAL OF ACCOMPLICES

An accomplice who aids and abets a crime may be tried either separately or with the person aided and abetted, although the person is dead or is otherwise not amenable to justice.

69. TRIAL OF MORE THAN ONE ACCOMPLICE

An accomplice who aids and abets a crime may be tried either separately or with any other accomplice, whether or not he or she and such other accomplice aided and abetted each other in respect of the crime, and whether they together aided and abetted the same or different parts of the crime.

70. EXEMPTION, ETC. AVAILABLE FOR ANY ACCOMPLICE IRRESPECTIVE OF OTHERS

The provisions of this Code with respect to exemption, justification, or extenuation in relation to an act shall be applicable in respect of the person who aids and abets the crime although such provisions are not applicable in the case of the person aided and abetted or any other accomplice.

71. PUNISHMENT FOR AIDING AND ABETTING

A person who aids and abets a crime shall be punishable on indictment or on summary conviction according as he or she would be punishable for committing that crime.

72. PUNISHMENT FOR NON-PREVENTION OF CRIME

A person who, knowing that another person intends to commit or is committing a crime, fails to use all reasonable means to prevent the commission of the crime, commits a summary offence.

Conspiracy

73. CONSPIRACY TO COMMIT CRIME

If 2 or more persons agree or act together with common purpose of committing a crime, whether with or without any previous deliberation, each of them commits the offence of conspiracy to commit that crime, and it is immaterial if the crime was not actually committed due to the existence of circumstances which rendered the commission of the crime impossible.

74. CONSPIRACY TO AID AND ABET A CRIME

(1) If 2 or more persons agree or act together with a common purpose of aiding and abetting a crime, whether with or without any previous deliberation, each of them commits the offence of conspiracy to aid and abet that crime, and it is immaterial if the crime was not actually committed due to the existence of circumstances which rendered the commission of the crime impossible.

(2) Where a person aids and abets the commission of a crime by another person and that other person in any manner assents to the abetment, each of them commits the offence of conspiracy to commit such crime even though it is not part of their purpose that the person aiding and abetting the other should take any part in or towards the preparation for, or the commission of, such crime.

75. PERSON WITHIN JURISDICTION AGREEING WITH PERSON OUTSIDE JURISDICTION TO COMMIT OR ABET CRIME

(1) A person within the jurisdiction of the Courts commits the offence of conspiracy by agreeing with another person outside the jurisdiction of the Court for the commission or for aiding

and abetting of any crime to be committed by them or either of them, or by any other person, either within or outside the jurisdiction of the Courts.

(2) For the purposes of this section in respect of a crime committed outside the jurisdiction of the Courts, "**crime**" means any act which, if done within the jurisdiction of the Courts, would be a crime under this Code or under any other enactment.

76. PUNISHMENT OF CONSPIRACY

(1) If 2 or more persons commit conspiracy for the commission or for aiding and abetting of any crime, each of them shall—

(a) where the crime is committed, be punished in accordance with the provisions of this Code in relation to such crime; or

(b) where the crime is not committed, be punished in accordance with the provisions of this Code as if he or she had aided and abetted such crime.

(2) Where a party to the agreement commits any act beyond or acts on his or her own beyond what has been agreed by the parties, the other parties are not liable for the consequences of that unauthorized act.

Attempts

77. ATTEMPT TO COMMIT CRIME

(1) If, with intent to commit an offence a person does an act which is more than merely preparatory to the commission of the offence, he or she commits the offence of attempting to commit the offence.

(2) A person may be guilty of attempting to commit an offence even though the facts are such that the commission of the offence is impossible.

(3) Where but for this subsection a person's intention would not otherwise be regarded as having amounted to an intent to commit an offence, if however the facts of the case had been as

he or she believed them to be, his or her intention would be so regarded then for the purposes of subsection (1), he or she shall be regarded as having had an intent to commit that offence.

78. PUNISHMENT FOR ATTEMPT TO COMMIT CRIME

(1) Where a person is convicted of attempting to commit an offence, he or she is liable to the punishment to which he or she would have been liable if the offence had been committed.

(2) Where an act amounts to an offence under any provisions of this Code and at the same time constitutes an attempt to commit some other offence a person who commits an attempt to commit that offence, is liable to be punished under that provision or under this section.

79. APPLICATION OF EXEMPTION, JUSTIFICATION ETC., PROVISIONS TO ATTEMPT

Any provisions of this Code with respect to exemption, justification or extenuation in relation to an act shall apply with necessary modifications to an attempt to commit an act.

80. PREPARATION FOR COMMISSION OF CRIME

Any person who—

(a) prepares or supplies;

(b) has in his or her possession, custody or control; or

(c) has in the possession, custody or control of another person on his or her behalf,

any equipment, instrument, materials or any other device with the intention that such equipment, instrument, materials or device may be used by him or her or any other person in committing—

(i) any offence which is likely to endanger life,

(ii) any forgery or crime relating to money, or

(iii) any indictable offence punishable by imprisonment for 10 years;

is liable to punishment in like manner as if he or she had attempted to commit that offence, and any such equipment, instrument, materials

or any other device shall be forfeited and applied in such manner as the Court may direct.

CHAPTER 2
OFFENCES

PART 1
OFFENCES AGAINST THE PERSON

SUB-PART A
Homicide

General Provisions Relating to Causing Death

81. PART 3 OF CHAPTER 1 TO APPLY TO CAUSING DEATH

(1) Subject to the provisions of this section, the general provisions of Part 3 of Chapter 1 of this Code relating to causing an event shall apply with respect to causing death by harm.

(2) The death of a person shall be held to have been caused by harm if, by reason of the harm, death has happened otherwise or sooner, by however short a time, than it would probably have happened but for the harm.

(3) It is immaterial that the harm would not have caused the person's death but for his or her infancy, old age, disease, intoxication, or other state of body or mind, at the time when the harm was caused.

(4) It is immaterial that the harm would not have caused the person's death but for his or her refusal or neglect to submit to or seek proper medical or surgical treatment, or but for his or her negligent or improper conduct or manner of living or of treating the harm, unless it is made to appear that the person acted as he or she did with the purpose of causing his or her own death.

(5) Death shall be held to have been caused by harm if the death is caused by the medical or surgical treatment of the harm, unless such treatment itself amounts to murder or manslaughter.

82. CAUSING DEATH OF A CHILD

(1) A child is a person in respect of whom the offence of murder or manslaughter may be committed if he or she has been born and has independent existence of his or her mother.

(2) Subject to section 166, a person may be guilty of murder or manslaughter, as the case maybe, if he or she causes death to a child that is a person in terms of subsection (1), by means of injury caused to it before it became such a person.

83. UNLAWFUL COMMAND TO KILL. SPECIAL PROVISION AS TO AIDING AND ABETTING

(1) The general provisions of Part 4 of Chapter 1 of this Code relating to aiding and abetting shall apply for the purposes of this Sub-Part subject to the provisions of subsection (2) of this section.

(2) Where a person commands the killing of another person, knowing that the killing will be unlawful, then, although the offence of the person so commanded maybe reduced to manslaughter, or to an attempt to commit manslaughter, if he or she believed that he or she was under a legal duty to obey the command, the person giving the command commits the same offence as if the person commanded had not believed himself or herself to be under a legal duty to obey the command.

84. DEATH OUTSIDE FROM HARM WITHIN JURISDICTION OF COURTS

Where harm is unlawfully caused to a person within the jurisdiction of the Courts, and his or her death is thereby caused, but the death happens outside the jurisdiction of the Courts, any person who commits the offence of having caused or aided and abetted the causing of the harm may be tried and punished under this Code for murder or manslaughter as if the death had happened within the jurisdiction of the Courts.

Murder and Manslaughter

85. MURDER

A person commits murder if he or she causes the death of another person—

(a) intending to cause death; or

(b) intending to cause grievous bodily injury.

86. CAPITAL MURDER

(1) Subject to subsection (2), murder committed in any of the following circumstances is capital murder—

(a) the murder of—

(i) a member of the Police Force acting in the execution of his or her duties or a person assisting a member so acting,

(ii) a correctional officer acting in the execution of his or her duties,

(iii) a judicial officer acting in the execution of his or her duties,

(iv) a member of the Police Force, correctional officer or judicial officer for any reason directly attributable to the nature of his or her occupation;

(b) any person for any reason directly attributable to—

(i) the status of that person as a witness or party in a pending or concluded civil cause or matter or in any criminal proceedings, or

(ii) the service or past service of that person as a juror in any criminal trial;

(c) the murder of a justice of the peace acting in execution of his or her judicial functions;

(d) a murder committed by a person in the course or furtherance of—

(i) robbery,

(ii) burglary or housebreaking,

(iii) arson,

(iv) any sexual offence,

(v) any hate crime,

(vi) any drug trafficking offence or other drug related offence;

(e) any murder committed pursuant to an arrangement whereby money or anything of value—

(i) passes or is intended to pass from one person to another or to a third party at the request or direction of that other person, or

(ii) is promised by one person to another or to a third person at the request or direction of that other person,

as consideration for that other person causing or assisting in causing the death of any person or counselling or procuring any person to do any act causing or assisting in causing death of another person;

(f) any murder committed by a person in the course or furtherance of an act of terrorism, that is to say an act involving the use of violence by that person which, by reason of its nature and extent, is calculated to create a state of fear in the public or any sector of the public.

(2) Where in the case of any murder referred to in subsection (1), (other than a murder referred to in paragraph (e)), 2 or more persons commit that murder, it shall be capital murder in the case of any of them who by his or her own act caused the death of, or inflicted or attempted to inflict grievous bodily harm on, the person murdered, or who himself or herself used violence on that person in the course or furtherance of an attack on that person; but the murder shall not be capital murder in the case of any other of the persons committing it.

(3) Where it is alleged that a person accused of murder is guilty of capital murder, the offence shall be charged as capital murder in the indictment.

(4) A person convicted of capital murder under subsection (1), may on conviction on indictment, be sentenced to death.

(5) Despite subsection (4) and subject to subsection (7), a person convicted of capital murder shall be given an opportunity by the Court to plead in mitigation of sentence and the Court shall in such case take into account the following factors-

(a) the gravity and nature of the offence;

(b) the character and record of the offender;

(c) any subjective factors which may have influenced the conduct of the offender;

(d) the design and manner of execution of the offence; and

(e) the possibility of reform and social re-adaptation of the offender.

(6) In addition to the factors specified in subsection (5), the Court may, if it deems it necessary, have recourse to any reports touching on the offender and the offence.

(7) At the hearing for sentencing, the family of the victim shall be given an opportunity to address the Court on any matter connected with the offence.

(8) For purposes of subsection (7), the Court shall in each case, make a determination as to who constitutes the "family of the victim", taking into account the circumstances of the case.

(9) Despite subsection (4) and subject to subsection (10) a sentence of death shall not be pronounced on or recorded against a person convicted of capital murder if it appears to the Court that at the time the offence was committed he or she was under the age of 18 years.

(10) The Court shall sentence a person referred to in subsection (9) to a period of imprisonment for a term deemed appropriate by the Court.

(11) On an indictment charging a person with capital murder, he or she may be found not guilty of capital murder but guilty of non-capital murder if the circumstances of the case justify such conviction.

(12) Capital murder shall be treated as a distinct offence from non capital murder for the purpose of any appeal against conviction; otherwise capital murder shall not be treated as a distinct offence from non-capital murder for any other purpose.

(13) Where on an appeal against conviction of capital murder the Court substitutes a verdict of guilty of non-capital murder for the verdict of guilty of capital murder, the Court shall nevertheless determine whether the sentence of death is warranted under subsection (4) and shall confirm the sentence if it is found to be so warranted.

(14) In this section—

"**judicial officer**" means—

(a) a judge of the Supreme Court or the Court of Appeal or the High Court, the master in chambers or a person performing the functions of a judge of the Supreme Court, or the Court of Appeal or the High Court or of the master in chambers;

(b) the Chief Registrar of the Supreme Court or the Registrar of the Court of Appeal or High Court or any person performing the functions of the Chief Registrar or Registrar;

(c) a magistrate or a person performing the functions of a magistrate;

(d) a person employed in the Office of the Director of Public Prosecutions or engaged to carry out functions on behalf of the Director of Public Prosecutions;

(e) a justice of the peace in the carrying out of his or her duties.

87. NON-CAPITAL MURDER

.(1) A murder committed in circumstances other than any of those circumstances referred to in section 86, is non- capital murder.

(2) Subject to subsection (3), a person convicted on indictment of non-capital murder is liable to imprisonment for life.

(3) A person who is convicted of a non-capital murder may be sentenced to death if—

(a) he or she has previously been convicted of another murder committed on a different occasion;

(b) he or she has been convicted of another murder committed on the same occasion as the one with which he or she is charged.

(4) A person referred to in subsection (3) shall not, by virtue of that subsection, be sentenced to death by reason of a previous conviction for murder unless—

(a) at least 7 days before the trial, notice is given to him or her that it is intended to prove the previous conviction; and

(b) before he or she is sentenced, his or her previous conviction for murder is admitted by him or her, or is found to be proven by the trial judge.

88. ATTEMPT TO MURDER

A person who attempts—

(a) to commit capital murder is liable on conviction on indictment to imprisonment for life;

(b) to commit non-capital murder is liable on conviction on indictment to imprisonment for 20 years.

89. ATTEMPTED MURDER BY INMATE

If a person who is under sentence of penal servitude or imprisonment for 3 years or more attempts to commit—

(a) a capital murder, he or she shall, on conviction on indictment, be sentenced to death; or

(b) a non-capital murder, he or she shall, on conviction on indictment, be sentenced to life imprisonment.

90. DIMINISHED RESPONSIBILITY

(1) If a person kills or is a party to the killing of another person, he or she shall not be convicted of murder if he or she was suffering from such mental disorder (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially

impaired his or her mental responsibility for his or her acts in doing or being a party to the killing.

(2) On a charge of murder, it is for the defence to prove that the person charged is by virtue of this section not liable to be convicted of murder.

(3) A person who, but for this section would be liable to be convicted of murder, is liable to be convicted of manslaughter.

(4) The fact that one party to a killing is by virtue of this section not liable to be convicted of murder shall not affect the question whether the killing amounted to murder in the case of any other party to the killing.

91. PROVOCATION

If on a charge of murder there is evidence on which the jury can find that the person charged was provoked (whether by things done or by things said or by both) to lose his or her self -control, the question whether the provocation was enough to make a reasonable person do as he or she did shall be left to be determined by the jury; and in determining the question the jury shall take into account everything both done and said according to the effect which in their opinion, it would have on a reasonable person.

92. DEATH CAUSED BY GROSS NEGLIGENCE OR RECKLESSNESS

(1) A person upon whom the law imposes a duty or who has taken upon himself or herself any duty tending to preserve life and—

(a) who regardless of the life, safety, welfare and health of others, neglects to perform that duty or performs it negligently and thereby causes the death of another person; or

(b) who acts recklessly in such a manner as to create an obvious and serious risk of causing physical injury to some other person who thereby causes the death of that other person,

commits the offence of manslaughter.

(2) For the purposes of subsection (1)—

(a) the degree of negligence must be higher than that required to establish negligence for civil liability;

(b) the negligence or recklessness must have been a substantial cause of the death and there must have been personal misconduct or personal negligence on the part of the accused.

(3) It is no defence to a charge on indictment under subsection (1) that the death was caused by the negligence of others as well as of the accused; if the death is caused by the act or default of several persons they all commit manslaughter but the negligence imputed to the accused must have been a substantial cause of the death.

(4) If the negligent act of the accused was a substantial cause of death, the fact that the deceased was himself or herself negligent and so contributed to the accident or other circumstances by which the death occurred does not afford a defence to a charge under subsection (1).

93. PENALTY FOR MANSLAUGHTER

A person convicted of manslaughter is liable on conviction on indictment to life imprisonment.

Suicide

94. AIDING AND ABETTING OF SUICIDE, ATTEMPT TO COMMIT SUICIDE

A person who—

(a) aids and abets the commission of suicide by any person, whether or not the suicide is actually committed is liable on indictment to imprisonment for 20 years;

(b) attempts to commit suicide is liable on conviction on indictment to imprisonment for 2 years.

95. SUICIDE PACT

(1) If a person, acting in pursuance of a suicide pact between himself or herself and another, kills the other person or is a party to the killing of the other person by a third party he or she commits the offence of manslaughter and is liable on conviction on indictment to imprisonment for life.

(2) For the purpose of subsection (1) "**suicide pact**" means a common agreement between 2 or more persons having for its object the death of all of them, whether or not each of them is to take his or her own life, but nothing done by a person who enters into a suicide pact is to be treated as done by him or her in pursuance of the pact unless it is done while he or she has the settled intention of dying in pursuance of the pact.

(3) A person acting in pursuance of a suicide pact between himself or herself and another person to kill that other person or be a party to the killing of that other person commits the offence of manslaughter.

Administering Noxious Substance

96. ADMINISTERING NOXIOUS SUBSTANCE

A person who intentionally or recklessly—

(a) administers a noxious matter to a person which endangers or is likely to endanger the life of that person commits an offence and is liable on conviction on indictment to imprisonment for 15 years;

(b) administers any noxious matter to any person which injures or is likely to injure the health of that person commits an offence and is liable on conviction on indictment to imprisonment for 5 years.

Wounding and Related Offences

97. RECKLESS HARM

(1) A person who intentionally causes harm to another is liable on conviction on indictment to imprisonment for 5 years or on summary conviction to imprisonment for 2 years.

(2) A person who recklessly causes harm to another is liable on conviction on indictment to imprisonment for 2 years or on summary conviction to imprisonment for 6 months.

98. GRIEVOUS HARM

(1) A person who intentionally causes grievous harm to another is liable on conviction on indictment to imprisonment for 10 years or on summary conviction to imprisonment for 3 years.

(2) Any person who recklessly causes grievous harm to another is liable on conviction on indictment to imprisonment to 5 years or on summary conviction to imprisonment for one year.

99. MAIM OR DANGEROUS HARM

(1) A person who intentionally causes a maim or any dangerous harm to any other person is liable on conviction on indictment to imprisonment for 20 years or on summary conviction for 5 years.

(2) A person who recklessly causes a maim or any dangerous harm to another is liable on conviction on indictment to imprisonment for 10 years or on summary conviction to imprisonment for 3 years.

(3) In this section—

"**dangerous harm**" means harm endangering life;

"**maim**" means the destruction or permanent disabling of any external or internal organ, limb or faculty.

100. WOUNDING

(1) A person who intentionally causes a wound to another is liable on conviction on indictment to imprisonment for 10 years or on summary conviction for 3 years.

(2) A person who recklessly causes a wound to another is liable on conviction on indictment to imprisonment for 5 years.

(3) In this section "**wound**" means any incision or puncture which divides or pierces any exterior membrane of the body; and any membrane is exterior, for the purposes of this definition, which can be touched without dividing or piercing any other membrane.

101. USING CORROSIVES, EXPLOSIVES, WEAPONS, OR DANGEROUS MEANS

(1) A person who uses a cutlass, knife, razor, sword, dagger, bayonet, fireworks or any explosive, corrosive, dangerous, deadly, or destructive means or instrument—

(a) if he or she does so with intent unlawfully to cause harm to another, is liable on conviction on indictment to imprisonment for 5 years or on summary conviction to imprisonment for one year;

(b) if he or she does so with intent unlawfully to wound or to cause grievous harm to any person, is liable on conviction on indictment to imprisonment for 10 years or on summary conviction to imprisonment for 3 years;

(c) if he or she does so with intent unlawfully to maim or to cause dangerous harm to any person, is liable on conviction on indictment to imprisonment for 20 years or on summary conviction to imprisonment for 10 years.

(2) A person who, in or in the vicinity of a public place, recklessly or maliciously—

(a) casts or throws at or upon or otherwise applies to another–

(i) any corrosive fluid or any destructive or explosive substance,

(ii) any other dangerous or noxious matter;

(b) causes any explosive substance to explode, with intent in any such case to alarm or cause panic, burn, maim, disfigure or disable another or to cause some dangerous harm to another commits an offence and is liable on conviction on indictment to imprisonment for not less than 5 years nor more than 20 years or on summary conviction to imprisonment for not less than 3 years nor more than 10 years.

102. HARM WITH AGGRAVATION

A person who commits any of the offences mentioned in sections 97 to 101, with intent—

(a) to facilitate the commission of any crime by himself or herself or of any other person;

(b) to hinder the arrest or detention of himself or herself or of any other person for any crime;

(c) to hinder the discovery of any crime; or

(d) to enable himself or herself or any other person to escape from legal custody whether for a crime or for any other cause,

is liable—

(i) if the crime is an indictable offence, to imprisonment for a term which may exceed by 7 years the term for which he or she is otherwise liable to such imprisonment,

(ii) in any other case, to imprisonment for 5 years.

103. HARM WITH VIOLENCE

Any person who with any of the intents mentioned in section 102 and by means of choking, suffocating, strangling, or by any other violence, or by means of any stupefying or overpowering drug, gas, or other matter, renders or attempts to render a person unconscious or insensible or physically incapable of resistance, is liable on conviction on indictment to imprisonment for 20 years or on summary conviction to imprisonment for 10 years.

104. HINDERING ESCAPE FROM WRECK, OR PROTECTION FROM HARM

If a person intentionally hinders any other person from escaping from a wrecked vessel, or from protecting himself or herself or any other person against harm, he or she is deemed to have intentionally caused any harm which happens to such other person by reason of his or her being so hindered.

Negligent Harm By Omission

105. HARM BY OMISSION EXPLAINED

A person causes harm by omission, if harm is caused by his or her omission to perform any such duty for preventing harm as mentioned in section 106.

106. DUTY TO PREVENT HARM

A person is under a duty to prevent harm to another person—

(a) if he or she is under a duty, as mentioned in section 107 to supply a person with the necessaries of health and life;

(b) if he or she is otherwise under a duty, by virtue of any other enactment, or any office or employment, or a lawful order of any Court or person, or agreement or undertaking, to do any act for the purpose of averting harm from the person.

107. DUTY TO SUPPLY NECESSARIES OF HEALTH AND LIFE

(1) A person is under a legal duty—

(a) as a parent, foster parent, guardian or head of a family, to provide necessaries of life for a child under the age of 16 years;

(b) as a married person, to provide necessaries of life to his or her spouse; and

(c) to provide necessaries of life to a person under his or her charge, if that person—

(i) is unable, by reason of detention, age, illness, mental disorder or other cause, to withdraw himself or herself from that charge, and

(ii) is unable to provide himself or herself with necessaries of life.

(2) Every one commits an offence who, being under a legal duty within the meaning of subsection (1), fails without lawful excuse, the proof of which lies upon him or her, to perform that duty, if—

(a) with respect to a duty imposed by paragraph (1)(a) or (b)—

(i) the person to whom the duty is owed is in destitute or necessitous circumstances, or

(ii) the failure to perform the duty endangers the life of the person to whom the duty is owed, or causes or is likely to cause the health of that person to be endangered permanently; or

(b) with respect to a duty imposed by paragraph (1)(c), the failure to perform the duty endangers the life of the person to whom the duty is owed or causes or is likely to cause the health of that person to be injured permanently.

(3) A person who commits an offence under subsection (2) commits an indictable offence and is liable to imprisonment for a term not exceeding 5 years.

(4) For the purpose of proceedings under this section—

(a) evidence that a person has cohabited with a person of the opposite sex or has in any way recognized that person as being his or her spouse is, in the absence of any evidence to the contrary, proof that they are lawfully married;

(b) evidence that a person has in any way recognized a child as being his or her child is in the absence of any evidence to the contrary, proof that the child is his or her child;

(c) evidence that a person has left his or her spouse and has failed, for a period of one month subsequent to the time of his or her so leaving, to make provision for the maintenance of his or her spouse or for the maintenance of any child of his or hers under the age of 16 years is, in

the absence of any evidence to the contrary, proof that he or she has failed without lawful excuse to provide for necessaries of life for them; and

(d) the fact that a spouse or child is receiving or has received necessaries of life from another person who is not under a legal duty to provide for them is not a defence.

(5) A woman, who gives birth to a child, is under a duty to do all that is necessary and reasonable to protect and preserve the newly born child from harm by exposure, exhaustion, or otherwise.

(6) Without prejudice to subsection (5) the woman is under a duty to support and take reasonable care of the child until it can safely be weaned.

(7) A person who unlawfully imprisons another person is under a duty to supply him or her with the necessaries of health and life.

(8) A person who agrees or undertakes to supply any of the necessaries of health and life to another person, either as his or her apprentice, or otherwise, is under a duty to supply them accordingly.

(9) If a person who is under a duty to supply the necessaries of health and life in accordance with this section does not have the means to do so and there is any other person or public authority bound to provide him or her with such means, he or she is under a duty to take all reasonable steps to obtain such means from that person or public authority.

(10) If a person, being under a duty to supply any of the necessaries of health and life to another person, lawfully charges his wife or her husband, or any other person with the supply of such necessaries, and furnishes the means for that purpose, the wife or husband, or other person so charged is under a duty to supply such necessaries accordingly.

(11) "**Necessaries of health and life**" include proper food, clothing, shelter, warmth, medical or surgical treatment and any other matters which are reasonably necessary for the preservation of the health and life of a person.

108. DUTY CONSTITUTED BY OFFICE, UNDERTAKING OR CONDUCT

(1) Where, under sections 106 and 107, a person is under a duty by virtue of an office, employment, agreement or undertaking, such a duty is sufficiently constituted with respect to the person who actually performs the functions in respect of that office or employment, or who is acting in that office or employment as if he or she were under such agreement or undertaking with respect to another person.

(2) No person is relieved of liability to perform a duty under section 106 or 107, on the ground that another person is also under the same duty, whether jointly with him or her or independently of him or her, and whether on the same or on a different ground.

109. PROVISIONS AS TO CAUSING EVENT TO APPLY

(1) Subject to the provisions of this section, the provisions of Part 3 of Chapter One of this Code with respect to causing an event shall apply to the provisions of sections 97 to 108 and sections 110 to 113.

(2) A person shall not be deemed to have caused harm to another person by omitting to supply him or her with the necessaries of health and life, unless it is proved against him or her that the other person, by reason of his or her age or physical or mental state, or by reason of control by the accused person, could not by reasonable effort have avoided the harm.

(3) A disease or disorder which a person suffers as the inward effect of his or her grief, terror, or other emotion shall not be deemed to be harm caused by another person, although such grief, terror or emotion has been caused by the other person, whether with intent to cause harm or otherwise.

(4) Harm which a person suffers by execution of a sentence of a Court in consequence of a prosecution instituted, or procured or of evidence given or procured to be given, by another person, whether or not in good faith, shall not be deemed to have been caused by that other person.

(5) Except as otherwise expressly provided in this section, a person shall not—

(a) be relieved of liability to punishment for causing harm to another person;

(b) be acquitted of having caused harm to another person,

on the ground that the other person, by his or her own trespass, negligence, act, or omission, contributed to the causing of the harm.

110. PUNISHMENT OF CARELESS SURGICAL OR MEDICAL TREATMENT

Where any person in good faith, for the purposes of medical or surgical treatment, intentionally causes harm to another person which, in the exercise of reasonable skill and caution according to the circumstances of the case, he or she ought to have known to be palpably improper, he or she is liable to punishment as if he or she had caused such harm negligently.

111. NEGLIGENT HARM

A person who negligently and unlawfully causes harm to another is liable on conviction on indictment to imprisonment for one year, or on summary conviction to imprisonment for 6 months.

112. NEGLIGENT GRIEVOUS HARM

A person who negligently or unlawfully causes grievous harm to a person is liable on conviction on indictment to imprisonment for 2 years or on summary conviction to imprisonment for one year.

113. NEGLIGENT HARM OR NEGLIGENCE ENDANGERING LIFE

If a person who—

(a) is solely or partly in charge of any steam engine, ship, boat, or other dangerous thing or object of any kind;

(b) undertakes or engages in medical or surgical treatment of any other person;

(c) undertakes or engages in the dispensing, supplying, selling or administering, of any medicine or any poisonous or dangerous matter,

negligently causes harm to the person, or negligently endangers the life of the person, he or she is liable on conviction on indictment to imprisonment for 2 years.

Threat of Death

114. THREAT OF DEATH

A person who threatens another with death or grievous harm with intent to put that other person in fear of death or grievous harm, is liable on conviction on indictment to imprisonment for 5 years or on summary conviction to 2 years imprisonment.

SUB-PART B
Assaults

115. OFFENCE OF ASSAULT

(1) A person who intentionally or recklessly—

(a) applies force to, or causes any impact on, the body of another person; or

(b) causes another person to fear that any such force or impact is imminent,

without that other person's consent or, where the act is likely or intended to cause injury to another person, with or without that other person's consent commits assault and is liable on conviction on indictment to imprisonment for 3 years.

(2) Without prejudice to subsection (1) a person convicted of—

(a) assault with any deadly or dangerous instrument or means;

(b) assault upon any person acting as a judicial officer;

(c) assault upon a minister of religion in the execution of the duties of his or her office;

(d) assault upon a person in any Court;

(e) assault upon a person in order to prevent him or her from doing or on account of his or her doing or having done anything as party, agent, counsel or witness in any judicial proceedings;

(f) assault with the intention to commit or attempt to commit any other crime,

is liable on conviction on indictment to imprisonment for three years or on summary conviction to imprisonment for one year.

(3) For purposes of subsection (2)(b), "**judicial officer**" has the same meaning assigned to it under section 86.

116. AGGRAVATED ASSAULT ON MALE UNDER 12 YEARS OR FEMALE

If a person commits assault upon a male child who is not more than 12 years of age or upon any female and the Court is of the opinion that the assault is of such an aggravated nature that it cannot be sufficiently punished under section 426, the person is liable on conviction on indictment to a fine of $3,000 or to imprisonment for 5 years.

117. ACTS NOT CONSTITUTING ASSAULTS

Acts which but for this section constitute assaults are lawful if they amount to use of reasonable force in exercise of a right in accordance with the provisions of section 39 of this Code.

118. STALKING

(1) A person who commits the offence of stalking is liable on conviction on indictment to imprisonment for 5 years or on summary conviction to imprisonment for one year.

(2) A person commits the offence of stalking if—

(a) he or she intentionally and maliciously follows about or harasses another person in such a manner as would cause that person to be in reasonable fear of being assaulted or of suffering serious bodily injury or death;

(b) he or she wilfully and maliciously engages in a course of conduct that involves an express or implied threat to kill another person or cause serious bodily injury to another person or cause emotional distress to another person;

(c) he or she persistently makes harassing phone calls or sends unsolicited mail in any form, to another person in such manner as would cause emotional distress to the other person.

(3) In this section "**course of conduct**" means a persistent pattern of conduct comprising 2 or more acts carried out over a period of time that shows a continuity of purpose aimed at a particular person who is a victim of the offence.

119. REPORT OF SUSPECTED CASES OF ABUSE

(1) A person who is in a position of trust or authority towards a young person, who in the course of his or her duty becomes aware of any act of abuse committed against that young person shall as soon as is practicable make a written report of the case to any police officer, or to the Government department responsible for social services.

(2) A person mentioned in subsection (1) who without reasonable cause fails or refuses to make such report to the police officer commits an offence and is liable on summary conviction to a fine of $1,000.

(3) No civil action shall be brought against a person mentioned in subsection (1) in respect of a report made under that subsection in good faith for the purpose of complying with that subsection.

(4) In this section "**abuse**" means an unlawful sexual intercourse or connection with a young person in terms of Sub-Part C (Sexual Offences) or unlawful use of force on a young person.

(5) In this section "**person who is in a position of trust or authority**" includes a parent, guardian, teacher, medical practitioner, social worker, drivers of school buses or any other person having charge of a young person.

120. KIDNAPPING

(1) If a person without lawful excuse, proof of which lies on him or her takes or carries away another person by force or deception without the consent of that person he or she commits the offence of kidnapping and is liable on conviction on indictment to imprisonment for 20 years.

(2) A person who knowing that an offence under subsection (1) has been committed in respect of another person assists or encourages the execution of the intent with which the offence was committed, also commits that offence.

(3) It is no defence to show that the person so kidnapped did not resist unless it appears that the kidnapping was not caused by threats or force.

121. FALSE IMPRISONMENT

(1) A person falsely imprisons another person if—

(a) he or she intentionally and without lawful excuse; proof of which lies on him or her; or

(b) he or she recklessly and without lawful excuse, proof of which lies on him or her,

restrains the person's freedom of movement, whether or not the restraint is only momentary, and it is not necessary that the person restrained knew he or she has been falsely imprisoned.

(2) False imprisonment may take place anywhere so long as the person is prevented from moving from a particular place, and it is not necessary that the area of confinement has physical boundary.

(3) A person does not commit an offence of falsely imprisoning another person where that person is wrongfully prevented from moving in a particular direction if he or she is free to move in another direction without taking an unreasonable risk of any danger or injury to himself or herself.

(4) A person convicted of an offence under this section is liable—

(a) in the case of an offence under subsection (1)(a), on conviction on indictment to imprisonment for 2 years;

(b) in the case of an offence under subsection (1)(b), on conviction on indictment to imprisonment for one year.

SUB-PART C
Sexual Offences

122. INTERPRETATION

(1) In this Sub-Part —

"**adult**" means a person 18 years of age or more;

"**brothel**" means a place resorted to by persons of either sex for the purpose of prostitution;

"**spouse**" means lawful husband or wife as the case may be.

123. RAPE

(1) Any person who has sexual intercourse with another—

(a) without the consent of that other; or

(b) without believing that the other consents to such intercourse or is reckless as to whether the other person consents or not,

commits the offence of rape and is liable on conviction on indictment to imprisonment for life.

(2) For the purposes of subsection (1), consent is not considered to have been obtained where the complainant submits or does not resist by reason of—

(a) the application of force to the complainant or to any other person;

(b) threats or fear of the application of force to the complainant or to any other person;

(c) the personation of the spouse of the complainant;

(d) false and fraudulent representations as to the nature of the act;

(e) the use of the accused's position of authority over the complainant;

(f) the administration to the complainant of a drug, matter or thing, with intent to stupefy or overpower the complainant or causing the complainant to take the same with intent to stupefy or overpower the complainant; or

(g) intimidation of any kind.

(3) A husband commits the offence of rape where he has sexual intercourse with his wife without her consent by force, fear or the use of a drug or thing with intent to stupefy or overpower her, where there is in existence in relation to them—

(a) a decree nisi of divorce or nullity granted under the Divorce Act;

(b) a decree of judicial separation granted under the Civil Code;

(c) a separation agreement or where the parties are in fact separated; or

(d) a peace binding order or an order for the husband not to molest his wife or have sexual intercourse with her including a protection order from the Family Court.

(4) The provisions of subsection (3) apply with the necessary modifications to a wife who commits the offence of rape.

(5) A husband or wife who commits the offence of rape is liable on conviction to imprisonment for 14 years.

(6) A person under the age of 12 years is deemed incapable of committing the offence of rape.

124. UNLAWFUL SEXUAL CONNECTION

(1) A person commits the offence of unlawful sexual connection with another person if that person has sexual connection with that other person—

(a) without the consent of the other person;

(b) without believing that the other person consents to that sexual connection;

(c) with the consent of the other person if the consent is—

(i) obtained from a person under the age of 16 years,

(ii) extorted by threats or fear of bodily harm to that other person or any other person, or by threats or fear of the application of force to that other person or any other person,

(iii) obtained by impersonating the spouse of that other person,

(iv) obtained by false and fraudulent representations as to the nature of the act,

(v) obtained by the use of the accused's position of authority over that other person;

(d) by the administration to that other person of a drug, matter or thing, with intent to stupefy or overpower that other person or causing that other person to take the same with intent to stupefy or overpower that other person.

(2) In subsection (1) "**sexual connection**" means—

(a) the introduction, to any extent, into the vagina or the anus of the person of—

(i) any part of the body of any other person, or

(ii) any object held or manipulated by any other person, otherwise than for *bona fide* medical purposes;

(b) connection between the mouth or tongue of the person and any part of the genitalia of any other person.

(3) A person who commits the offence of unlawful sexual connection is liable on conviction on indictment—

(a) to imprisonment for 14 years; or

(b) to imprisonment for life where the sexual connection is as described in subsection (2)(a)(ii),

unless the Court is of the opinion that, having regard to the particular circumstances of the offence or of the offender, including the nature of the conduct constituting the offence, the offender should not be sentenced to imprisonment.

(4) A husband commits the offence of unlawful sexual connection with his wife without her consent where there is in existence in relation to them—

(a) a decree nisi of divorce or nullity granted under the Divorce Act;

(b) a decree of judicial separation under the Civil Code;

(c) a separation agreement; or

(d) an order for the husband not to molest his wife or have sexual intercourse with her.

(5) The provisions of subsection (4) apply with the necessary modifications to a wife who commits the offence of unlawful sexual connection.

(6) Except for subsections (4) and (5), it is a defence to a charge under this section if the person charged proves that—

(a) the other person consented; and

(b) the person charged—

(i) was not more than 21 years of age at the time of the commission of the offence and has not been previously charged with the same or similar offence, and

(ii) had reasonable cause to believe and did believe that the other person was 16 years of age or more.

(7) Subsection (6) shall not apply if it is proved that—

(a) consent was obtained in the manner specified in section 124(1)(c)(ii)to (v);

(b) the offence was committed under section 124(1)(d); or

(c) the other person is under the age of 12 years.

125. INDUCING SEXUAL INTERCOURSE OR SEXUAL CONNECTION BY FORCE, DURESS, ETC.

(1) A person commits an offence if that person induces another person to have sexual intercourse or unlawful sexual connection with any person—

(a) by force or duress;

(b) by false or fraudulent representation as to the nature of the act; or

(c) by administering, to that other person, or by causing that other person to take, any drug, matter or thing with intent to stupefy or overpower that person.

(2) A person who commits an offence under subsection (1) is liable on conviction on indictment to imprisonment for 14 years.

126. SEXUAL INTERCOURSE WITH A PERSON UNDER 12

(1) A person who has sexual intercourse with another who is under the age of 12 years, whether or not the other person consented and whether or not the first-mentioned person believes that the other person is 12 years of age or more, commits an offence and is liable on conviction on indictment to imprisonment for life.

(2) If a marriage is declared invalid by a Court of competent jurisdiction the invalidity does not make a person guilty of an offence under this section because that person has sexual intercourse with a person who he or she believes to be his or her spouse, and has reasonable cause for the belief.

127. SEXUAL INTERCOURSE WITH A PERSON BETWEEN 12 AND 16

(1) A person who has sexual intercourse with another person who—

(a) is not the spouse of the first-mentioned person; and

(b) is 12 years of age or more but has not attained the age of 16 years,

commits an offence and is liable on conviction on indictment to imprisonment for 15 years.

(2) It is a defence to a charge under this section if the person charged proves that—

(a) the other person consented; and

(b) the person charged—

(i) was not more than 21 years of age at the time of the commission of the offence and has not been previously charged with the same or similar offence, and

(ii) had reasonable cause to believe and did believe that the other person was 16 years of age or more.

(3) Subsection (2) shall not apply if it is proved that the consent was obtained by false or fraudulent representation as to the nature of the act.

(4) Except as provided in subsection (2), it is no defence to a charge under this section that the person consented or that the person charged believed that the person was 16 years of age or more.

(5) If a marriage is declared invalid by a Court of competent jurisdiction the invalidity does not make a person guilty of an offence under this section because that person has sexual intercourse with a person who he or she or she believes to be his or her or her spouse, and has reasonable cause for the belief.

128. SEXUAL INTERCOURSE WITH AN ADOPTED MINOR, ETC.

(1) An adult commits an offence if the adult has sexual intercourse with a minor who—

(a) is the adult's adopted child, step-child, foster child, ward or dependant; or

(b) not being the adult's adopted child, step-child, foster child, ward or dependant is at the time of the intercourse living with the adult as a member of the family or is under the adult's care or protection.

(2) It is immaterial that the sexual intercourse referred to under subsection (1) occurred with the consent of the minor.

(3) A person who commits an offence under subsection (1) is liable on conviction—

(a) if the minor is under the age of 12 years to imprisonment for life; or

(b) if the minor is 12 years of age or more to imprisonment for 25 years.

(4) An adult is not guilty of an offence under subsection (1) if the minor is the spouse of the adult.

(5) If a marriage is declared invalid by a Court of competent jurisdiction the invalidity does not make a person guilty of an offence under this section because that person has sexual

intercourse with a person who he or she believes to be his or her spouse, and has reasonable cause for the belief.

129. SEXUAL INTERCOURSE WITH A MINOR EMPLOYEE

(1) An adult who has sexual intercourse with a minor who—

(a) is employed by the adult;

(b) receives wages or salary directly or indirectly from the adult,

commits an offence and is liable on conviction on indictment to imprisonment for 25 years.

(2) An adult is not guilty of an offence under subsection (1) if the minor is the spouse of the adult.

(3) If a marriage is declared invalid by a Court of competent jurisdiction the invalidity does not make a person guilty of an offence under this section because that person has sexual intercourse with a person who he or she believes to be his or her spouse, and has reasonable cause for the belief.

130. INDECENT ASSAULT

(1) Any person who indecently assaults another commits an offence and is liable on conviction—

(a) on indictment to imprisonment for 15 years, if committed on a person under the age of 12 or on summary conviction to imprisonment for 5 years;

(b) on indictment to imprisonment for 10 years, if committed on a person of 12 years of age or more but who has not yet attained the age of 16 years or on summary conviction to imprisonment for 5 years; or

(c) on indictment to imprisonment for 7 years, if committed on a person who is 16 years of age or more or on summary conviction to imprisonment for 3 years.

(2) A person under the age of 16 years cannot in law give any consent which would prevent an act being an assault for the purposes of this section.

(3) In this section "**indecent assault**" means an assault accompanied by words or circumstances indicating an indecent intention.

131. INDECENT ACT

A person who, in any place, for a sexual purpose or sexual gratification exposes his or her genital organs to a minor commits an offence and is liable on conviction on indictment to imprisonment for 10 years.

132. GROSS INDECENCY

(1) A person who commits an act of gross indecency with another person commits an offence and is liable on conviction on indictment to imprisonment for 10 years or on summary conviction to 5 years.

(2) Subsection (1) does not apply to an act of gross indecency committed in private between an adult male person and an adult female person, both of whom consent.

(3) For the purposes of subsection (2)—

(a) an act shall be deemed not to have been committed in private if it is committed in a public place; and

(b) a person shall be deemed not to consent to the commission of such an act if—

(i) the consent is extorted by force, threats or fear of bodily harm or is obtained by false and fraudulent representations as to the nature of the act;

(ii) the consent is induced by the application or administration of any drug, matter or thing with intent to intoxicate or stupefy the person; or

(iii) that person is, and the other party to the act knows or has good reason to believe that the person is suffering from a mental disorder.

(4) In this section "**gross indecency**" is an act other than sexual intercourse (whether natural or unnatural) by a person involving the use of the genital organs for the purpose of arousing or gratifying sexual desire.

133. BUGGERY

(1) A person who commits buggery commits an offence and is liable on conviction on indictment to imprisonment for—

(a) life, if committed with force and without the consent of the other person;

(b) ten years, in any other case.

(2) Any person who attempts to commit buggery, or commits an assault with intent to commit buggery, commits an offence and is liable to imprisonment for 5 years.

(3) In this section "**buggery**" means sexual intercourse per anus by a male person with another male person.

134. BESTIALITY

(1) A person who commits bestiality commits an offence and is liable on conviction on indictment to imprisonment for 10 years and, if the Court thinks it fit, the Court may order that the convicted person be admitted to a psychiatric hospital for treatment.

(2) A person who, by the use of force or drugs, causes another to commit bestiality commits an offence and is liable on conviction on indictment to imprisonment for 25 years.

(3) In this section "**bestiality**" means sexual intercourse *per anus* or *per vaginum* by a male or female person with an animal.

135. UNLAWFUL DETENTION OF A PERSON WITH INTENT TO HAVE SEXUAL INTERCOURSE

(1) A person who detains another against that other's will—

(a) in or upon any premises with intent that the person detained may have sexual intercourse with any person; or

(b) in any brothel,

commits an offence and is liable on conviction on indictment to imprisonment for 10 years.

(2) A magistrate who is satisfied upon oath that there is reasonable ground for believing that a person is unlawfully detained in any place for immoral purposes, may issue a warrant authorising

any police officer to enter, if need by force, and search any place specified in the warrant and to remove any person so detained, and to arrest any person accused or suspected of the unlawful detention of that person.

(3) A police officer referred to under subsection (2) shall cause the person arrested under that subsection to be brought before the magistrate and proceedings shall be taken to punish the person according to law.

136. HEARINGS IN CAMERA

(1) This section applies to the following offences—

(a) rape;

(b) unlawful sexual connection;

(c) incest;

(d) sexual intercourse with a person under 12;

(e) sexual intercourse with a person between 12 and 16;

(f) sexual intercourse with an adopted child, step child, foster child, ward or dependant, etc;

(g) sexual intercourse with a minor employee;

(h) sexual intercourse with a person suffering from a mental disorder;

(i) inducing sexual intercourse or sexual connection by force, duress, or any other circumstances specified under section 125;

(j) indecent assault;

(k) gross indecency; and

(l) buggery.

(2) At any proceedings in relation to an offence to which this section applies, the public shall be excluded during the hearing but the judge or a magistrate as the case may be, may permit the presence of any person whose presence is requested by the complainant or the accused and any *bona fide* representative of a newspaper or news agency.

(3) Sentencing in relation to any offence to which this section applies shall take place in public.

137. COURT MAY FORBID PUBLICATION OF REPORT

(1) If in a case involving any offence referred to under section 136 (1), the Court is of the opinion that the interests of the complainant so require, or the defence or prosecution so requests, it may make an order forbidding publication of any report or account giving details of the criminal acts alleged to have been performed on the complainant or of any acts that the complainant is alleged to have been compelled or induced to perform or to consent to or acquiesce in .

(2) The breach of an order made under subsection (1) or any evasion or attempted evasion of it, may be dealt with as contempt of Court.

138. ANONYMITY OF COMPLAINANT AND ACCUSED

(1) After a person is charged with an offence under this Sub-Part, any matter that is likely to lead members of the public to identify a person as the complainant or as the accused in relation to that charge shall not be published in a written publication or be broadcast in this State except—

(a) if, on the application of the complainant or the accused, the Court directs that the effect of the restriction is to impose a substantial and unreasonable restriction on the reporting of proceedings and that it is in the public interest to remove the restriction in respect of the applicant; or

(b) in the case of the accused, after the person has been tried and convicted of the offence.

(2) A person who publishes or broadcasts any matter in contravention of subsection (1) commits an offence and is liable on conviction on indictment to a fine of $50,000 and to imprisonment for 3 years.

(3) The person referred to in subsection (2) is in the case of—

(a) a publication in a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;

(b) any other publication, the person who published;

(c) a broadcast by a body corporate which transmits or provides the programme in which the broadcast is made,

the person having functions in relation to the programme corresponding to those of an editor or publisher of a newspaper.

(4) In subsection (1)—

"**accused**" means—

(a) a person named in an information alleging that the person has committed the offence;

(b) a person who appears before the Court charged with the offence;

"**complainant**" in relation to a person accused of an offence includes the person against whom the offence is alleged to have been committed.

139. SOLICITING SEXUAL FAVOURS IN THE WORKPLACE

(1) It is an offence for an employer or a supervisor of an employee to make it reasonably appear to the employee that the prospects or working conditions of the employee are dependent upon the acceptance or tolerance by the employee of sexual advances or persistent sexual suggestions from the employer or supervisor.

(2) It is an offence for a prospective employer to make it reasonably appear to a person that——

(a) an offer of employment to that person;

(b) the terms on which employment is so offered,

is or are dependent on that person's acceptance or tolerance of sexual advances or tolerance of persistent sexual suggestions from the prospective employer.

(3) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to imprisonment for one year.

140. TRANSMISSION OF HIV

(1) A person who, knowing that he or she suffers from Acquired Immune Deficiency Syndrome commonly known as AIDS, intentionally or recklessly infects another person with the human-immuno deficiency virus known as HIV, whether through sexual intercourse or any other means by which the

disease may be transmitted to another person commits an offence of aggravated sexual assault and is liable on conviction on indictment to imprisonment for 10 years.

(2) It is no defence for a person charged with an offence under subsection (1), to prove that the act was committed with the consent of the other person.

Prostitution and Related Offences

141. PROCURING OR AIDING AND ABETTING

(1) A person who—

(a) procures any male or female under 18 years of age to have unlawful sexual intercourse or sexual connection with another person within or outside this State;

(b) procures any male or female to become, either within or outside this State, a common prostitute;

(c) procures any male or female to leave this State with intent that he or she may, for the purposes of prostitution, become an inmate of, or frequent, a brothel elsewhere;

(d) procures any male or female to leave his or her usual place of abode in this State with intent that he or she may for the purposes of prostitution, become an inmate or frequent a brothel, in any country,

is liable on conviction on indictment to imprisonment for 7 years.

(2) A person who, knowing that an offence under subsection (1) has been committed by the person, aids and abets the unlawful detention of another person, or otherwise aids and abets the execution of the intent with which that offence was committed, commits that offence.

(3) A police officer may take into custody without a warrant the person whom he or she has reasonable cause to suspect of having committed or attempted to commit, any offence under this section.

142. PROCURING DEFILEMENT OR ABETMENT OF DEFILEMENT BY GUARDIAN OR PARENT

A person who, being the parent or guardian of any male or female—

(a) procures such male or female to have sexual intercourse or sexual connection with another person;

(b) orders, is party to, permits or knowingly receives the profits of, the defilement , seduction or prostitution of such male or female,

is liable on conviction on indictment to 15 years imprisonment, if such male or female is under the age of 12 years, or to 5 years imprisonment, if such male or female is above the age of 12 years.

Keeping of Brothels

143. KEEPING BROTHEL

(1) Any person who keeps or manages or appears, acts, or behaves as master or mistress or as the person having the care, control, or management, or assists in the care, control, or management of a brothel is deemed to be the keeper thereof and commits an offence, and is liable to be prosecuted and punished as such keeper, and it is immaterial whether or not he or she is the real keeper.

(2) Any person who, being the tenant, lessee, or occupier or person in charge of any premises—

(a) knowingly permits such premises or any part thereof to be used as a brothel or for the purposes of habitual prostitution;

(b) and being a male or female uses such premises for habitual prostitution of himself or herself,

commits an offence.

(3) Any person who, being the lessor or landlord of any premises, or the agent of such lessor or landlord, lets the premises or any part of it with the knowledge that such premises or part of it is to be used as a brothel or for purposes of habitual prostitution, commits an offence.

(4) If the Commissioner of Police brings to the attention of the lessor or landlord, or his or her agent by a notice in writing signed by him or her that such premises are being used as a brothel or for purposes of habitual prostitution, the lessor or landlord or agent is deemed to have had such knowledge or to wilfully aid and abet the continued use of such premises or any part of it as a brothel or for purposes of habitual prostitution.

(5) Any person who commits an offence under subsections (2) and (3) is liable on summary conviction to a fine not exceeding $15,000 or to imprisonment for 3 years.

(6) In addition to any fine or term of imprisonment imposed under subsection (5) the person may be required by the Court to enter into a recognisance with or without sureties to be of good behaviour for a period not exceeding one year, and in default of compliance with such recognisance is liable to imprisonment for a further period not exceeding one year.

144. POWER OF LESSOR TO REQUIRE ASSIGNMENT OF LEASE ON CONVICTION OF LESSEE OR OCCUPIER

(1) Upon the conviction of the tenant, lessee or occupier of any premises for an offence under section 143, the landlord or lessor or the agent of such landlord or lessor shall be entitled to require the person so convicted to assign the lease or other tenancy agreement under which the premises are held by him or her to another person approved by the landlord, lessor or agent, which approval shall not be unreasonably withheld.

(2) In the event of the person so convicted failing within 3 months after his or her conviction to assign the lease or tenancy, the landlord or lessor shall be entitled to terminate the lease or tenancy but without prejudice to the rights or remedies of any party to the lease or tenancy which had accrued before such termination.

(3) If the landlord, lessor or the agent of the landlord or lessor should so terminate the lease or tenancy, the Court, which convicted the tenant, lessee or occupier, shall have power to make a summary order for delivery of possession to the landlord, lessor or agent.

145. LIABILITY OF LANDLORD ON FAILURE TO DETERMINE LEASE AFTER NOTICE

If the landlord, lessor or the agent of the landlord or lessor after such conviction has been brought to his or her notice fails to exercise his or her rights under section 144 and subsequently during the subsistence of the lease or tenancy any such offence is again committed in respect of the premises, the landlord, lessor or agent is deemed to have knowingly aided and abetted the commission of that offence, unless he or she proves that he or she had taken all reasonable steps to prevent the recurrence of the offence.

146. LIABILITY OF LANDLORD LEASING AGAIN TO SAME PERSON AFTER DETERMINATION OF FORMER LEASE

If the landlord, lessor or the agent of the landlord or lessor terminates a lease or tenancy under section 144 and subsequently grants another lease or tenancy to, or for the benefit of the same person without causing to be inserted in the lease or tenancy all reasonable provisions for the prevention of a recurrence of any such offence, he or she is deemed to have failed to exercise his or her rights under that section, and if any such offence is committed during the subsistence of the subsequent lease or tenancy it shall be deemed to have been committed during the subsistence of the previous lease or tenancy and the landlord, lessor or agent shall be deemed to have knowingly aided and abetted the commission of that offence.

147. TRADING IN PROSTITUTION

A magistrate upon a complaint on oath that there is reason to suspect that a house or part of a house is used by a male or female for purposes of prostitution, and that any male or female person who resides in or frequents the house lives wholly or in part on the earnings of the prostitute, may, by warrant under his or her hand, authorise any police officer to enter the house at any time and to arrest and bring that male or female person before him or her, to be dealt with according to law.

148. SPOUSE COMPETENT WITNESS

The husband or wife, as the case may be, of a person charged with an offence under section 149 or 151 may be called as a witness, either for the prosecution or defence, without the consent of the person charged.

149. TRADING IN PROSTITUTION BY FEMALE

A female who is proved to have, for the purposes of gain, exercised control, or influence over the movements of a prostitute in such manner as to show that she is aiding and abetting or compelling her prostitution with the person or generally, is liable on conviction on indictment to imprisonment for 5 years, or on summary conviction to imprisonment for 2 years.

150. SOLICITING PROSTITUTION

A person who loiters about or importunes any passer-by in a public place for the purpose of prostitution is liable on summary conviction to a fine of $1,000.

151. LIVING ON EARNINGS OF PROSTITUTION

(1) A person who—

(a) knowingly lives wholly or in part on the earnings of prostitution;

(b) in any public place persistently solicits or importunes for immoral purposes,

is liable on conviction on indictment to imprisonment for 5 years on summary conviction to imprisonment for 2 years.

(2) If a male or female person is proved to live with or to be habitually in the company of a prostitute, or is proved to have exercised control, or influence over the movements of a prostitute in such a manner as to show that he or she is aiding and abetting, or compelling his or her prostitution with the person or generally, he or she is presumed to be knowingly living on the earnings of prostitution unless he or she proves otherwise to the satisfaction of the Court.

152. PREVENTING OR DELAYING POLICE ENTRY INTO SUSPECTED BROTHEL, OR GAMING-HOUSE

A person who—

(a) wilfully prevents any police officer, duly authorised in that behalf, from entering any building or premises suspected to be used as a brothel; or

(b) uses any means or contrivance whatsoever for the purpose of preventing, obstructing, or delaying the entry of any such police officer into such building or premises,

is liable on summary conviction to a fine of $1,000, or to imprisonment for 3 months.

Defilement

153. CONSPIRACY TO DEFILE BY FALSE PRETENCE OR MEANS

A person who conspires with another to induce any male or female, by means of any false pretence or other fraudulent means, to permit any man or woman to have unlawful sexual intercourse with him or her, is liable on conviction on indictment to imprisonment for 5 years.

154. DEFILEMENT OF MALE OR FEMALE SUFFERING FROM MENTAL DISORDER

(1) Every person who is in a position or authority towards a person with a mental or physical disability or who is a person with whom a person with a mental or physical disability is in a relationship of dependency and who, for a sexual purpose, counsels or incites that person to touch, without that person's consent, his or her own body, the body of the person who so counsels or incites, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites and the body of the person with the disability, commits an offence and is liable on conviction or on indictment to imprisonment for 15 years or on summary conviction to imprisonment for 7 years.

(2) Subject to subsection (3), "**consent**" means, for the purposes of this section, the voluntary agreement of the complainant to engage in the sexual activity in question.

(3) No consent is obtained, for the purposes of this section, if—

(a) the agreement is expressed by the words or conduct of a person other than the complainant;

(b) the complainant is incapable of consenting to the activity;

(c) the accused counsels or incites the complainant to engage in the activity by abusing a position of trust, power or authority;

(d) the complainant expresses, by words or conduct, a lack of agreement to engage in the activity; or

(e) the complainant, having consented to engage in sexual activity, expresses, by words or conduct, a lack of agreement to continue to engage in the activity.

(4) Nothing in subsection (3) shall be construed as limiting the circumstances in which no consent is obtained.

(5) It is not a defence to a charge under this section that the accused believed that the complainant consented to the activity that forms the subject-matter of the charge if—

(a) the accused's belief arose from the accused's—

(i) self-induced intoxication, or

(ii) recklessness or wilful blindness; or

(b) the accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain that the complainant was consenting.

(6) If an accused alleges that he or she believed that the complainant consented to the conduct that is the subject-matter of the charge, a judge, if satisfied that there is sufficient evidence and that, if believed by the jury, the evidence would constitute a defence, shall instruct the jury, when reviewing all the evidence relating to the determination of the honesty of the accused's belief, to consider the presence or absence of reasonable grounds for that belief.

155. DEFILEMENT OF INMATE OF ASYLUM

A person who—

(a) has or attempts to have unlawful sexual intercourse or sexual connection with any person suffering from a

mental disorder who is an inmate of any asylum, whether with or without that person's consent;

(b) being an officer or employee of such asylum, permits any person to have sexual intercourse or sexual connection with such inmate of the asylum,

commits an offence and is liable in the case of an officer or employee of the asylum, on conviction on indictment to imprisonment for 15 years, and in any other case, on conviction on indictment to imprisonment for 10 years.

156. PERMITTING OR AIDING AND ABETTING DEFILEMENT OF MALE OR FEMALE

(1) The owner or occupier of any premises, or any person managing such premises whether or not as the owner, who induces or knowingly allows any male or female of the ages specified in this section to resort to or be in such premises for the purpose of having unlawful sexual intercourse or sexual connection with the person, commits an offence and is liable—

(a) in the case of a male or female under 12 years of age, on conviction on indictment to imprisonment for 15 years;

(b) in the case of a male or female of or above 12 and under 16 years of age, on conviction on indictment to imprisonment for 2 years.

(2) A person who, knowing that a person has committed an offence under subsection (1), aids and abets the unlawful detention of the person, or otherwise aids and abets the execution of the intent with which the offence was committed, commits that offence.

(3) It is a sufficient defence to any charge under this section for the accused person to prove to the Court or jury that he or she had reasonable cause to believe that such male or female was of or above 16 years of age.

Incest

157. INCEST

(1) A person commits incest who, knowing that another person is by blood relationship his or her parent, child, brother, sister, grandparent or grandchild, as the case may be, has sexual intercourse or sexual connection with that person.

(2) A person who commits incest commits an indictable offence and is liable to imprisonment for a term not exceeding 14 years.

(3) No accused shall be determined by a Court to have committed an offence under this section if the accused was under restraint, duress or fear of the person with whom the accused had the sexual intercourse at the time the sexual intercourse occurred.

(4) In this section, "**brother**" and "**sister**", respectively , include half brother and half sister.

158. ATTEMPT TO COMMIT INCEST

A person who attempts to commit an offence under section 157 is liable on conviction on indictment to imprisonment for 5 years.

159. DIVESTING GUARDIAN OF AUTHORITY OVER MINOR

Upon the conviction of a person for incest or attempted incest with a male or female person under the age of 16 years who is under his or her charge, the Court may divest the offender of any such responsibility; and where the offender is his or her guardian, the Court may remove him or her from such guardianship and appoint another person to be the guardian for such period during the age of minority as the Court thinks fit.

Abduction

160. ABDUCTION

(1) A person commits the offence of abduction of a male or female who, with intent to deprive the male or female of the custody,

care or control of the person, or with intent to cause the male or female to be married to, or have sexual intercourse or sexual connection with the person—

(a) unlawfully takes him or her from the lawful custody, care, charge or control of any person;

(b) detains him or her from returning to the lawful custody, care, control or charge of any person.

(2) The custody, control, charge or care of a minor by a parent, guardian, or other person shall be held to continue although such minor is absent from his or her or the actual custody, control, care or charge of the parent, guardian or other person, if such absence is for a special purpose only, and is not intended by the parent, guardian or other person to exclude or determine such custody, control, care or charge for the time being.

(3) A person does not commit the offence of abduction by taking or detaining a male or female unless he or she knew, or had grounds for believing that such male or female was in the custody, control, charge or care of some other person.

161. SPECIAL PROVISIONS

(1) For the purposes of proof of abduction the provisions of this section shall also apply.

(2) It is not necessary that the taking or detaining should be without the consent of the person taken or detained, and it suffices if the person is persuaded, aided, or encouraged to depart or not to return.

(3) A taking or detention is unlawful unless some person entitled to give consent to the taking or detaining of the person taken or detained, for the purposes for which the person is taken or detained, gives consent to the taking or detention for those purposes.

(4) It is not necessary that there should be an intent to deprive permanently the person of the custody, control, charge or care of the person taken or detained.

(5) A person having the temporary custody, control, charge or care of another person for a special purpose, as his or her attendant, employer or teacher or in any other capacity, commits the

offence of abduction of the person, by acts which he or she is not authorised to do by virtue of such special purpose, and he or she cannot give consent to any act by another person which would be inconsistent with such special purpose.

(6) Despite the general provisions of section 24 of this Code with respect to mistake of law, a person does not commit the offence of abduction of another person by anything which he or she does in the belief that he or she is entitled by law as a parent, guardian, or by virtue of any other legal right, to take or detain that other person for the purposes for which he or she takes or detains him or her.

(7) Subsection (6) shall not be construed to relieve a person of liability to punishment—

(a) on the ground that he or she did not know or believe, or had no means of knowing, that the age of that other person was under 12 or 18 years, as the case may be; or

(b) if he or she took or detained that other person for any immoral purpose.

162. ABDUCTION OF UNMARRIED MALE OR FEMALE UNDER 16

(1) Any person who commits the offence of an abduction of any unmarried male or female under 16 years of age, is liable on indictment to imprisonment for 5 years.

(2) Any person who, knowing that a person has committed an offence under subsection (1), aids and abets the unlawful detention of such male or female person, or otherwise aids and abets the execution of the intent with which that offence was committed, also commits that offence.

163. ABDUCTION OF MALE OR FEMALE OF ANY AGE WITH INTENT TO MARRY OR DEFILE

(1) Any person who takes away or detains a male or female of any age against his or her will, with intent to marry, or have sexual intercourse or sexual connection with him or her or to cause him or her to be married or have sexual intercourse or sexual connection with any other person, is liable on conviction on indictment to imprisonment for 14 years.

(2) Any person who, knowing that a person has committed an offence under subsection (1) aids and abets the unlawful detention of the person or otherwise aids and abets the execution of the intent with which that offence was committed, also commits that offence.

SUB-PART D
Termination of Pregnancy and Childbirth Offence Causing Harm to Child at Birth

164. MEDICAL OR SURGICAL TREATMENT

(1) Where any person does an act in good faith, for the purposes of medical or surgical treatment, an intent to cause death shall not be presumed from the fact that the act was or appeared likely to cause death.

(2) Any act which is done, in good faith and without negligence, for the purposes of medical or surgical treatment of a pregnant woman is justifiable, although it causes or is intended to cause a termination of pregnancy or miscarriage, or premature delivery, or the death of the child.

(3) Despite section 165, the treatment for the termination of a pregnancy shall be lawful if administered in accordance with the provisions of sections 166.

(4) For the purposes of this section "termination of pregnancy" has the same meaning assigned to it under section 166.

165. EXPLANATION AS TO TERMINATION OF PREGNANCY

(1) Subject to section 166, the offence of causing a termination of pregnancy or miscarriage of a woman can be committed either by that woman or by any other person; and that woman or any other person may be convicted of using means with intent to commit that offence, although the woman is not in fact pregnant.

(2) The offence of causing a termination of pregnancy is committed by causing a woman to be prematurely delivered of a child, with intent unlawfully to cause or hasten the death of the child.

(3) The person who intentionally and unlawfully causes a termination of pregnancy or a miscarriage is liable on conviction on indictment to imprisonment for 7 years.

(4) For the purposes of this section "**termination of pregnancy**" has the same meaning assigned to it under section 166.

166. TERMINATION OF PREGNANCY IN CERTAIN CASES

(1) In this section—

"**medical practitioner**" means any person registered as a duly qualified medical practitioner under the Registration of Medical Practitioners Act or any enactment replacing it;

"**termination of pregnancy**" means termination of human pregnancy with an intention other than to produce a live birth.

(2) For the purposes of this section, the duration of a pregnancy shall be determined—

(a) by calculating from the first day of the last normal menstruation of the pregnant woman and ending on the last day of the relevant week; and

(b) by clinical examination.

(3) Where 2 medical practitioners have reason to believe that—

(a) the continuance of a pregnancy involves a risk to the life of the pregnant woman;

(b) the pregnancy is as a result of rape or incest;

(c) a termination is necessary to prevent grave permanent injury to the physical or mental health of the pregnant woman,

the medical practitioners may, with the consent of the pregnant woman or a person authorized by the pregnant woman, administer treatment for the termination of the pregnancy, if the length of the pregnancy does not exceed 12 weeks.

(4) For purposes of this section and despite any other provisions of this Code regarding rape or incest, where a treatment for termination of pregnancy is pursuant to subsection (3)(b), it shall be enough for a woman to show that a rape or incest

occurred by providing to the medical practitioners, a copy of a police report in the form specified in Schedule 8 signed by the Commissioner or a person authorised by him or her for that purpose, showing—

(a) the date and time the incidence of the rape or incest was reported;

(b) that an investigation by the police is underway.

(5) In the treatment of the termination of a pregnancy of a woman of any marital status, while the medical practitioners may encourage the woman to inform her partner, they are not required either to obtain the partner's consent or to notify him.

(6) A medical practitioner shall advise a pregnant woman that she may seek pre-termination counselling and to facilitate such counselling no treatment for a termination shall be administrated until 48 hours after the woman has made a request for such termination of pregnancy has passed.

(7) The following subsections do not apply where the treatment to terminate the pregnancy is immediately necessary to save the life of the pregnant woman or to prevent grave permanent injury to her physical or mental health; namely—

(a) subsection (3) relating to the number of medical opinions required;

(b) subsection (3) insofar as it relates to the length of the pregnancy;

(c) subsection (6) relating to counselling,

and in such circumstances a single medical practitioner may administer the treatment.

(8) No treatment for termination of pregnancy shall be administered in accordance with this section at any place other than at an approved institution certified by the Minister for health by order in the Gazette.

167. EXPLANATION AS TO CAUSING HARM TO CHILD AT BIRTH

(1) If harm is caused to a child during the time of its birth, or where, upon the discovery of the concealed body of a child,

harm is found to have been caused to it, such harm shall be presumed to have been caused to the child before its death.

(2) The expression "**during the time of birth**" includes the period from the commencement of labour to the time when the child so becomes an independent person.

168. PENALTY FOR CAUSING HARM TO CHILD AT BIRTH

Any person who intentionally and unlawfully causes harm to a living child during the time of its birth is liable on conviction on indictment to imprisonment for 10 years.

Child Abandonment or Exposure

169. ABANDONING CHILD UNDER 5 AT HOSPITAL, ETC

Any person who, being bound by law or by virtue of any agreement or employment, to keep charge of or to maintain any child under 5 years of age, or, being unlawfully in possession of any such child, abandons such child by leaving him or her at the hospital or a workplace or at the house of the person or in any other manner, is liable on conviction on indictment to imprisonment for 5 years.

170. EXPOSING CHILD UNDER 7 TO GRIEVOUS HARM

Any person who unlawfully exposes or abandons any child under 7 years in such a manner that grievous harm is likely to be caused to the child, is liable on conviction on indictment to imprisonment for 5 years.

Child Stealing

171. "CHILD STEALING" DEFINED AND EXPLAINED

(1) A person commits the offence of stealing a child—

(a) if he or she kidnaps the child;

(b) if he or she unlawfully takes or detains the child with intent to deprive him or her of the care, custody or control

of his or her parent or guardian, or with intent to steal anything upon or about his or her body, or to cause any harm to him or her.

(2) For the purposes of this section, it is not necessary to prove that the person stolen had been taken from the custody, control or care of any other person, once it is shown that a person, other than the accused person, was entitled to the control or care of the person stolen.

(3) The provisions of section 161 shall apply with the necessary modifications to the offence of child stealing.

172. STEALING CHILD UNDER 12

(1) Any person who steals any child whether with or without his or her consent, is liable on conviction on indictment to imprisonment for 7 years.

(2) Any person who knowing that a person has committed an offence under subsection (1), aids and abets the unlawful detention of the person, or otherwise aids and abets the execution of the intent with which that offence was committed, also commits that offence.

Child Substitution

173. PRETENDING, CHILD LEGITIMATE, OR SUBSTITUTING ONE CHILD FOR ANOTHER

Any person who with intent to defeat, obstruct, or pervert the law with respect to inheritance or succession, or with intent to defraud or injure the person, falsely represents that a child, (whether living or dead) is a legitimate child, or substitutes one child (whether living or dead, legitimate or illegitimate) for another child (whether living or dead, legitimate or illegitimate) is liable on conviction on indictment to imprisonment for 7 years.

Concealment of Body of Child

174. CONCEALMENT OF BODY OF CHILD

A person conceals the body of a child if—

(a) he or she secretly disposes of the body;

(b) he or she abandons the body in any public way or place with the intention of concealing the fact of its birth or existence.

175. CONCEALMENT OF BIRTH, EXISTENCE, OR DEATH OF CHILD

(1) Any person who conceals the body of a child, whether such child was born alive or not, with intent to conceal the fact of its birth, existence, or death, or the manner or cause of its death, is liable on conviction on indictment to imprisonment for 5 years.

(2) The provisions of subsection (1) shall not apply—

(a) in the case of a foetus less than 6 months;

(b) to the case of intent to conceal the birth, existence or death of a child or the manner or cause of the death from any particular person or persons only.

SUB-PART E
Offences Relating to Marriage General Provisions

176. COMPULSORY MARRIAGE OF PERSON

Where a person is compelled to marry another person in circumstances which renders the marriage void or voidable, such marriage is of no effect for the purposes of Part 2 of Chapter One of this Code with respect to consent.

177. PROOF OF FORMER MARRIAGE

If, for the purposes of this Sub-Part, it is necessary to prove a former marriage of the person, it is sufficient to prove a marriage, wheresoever and howsoever celebrated, which would be admitted by the High Court as a valid marriage for the purposes of any civil

proceeding, or for the purposes of the administration or distribution of the estate of a person upon his or her death.

Bigamy

178. DEFINITION OF BIGAMY

(1) A person commits bigamy who, knowing that a marriage subsists between him or her and another person, goes through a ceremony of marriage with some other person.

(2) A person is not liable for bigamy if at the time of the subsequent marriage the former spouse has been continually absent for 7 years, and has not been heard of by him or her as being alive within that time, and if before the subsequent marriage the person informs the other party of the facts of the absence so far as they are known to him or her.

(3) Where a person accused of bigamy proves the continued absence of the former spouse and the information of such absence is given to the other party as required under subsection (2), it shall lie on the prosecution to prove that the former spouse has been heard of during the past 7 years by the accused person.

(4) The fact that the parties would, if unmarried, have been incompetent to contract marriage is no defence to a prosecution of bigamy.

179. PLEA OF DIVORCE

If a person accused of bigamy defends himself or herself on the ground of a divorce from a former spouse, evidence of such divorce as would be admitted by the High Court as a valid divorce from the bond of marriage shall be deemed sufficient proof of the divorce.

180. PENALTY FOR BIGAMY

A person who commits bigamy is liable on conviction on indictment to imprisonment for 7 years.

Other Offences Respecting Marriage

181. CAUSING MARRIAGE BY FORCE OR DURESS

(1) A person who, by use of force or duress, causes any other person to marry against his or her will is liable on conviction on indictment to imprisonment for 2 years.

(2) Any person who knowing that a person has committed an offence under subsection (1) aids and abets the unlawful detention of the person, or otherwise aids and abets the execution of the intent with which that offence was committed, also commits that offence.

182. FALSE DECLARATIONS OR STATEMENTS FOR PURPOSES OF MARRIAGE

A person who in any declaration, certificate, licence, document, or statement required by law to be made or issued for the purposes of a marriage, declares, enters, certifies, or states any material particular which is false, if he or she does so without having taken reasonable means to ascertain the truth or falsity of such matter, is liable on conviction on indictment to imprisonment for one year, or, if he or she does so knowing that such matter is false, is liable on conviction on indictment to imprisonment for 5 years.

183. FALSE IMPEDIMENT TO MARRIAGE

A person who endeavours to prevent a marriage by pretence that his or her consent thereto is required by law, or that any person whose consent is so required does not consent or that there is any legal impediment to the performing of such marriage if he or she does so knowing that such pretence is false or without having reason to believe that it is true, is liable on conviction on indictment to imprisonment for 2 years.

184. FALSE SOLEMNIZATION OF MARRIAGE

A person who performs or witnesses as a marriage officer the ceremony of marriage, knowing that he or she is not qualified so to do, or that any of the requirements of law for the validity of the

marriage has not been fulfilled, or that the marriage is void or unlawful on any other ground, is liable on conviction on indictment to imprisonment for 7 years.

185. FEIGNED MARRIAGE

A person who goes through the ceremony of marriage, or any ceremony which he or she represents to be a ceremony of marriage, knowing that the marriage is void on any ground and that the other person believes it to be valid, is liable on conviction on indictment to imprisonment for 7 years.

186. MARRIAGE BY UNMARRIED PERSON WITH OTHER PERSON KNOWN TO BE MARRIED

A person who being unmarried, goes through the ceremony of marriage with a person whom he or she knows to be married to another person, whether or not the other party to the ceremony has such knowledge as to commit the offence of bigamy, is liable on conviction on indictment to imprisonment for 2 years.

187. PERSONATING OR MARRYING UNDER FALSE NAME OR DESCRIPTION

A person who personates any other person in marriage, or marries under a false name or description, with intent to deceive the other party to the marriage is liable on conviction on indictment to imprisonment for 7 years.

PART 2
OFFENCES AGAINST PROPERTY

SUB-PART A
Theft And Related Offences

188. BASIC DEFINITION OF THEFT

(1) A person commits the offence of theft if he or she dishonestly appropriates property belonging to another with the intention of permanently depriving the other person of it.

(2) It is immaterial whether the appropriation is made with a view to gain, or is made for the thief's own benefit.

(3) The provisions of sections 189 to 193 of this Sub-Part shall have effect as regards the interpretation and operation of this section (and, except as otherwise provided by this Sub-Part, shall apply only for purposes of this section).

189. DISHONEST APPROPRIATION

(1) A person does not dishonestly appropriate the property belonging to another—

(a) if he or she appropriates the property in the belief that he or she has in law the right to deprive the other person of it, on behalf of himself or herself or of a third person; or

(b) if he or she appropriates the property in the belief that he or she would have the other person's consent if the other person knew of the appropriation and the circumstances of it; or

(c) except where the property came to him or her as trustee or personal representative, if he or she appropriates the property in the belief that the person to whom the property belongs cannot be discovered by taking reasonable steps.

(2) A person may dishonestly appropriate the property belonging to another person although he or she is willing to pay for the property.

190. MEANING OF APPROPRIATION

(1) Any assumption by a person of any of the rights of an owner amounts to an appropriation, and this includes, where he or she has come by the property (whether innocently or not) without stealing it, any later assumption of a right to it by keeping or dealing with it as owner.

(2) Where property, or a right or interest in property is, or purports to be transferred for value to a person acting in good faith, no later assumption by him or her of the rights which he or she believed himself or herself to be acquiring shall, by reason of any defect in the transferor's title, amount to theft of the property.

191. PROPERTY CAPABLE OF BEING STOLEN

(1) A person cannot steal land, or things forming part of land severed from it by him or her or by his or her direction, except in the following cases—

(a) when he or she is a trustee or personal representative, or is authorised by power of attorney, or as liquidator of a company, or otherwise, to sell or dispose of land belonging to another, and he or she appropriates the land belonging to another, or anything forming part of it by dealing with it in breach of the confidence reposed in him or her; or

(b) when he or she is not in possession of the land and appropriates anything forming part of the land by severing it or causing it to be severed, or after it has been severed; or

(c) when, being in possession of the land under a tenancy, he or she appropriates the whole or part of any fixture or structure let to be used with the land.

(2) For purposes of subsection (1)—

(a) "**land**" does not include incorporeal hereditament;

(b) "**tenancy**" means a tenancy which may be for years or any less period and includes an agreement for such a tenancy, but a person who after the end of a tenancy

remains in possession as statutory tenant or otherwise is to be treated as having possession under the tenancy; and

(c) "**let**" shall be construed accordingly.

(3) Wild creatures, tamed or untamed, shall be regarded as property; but a person cannot steal a wild creature not tamed nor ordinarily kept in captivity, or carcass of any such creature, unless either it has been reduced into possession by or on behalf of another person and possession of it has not since been lost or abandoned, or another person is in the course of reducing it into possession.

(4) Anything produced by or forming part of any living creature capable of being stolen or otherwise dishonestly appropriated is capable of being stolen or otherwise dishonestly appropriated.

(5) Any person who, without lawful authority or excuse, the proof of which lies on him or her, sets loose or drives or takes or removes or entices away any animal capable of being stolen is liable to prosecution and punishment for stealing the animal.

192. BELONGING TO ANOTHER

(1) Property is regarded as belonging to any person having possession or control of it, or having in it any proprietary right or interest (not being an equitable interest arising only from an agreement to transfer or grant an interest).

(2) Where property is subject to a trust, any persons to whom it belongs includes the person having a right to enforce the trust, and an intention to defeat the trust is regarded accordingly as an intention to deprive the person having that right.

(3) Where a person receives property from, or on account of another person and is under an obligation to the other person to retain and deal with that property or its proceeds in a particular way, the property or proceeds shall be regarded (as against him or her) as belonging to that other person.

(4) Where a person gets property by another person's mistake, and is under an obligation to make restoration (in whole or in part) of the property or its proceeds or of the value thereof, then to the extent of that obligation the property or proceeds shall be regarded (as against him or her) as belonging to the person

entitled to restoration, and an intention not to make restoration is regarded accordingly as an intention to deprive that person of the property or proceeds.

(5) Property of a corporation sole shall be regarded as belonging to the corporation despite a vacancy in the corporation.

193. WITH THE INTENTION OF PERMANENTLY DEPRIVING THE OTHER OF IT

(1) A person who appropriates property belonging to another person without meaning the other person permanently to lose the thing itself is nevertheless to be regarded as having the intention of permanently depriving the other person of it if his or her intention is to treat the thing as his or her own to dispose of regardless of the other person's rights; and a borrowing or lending of it may amount to so treating it if the borrowing or lending is for a period and in circumstances making it equivalent to an outright taking or disposal.

(2) Without prejudice to subsection (1), where a person, having possession or control (whether lawfully or not) of property belonging to another, parts with the property under a condition as to its return which he or she may not be able to perform, this (if done for purposes of his or her own and without the other's authority) amounts to treating the property as his or her own to dispose of regardless of the other person's rights.

194. PENALTY FOR THEFT

Except otherwise expressly provided in this Code, a person who commits the offence of theft is liable on conviction on indictment to imprisonment for a term not exceeding 14 years.

195. COMMON STEALING

(1) Any person who is convicted of being a common thief is liable on conviction on indictment to imprisonment for 14 years.

(2) A person is a common thief if it is proved against him or her that, in or whilst committing or attempting to commit, or aiding and abetting the commission of, an indictable offence of

burglary, house-breaking, unlawful entry, extortion, false pretences or other fraud, robbery, fraudulent breach of trust or stealing, he or she used or was in possession of any tools, implements, or device specially contrived or adapted for the purpose of committing such offence, or acted in company with or aided and abetted, or was aided and abetted by, any other person or persons using or in possession of any such tools, implements, or device.

196. STEALING FROM DWELLING, PLACE OF BUSINESS OR WORSHIP

(1) Subject to subsection (2), a person who steals from or in any dwelling house, shop, factory, warehouse, or place of worship is liable on conviction on indictment to imprisonment for 7 years, or on summary conviction to imprisonment for 2 years.

(2) If because of a previous conviction, either summarily or on indictment, for a similar offence, or for any cause the magistrate is of opinion that a summary charge under this section ought to be tried as an indictable offence, he or she may deal with it as such.

197. STEALING BY EMPLOYEE

(1) Subject to subsection (2), any person who steals anything of which he or she has the custody, control or possession, or to which he or she has the means of access, by reason of any office, employment, or service is liable, on conviction on indictment to imprisonment for 7 years, or on summary conviction to imprisonment for 2 years.

(2) If because of a previous conviction, either summarily or on indictment, for a similar offence, or for any other cause the magistrate is of opinion that a summary charge under this section ought to be tried as an indictable offence, he or she may deal with it as such.

198. STEALING FROM PERSON

(1) Subject to subsection (2), any person who steals from another person is liable on conviction on indictment to imprisonment

for 7 years, or on summary conviction to imprisonment for 2 years.

(2) If because of a previous conviction either summarily or on indictment, for a similar offence, or for any other cause the magistrate is of opinion that a summary charge under this section ought to be tried as an indictable offence he or she may deal with it as such.

(3) Property is stolen from a person if it is stolen from the body, clothes, or immediate presence of a person.

199. STEALING TELEGRAPH OR TELEPHONE PARTS

A person who steals any pole, wire, or apparatus used for the purposes of any telegraph or telephone, is liable on conviction on indictment to imprisonment for 7 years.

200. STEALING FROM VESSELS

(1) Subject to subsection (2), any person who steals from or in any vessel, is liable on conviction on indictment to imprisonment for 7 years, or on summary conviction to imprisonment for 2 years.

(2) If because of a previous conviction, either summarily or on indictment, for a similar offence, or for any other cause the magistrate is of opinion that any summary charge under this section ought to be tried as an indictable offence, he or she may deal with it as such.

Fraudulent Breach of Trust

201. LIABILITY OF PART OWNER FOR BREACH OF TRUST OR STEALING

(1) A person—

(a) who is an owner of or has interest in a thing, or in the amount, value, or proceeds thereof, jointly or in common with another person, or as a member of a company; or

(b) who is owner of a thing as a trustee for himself or herself jointly or in common with another person or for a company of which he or she is a member,

may commit the offence of theft or of fraudulent breach of trust in respect of such thing.

(2) Any person can be a clerk, employee or officer of a company of which he or she is a member.

202. PROOF TO REBUT PROOF OF LAWFUL APPROPRIATION

If it is proved on behalf of a person accused of having stolen or committed a fraudulent breach of trust in respect of monies or other things—

(a) that it was lawful for him or her to appropriate the particular monies or other things, or any of them; and

(b) that he or she was only bound to account for the amount or value thereof,

he or she is not guilty in respect of the monies or things which he or she has appropriated, unless it is proved against him or her that:

(i) he or she has admitted that the appropriation of them was dishonest,

(ii) that he or she has concealed or absconded with them or with the proceeds of them,

(iii) that he or she has concealed or denied, or attempted to conceal, or refused or omitted to disclose according to his or her obligation, the fact of the receipt or disposal of them,

(iv) or that he or she knew that the effect of the disposal of them would be to disable him or her from accounting for the amount, value, or proceeds of them according to his or her obligation.

203. "FRAUDULENT BREACH OF TRUST" DEFINED

A person commits the offence of fraudulent breach of trust if he or she dishonestly appropriates a thing the ownership of which vests in him or her as trustee for another person.

204. PERSON UNDERTAKING TO HOLD HIS OR HER OWN PROPERTY AS TRUSTEE

Where a person, being the owner of a thing in his or her own right and for his or her own benefit, undertakes to hold or apply the thing as a trustee for another person, he or she does not thereby become a trustee, within the meaning of the provisions of this Code relating to fraudulent breach of trust, unless he or she has constituted himself or herself as such trustee by an instrument in writing executed by him or her and specifying the nature of the trust and the person for whom the trust is created.

205. FRAUDULENT BREACH OF TRUST

(1) Subject to subsection (2), any person who commits a fraudulent breach of trust is liable on conviction on indictment to imprisonment for 5 years, or on summary conviction to imprisonment for 2 years.

(2) If because of a previous conviction, either summarily or on indictment, for a similar offence, or for any other cause, the magistrate is of opinion that a summary charge under this section ought to be tried as an indictable offence, he or she may deal with it as such.

Robbery, Burglary, etc.

206. ROBBERY

(1) A person commits the offence of robbery if he or she steals, and immediately before or at the time of doing so, and in order to do so, he or she uses force on the person or puts or seeks to put the person in fear of being then and there subjected to force.

(2) A person who commits the offence of robbery, or of an assault with the intent to rob, is liable on conviction on indictment to imprisonment for 20 years.

207. BURGLARY

(1) A person commits the offence of burglary if—

(a) he or she enters any building or part of a building as a trespasser with the intent to commit any offence under subsection (2); or

(b) having entered any building or part of a building as a trespasser he or she steals or attempts to steal anything in the building or part of it or inflicts or attempts to inflict on the person therein any grievous bodily harm.

(2) The offences referred to in subsection (1)(a) are offences of—

(a) stealing anything in the building or part of the building in question;

(b) inflicting on the person in the building any grievous bodily harm;

(c) raping a woman in the building; and

(d) doing unlawful damage to the building or anything in the building.

(3) References in subsections (1) and (2) to a building shall apply also to an uninhabited vehicle or vessel, and shall apply to any such vehicle or vessel at times when the person having a habitation in it is not there as well as at times when he or she is.

(4) A person who commits the offence of burglary is liable on conviction on indictment to imprisonment for 20 years.

208. AGGRAVATED BURGLARY

(1) A person commits the offence of aggravated burglary if he or she commits any burglary and at the time has with him or her any firearm or imitation firearm, any weapon of offence, or any explosive.

(2) A person who commits the offence of aggravated burglary is liable on conviction on indictment to imprisonment for life.

(3) For the purposes of this section—

(a) "**firearm**" includes an airgun or air pistol, and "**imitation firearm**" means anything which has the appearance of being a firearm, whether capable of being discharged or not; and

(b) "**weapon of offence**" means any article made or adapted for use for causing injury to or incapacitating a person, or

intended by the person having it with him or her for such use; and

(c) "**explosive**" means any article manufactured for the purpose of producing a practical effect by explosion, or intended by the person having it with him or her for that purpose.

209. REMOVAL OF ARTICLES FROM PLACES OPEN TO THE PUBLIC

(1) Subject to subsections (2) and (3), where the public has access to a building in order to view the building or part of it, or a collection or part of a collection housed in it, any person who without lawful authority removes from the building or its grounds the whole or part of any article displayed or kept for display to the public in the building or that part of it or in its grounds commits an offence.

(2) For the purpose of subsection (1), "**collection**" includes a collection got together for a temporary purpose, but references in this section to a collection do not apply to a collection made or exhibited for the purpose of effecting sales or other commercial dealings.

(3) Subject to subsection (4), it is immaterial for purposes of subsection (1), that the public's access to a building is limited to a particular period or particular occasion.

(4) Where anything removed from a building or its grounds is there otherwise than as forming part of, or being on loan for exhibition with, a collection intended for permanent exhibition to the public, the person removing it does not thereby commit an offence under this section unless he or she removes it on a day when the public has access to the building as mentioned in subsection (1).

(5) A person does not commit an offence under this section if he or she believes that he or she has lawful authority for the removal of the thing in question or that he or she would have it if the person entitled to give it, knew of the removal and the circumstances of it.

(6) A person who commits an offence under this section shall, on conviction on indictment be liable to imprisonment for 5 years.

210. ABSTRACTING OF ELECTRICITY

A person who dishonestly uses without due authority, or dishonestly causes to be wasted or diverted, any electricity shall on summary conviction be liable to imprisonment for one year.

Deception and Blackmail

211. OBTAINING PROPERTY BY DECEPTION

(1) A person who, by any deception obtains property belonging to another person with the intention of permanently depriving the other person of it, is liable on conviction on indictment to imprisonment for 10 years.

(2) For purposes of this section a person is to be treated as obtaining property if he or she obtains ownership, possession or control of it, and "**obtain**" includes obtaining for another or enabling another to obtain or to retain.

(3) Section 193 applies, for purposes of this section, with the necessary adaptation of the reference to appropriating, as it applies for purposes of section 188.

(4) For purposes of this section and sections 212 to 214 "**deception**" means any deception (whether deliberate or reckless) by words or conduct as to fact or as to law, including a deception as to the present intentions of the person using the deception or of any other person.

212. OBTAINING PECUNIARY ADVANTAGE BY DECEPTION

(1) A person who by any deception obtains for himself or herself or another person any pecuniary advantage is liable on conviction on indictment to imprisonment for 5 years.

(2) The cases in which a pecuniary advantage within the meaning of this section is to be regarded as obtained for a person are cases where—

(a) he or she is allowed to borrow by way of overdraft, or to take out any policy of insurance or annuity contract, or obtains an improvement of the terms on which he or she is allowed to do so; or

(b) he or she is given the opportunity to earn remuneration or greater remuneration in an office or employment, or to win money by betting.

213. OBTAINING SERVICES BY DECEPTION

(1) A person who by any deception, obtains services from another person commits an offence and is liable on conviction on indictment to imprisonment for 5 years.

(2) It is an obtaining of services where the other is induced to confer a benefit by doing some act, causing or permitting some act to be done, on the understanding that the benefit has been or will be paid for.

(3) Without prejudice to the generality of subsection (2), it is an obtaining of services where the other is induced to make a loan or to cause or permit a loan to be made, on the understanding that payment (whether by way of interest or otherwise), will be or has been made in respect of the loan.

214. EVASION OF LIABILITY BY DECEPTION

(1) Subject to subsection (2), where a person by any deception—

(a) dishonestly secures the remission of the whole or part of any existing liability to make a payment, whether his or her own liability or another's; or

(b) with intent to make permanent default in whole or in part on any existing liability to make a payment, or with intent to let another do so, dishonestly induces the creditor or any person claiming payment on behalf of the creditor to wait for payment (whether or not the due date for payment is deferred) or to forgo payment; or

(c) dishonesty obtains any exemption from or abatement of liability to make a payment,

he or she commits an offence, and is liable on conviction on indictment to imprisonment for 5 years.

(2) Subsection (1) does not apply in relation to a liability that has not been accepted or established to pay compensation for a wrongful act.

(3) For purposes of this section "**liability**" means legally enforceable liability.

(4) For purposes of subsection (1)(b) a person induced to take in payment a cheque or other security for money by way of conditional satisfaction of a pre-existing liability is to be treated not as being paid but as being induced to wait for payment.

(5) For purposes of subsection (1)(c) "**obtains**" includes obtaining for another or enabling another to obtain.

215. MAKING OFF WITHOUT PAYMENT

(1) Subject to subsection (3), a person who, knowing that payment on the spot for any goods supplied or service done is required or expected from him or her, dishonestly makes off without having paid as required or expected and with intent to avoid payment of the amount due commits an offence and is liable on summary conviction to imprisonment for 3 years.

(2) For purposes of this section "**payment on the spot**" includes payment at the time of collecting goods on which work has been done or in respect of which service has been provided.

(3) Subsection (1) does not apply where the supply of the goods or the doing of the service is contrary to law, or where the service done is such that payment is not legally enforceable.

(4) Any person may arrest without warrant anyone who is, or whom he or she, with reasonable cause, suspects to be, committing or attempting to commit an offence under this section.

216. ISSUING CHEQUE OR NEGOTIABLE INSTRUMENT WITH INTENT TO DEFRAUD

(1) Any person who draws, makes, utters, or issues and delivers to another any negotiable instrument with the intent, knowledge, or expectation that it will not be honoured by the drawee commits an offence and is liable—

(a) if the sum stated on the cheque is up to $5,000, on summary conviction to imprisonment for one year;

(b) if the sum stated on the cheque is above five thousand dollars, on conviction on indictment to imprisonment for 3 years.

(2) The fact that—

(a) the maker or drawer had no account with the drawee at the time the negotiable instrument was issued and delivered; or

(b) payment was refused by the drawee for lack of funds, upon presentation within 30 days after delivery and the maker or drawer failed to make good within 10 days after receiving notice of non-payment;

shall be *prima facie* evidence of intent, knowledge, or expectation that the negotiable instrument would not be honoured upon presentation.

(3) In every trial in which the defendant is convicted under this section, the Court shall award as an element of its judgment, restitution to the payee of the negotiable instrument except in the following cases—

(i) where the negotiable instrument is post dated, or

(ii) where the payee or other holder believed or had reason to believe at the time he or she accepted the instrument that the maker or drawer did not have credit with or funds on deposit in the drawee bank sufficient to cover the instrument or that the negotiable instrument would not be paid upon presentation, or

(iii) where the negotiable instrument has been held by the payee or other holder for a period in excess of 30 days from the date of its making before presentation for payment, or

(iv) where the payee has failed to notify the maker or drawer of the instrument of its non payment for insufficient funds and has failed to allow the maker or drawer 10 days to make restitution.

(4) For the purpose of this section notice may be given orally to the maker, or in writing.

(5) Written notice may be sent by registered or certified mail with return receipt requested or by telegram, and addressed to the maker or drawer at his or her address shown—

(a) on the instrument; or

(b) on the records of the bank or of the drawee; or

(c) on the records of the person to whom the instrument has been issued and delivered.

(6) If written notice is given in accordance with this section, it shall be presumed that notice was received by the maker or drawee no later than 5 days after such written notice was mailed.

(7) It shall be a defence for the person charged under this section that restitution was made to the payee within 10 days of receipt by the maker of notice of non-payment of the instrument or that he or she did not receive notice as required under this section.

217. FRAUD BY PAWNER OF PROPERTY

A person who secretly or by force, threats or deception and with intent to defraud—

(a) takes or obtains any property from any person to whom he or she has pawned, pledged or otherwise bailed it; or

(b) takes or obtains from any person who by virtue of any order of execution, seizure or other process of law has possession, custody or control thereof,

is liable on conviction on indictment to imprisonment for 2 years.

218. FRAUD BY PERSON EVADING INTENDED EXECUTION AGAINST HIS OR HER PROPERTY

A person who, knowing that execution, warrant or other process of law has been issued for the seizure of any property belonging to him or her or in his or her possession, custody or control, unlawfully removes, conceals or in any manner disposes of any such property with intent to defeat or evade such execution, warrant or other process, is liable on conviction on indictment to imprisonment for 5 years.

219. FALSE ACCOUNTING

(1) Where a person dishonestly, with a view to gain for himself or herself or another or with intent to cause loss to another—

(a) destroys, defaces, conceals or falsifies any account or any record or document made or required for any accounting purpose; or

(b) in furnishing information for any purpose produces or makes use of any account, or any such record or document as mentioned in paragraph (a), which to his or her knowledge is or may be misleading, false or deceptive in a material particular,

he or she is liable on conviction on indictment to imprisonment for 10 years.

(2) For purposes of this section a person who makes or concurs in making in an account or other document an entry which is or may be misleading, false or deceptive in a material particular, or who omits or concurs in omitting a material particular from an account or other document, is to be treated as falsifying the account or document.

220. LIABILITY OF COMPANY OFFICERS FOR CERTAIN OFFENCES BY COMPANY

(1) Where an offence committed by a body corporate under sections 211, 212 or 219 of this Code is proved to have been committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he or she as well as the body corporate commits the offence, and is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, this section applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director of the body corporate.

221. FALSE STATEMENTS BY COMPANY DIRECTORS, ETC.

(1) Where an officer of a body corporate or unincorporated association (or person purporting to act as such), with intent to deceive members or creditors of the body corporate or association about its affairs, publishes or concurs in publishing a written statement or account which to his or her knowledge is or may be misleading, false or deceptive in a material particular, he or she is liable on conviction on indictment to imprisonment for 7 years.

(2) For purposes of this section a person who has entered into a security for the benefit of a body corporate or association is to be treated as a creditor of it.

(3) Where the affairs of a body corporate or association are managed by its members, this section shall apply to any statement which a member publishes or concurs in publishing in connection with his or her functions of management as if he or she were an officer of the body corporate or association.

222. SUPPRESSION, ETC., OF DOCUMENTS

(1) A person who dishonestly, with a view to gain for himself or herself or another person or with intent to cause loss to another person, destroys, defaces or conceals any valuable security, any will or other testamentary document or any original document of or belonging to, or filed or deposited in, any Court or any government department is liable on conviction on indictment to imprisonment for 7 years.

(2) A person who dishonestly, with a view to gain for himself or herself or another person or with intent to cause loss to another person, by any deception procures the execution of a valuable security is liable on conviction on indictment to imprisonment for 7 years.

(3) This subsection applies in relation to the making, acceptance, endorsement, alteration, cancellation or destruction in whole or in part of a valuable security, and in relation to the signing or sealing of any paper or other material in order that it may be made or converted into, or used or dealt with as a valuable security, as if that were the execution of a valuable security.

(4) For purposes of this section—

"**deception**" has the same meaning as in section 211;

"**valuable security**" means any document creating, transferring, surrendering or releasing any right to, in or over property, or authorising the payment of money or delivery of any property, or evidencing the creation, transfer, surrender or release of any such right, or the payment of money or delivery of any property, or the satisfaction of any obligation.

223. BLACKMAIL

(1) A person commits the offence of blackmail if, with a view to gain for himself or herself or another person or with intent to cause loss to another person, he or she makes any unwarranted demand with menaces; and for this purpose a demand with menaces is unwarranted unless the person making it does so in the belief—

(a) that he or she has reasonable grounds for making the demand; and

(b) that the use of the menaces is a proper means of reinforcing the demand.

(2) The nature of the act or omission demanded is immaterial, and it is also immaterial that the menaces relate to action to be taken by the person making the demand.

(3) A person who commits the offence of blackmail is liable on conviction on indictment to imprisonment for 14 years.

Offences Relating to Stolen Goods.

224. HANDLING STOLEN GOODS

(1) A person handles stolen goods if (otherwise than in the course of the stealing knowing or believing them to be stolen goods) he or she dishonestly receives the goods, or dishonestly undertakes or assists in their retention, removal, disposal or realisation by or for the benefit of another person, or if he or she arranges to do so.

(2) A person who commits the offence of handling stolen goods is liable on conviction on indictment to imprisonment for 14 years.

225. ADVERTISING REWARDS FOR RETURN OF GOODS STOLEN OR LOST

Where any public advertisement of a reward for the return of any goods which have been stolen or lost uses any words to the effect that no questions will be asked, or that the person producing the goods will be safe from arrest or inquiry, or that any money paid for the purchase of the goods or advanced by way of loan on them will be repaid, the person advertising the reward and the person who prints or publishes the advertisement commits an offence and is liable on summary conviction to a fine of $1,000.

226. SCOPE OF OFFENCES RELATING TO STOLEN GOODS

(1) The provisions of this Sub- Part relating to goods which have been stolen shall apply whether the stealing occurred in Saint Lucia or elsewhere, provided that the stealing (if not an offence under this Code) amounted to an offence where and at the time when the goods were stolen; and references to stolen goods shall be construed accordingly.

(2) For purposes of these provisions references to stolen goods shall include, in addition to the goods originally stolen and parts of them (whether in their original state or not)—

(a) any other goods which directly or indirectly represent or have at any time represented the stolen goods in the hands of the thief as being the proceeds of any disposal or realisation of the whole or part of the goods stolen or of goods so representing the stolen goods; and

(b) any other goods which directly or indirectly represent or have at any time represented the stolen goods in the hands of a handler of the stolen goods or any part of them as being the proceeds of any disposal or realisation of the whole or part of the stolen goods handled by him or her or of goods so representing them.

(3) No goods shall be regarded as having continued to be stolen goods after they have been restored to the person from whom they were stolen, or to other lawful possession or custody, or after that person and any other person claiming through him or her have otherwise ceased as regards those goods to have any right to restitution in respect of the theft.

(4) For purposes of the provisions of this Sub-Part relating to goods which have been stolen (including subsections (1) to (3)) goods obtained in St. Lucia or elsewhere either by blackmail or in the circumstances described in section 212 (1) shall be regarded as stolen.

Possession of Housebreaking Implements

227. GOING EQUIPPED FOR STEALING, ETC.

(1) A person commits an offence if, when not at his or her place of abode or work, he or she has with him or her any article for use in the course of or in connection with any burglary, theft or cheat.

(2) A person who commits an offence under this section is liable on conviction on indictment to imprisonment for 5 years.

(3) Where a person is charged with an offence under this section, proof that he or she had with him or her any article made or adapted for use in committing a burglary, theft or cheat shall be evidence that he or she had it with him or her for such use.

(4) A person may arrest without warrant anyone whom he or she, with reasonable cause, suspects to be committing an offence under this section.

(5) For purposes of this section "**cheat**" means an offence under section 212 of this Sub-Part.

Enforcement and Procedure

228. SEARCH FOR STOLEN GOODS

(1) If it is made to appear by information on oath before a magistrate that there is reasonable cause to believe that any person has in his or her custody or possession or on his or her premises any stolen goods, the magistrate may grant a warrant to search for and seize the stolen goods; but no warrant to search for stolen goods shall be addressed to a person other than a police officer except under the authority of an enactment expressly so providing.

(2) Where a person is authorised under subsection (1) to search any premises for stolen goods, he or she may enter and search the premises accordingly, and may seize any goods he or she believes to be stolen goods.

229. ORDERS FOR RESTITUTION

(1) Where goods have been stolen, and a person is convicted of an offence with reference to the theft (whether or not the stealing is the gist of his or her offence), the Court by or before which the offender is convicted may, on the conviction, exercise any of the following powers—

(a) the Court may order anyone having possession or control of the stolen goods to restore them to any person entitled to recover them from him or her; or

(b) on the application of a person entitled to recover from the person convicted any other goods directly or indirectly representing the stolen goods (as being the proceeds of any disposal or realisation of the whole or part of them or of goods so representing them), the Court may order those other goods to be delivered or transferred to the applicant; or

(c) on the application of a person who, if the stolen goods were in the possession of the person convicted, would be entitled to recover them from him or her, the Court may order that a sum not exceeding the value of those goods shall be paid to the applicant out of any money of the

person convicted which was taken out of his or her possession on his or her arrest.

(2) Where under subsection (1) the Court has power on a person's conviction to make an order against him or her both under paragraph (b) and paragraph (c) with reference to the stealing of the same goods, the Court may make orders under both paragraphs provided that the applicant for the orders does not thereby recover more than the value of those goods.

(3) Where under subsection (1) the Court on a person's conviction makes an order under paragraph (a) for the restoration of any goods, and it appears to the Court that the person convicted has sold the goods to a person acting in good faith, or has borrowed money on the security of them from a person so acting, then on the application of the purchaser or lender the Court may order that there shall be paid to the applicant, out of any money of the person convicted, a sum not exceeding the amount paid for the purchase by the applicant or, as the case may be, the amount owed to the applicant in respect of the loan.

General Provisions

230. HUSBAND AND WIFE

(1) This Sub-Part shall apply in relation to the parties to a marriage, and to property belonging to the wife or husband whether or not by reason of an interest derived from the marriage, as it would apply if they were not married and any such interest subsisted independently of the marriage.

(2) Subject to subsection (4), a person shall have the same right to bring proceedings against that person's wife or husband for any offence (whether under this Sub-Part or otherwise) as if they were not married, and a person bringing any such proceedings shall be competent to give evidence for the prosecution at every stage of the proceedings.

(3) Where a person is charged in proceedings not brought by that person's wife or husband with having committed any offence with reference to that person's wife or husband or to property belonging to the wife or husband, the wife or husband shall be competent to give evidence at every stage of the proceedings,

whether for the defence or for the prosecution, and whether the accused is charged solely or jointly with any other person.

(4) Despite subsection (3)—

(a) the wife or husband shall not be compellable either to give evidence or, in giving evidence, to disclose any communication made to him or her during the marriage by the accused; and

(b) his or her failure to give evidence shall not be made the subject of any comment by the prosecution.

(5) Subject to subsections (6) and (7), proceedings shall not be instituted against a person for any offence of stealing or doing unlawful damage to property which at the time of the offence belongs to that person's wife or husband, or for any attempt, incitement or conspiracy to commit such an offence, unless the proceedings are instituted by or with the consent of the Director of Public Prosecution.

(6) The provisions of subsection (5) shall not apply were there is in existence in relation to the husband and wife—

(a) a decree nisi of divorce or nullity granted under the Divorce Act;

(b) a decree of judicial separation granted under the Civil Code;

(c) a separation agreement; or

(d) a protection order or a peace binding order or an order for the husband not to molest his wife or have sexual intercourse with her or an order for the wife not to molest her husband or have sexual intercourse with him.

(7) The provisions of subsection (5)—

(a) shall not apply to proceedings against a person for an offence–

(i) if that person is charged with committing the offence jointly with the wife or husband, or

(ii) if by virtue of any judicial decree or order (wherever made) that person and the wife or husband are at the time of the offence under no obligation to cohabit; and

(b) shall not prevent the arrest, or the issue of a warrant for the arrest of a person for an offence, or the remand in custody or on bail of a person charged with an offence, where the arrest (if without a warrant) is made, or the warrant of arrest issues on an information laid by a person other than the wife or husband.

231. INTERPRETATION

In this Sub-Part—

"**gain**" includes a gain by keeping what one has, as well as a gain by getting what one has not;

"**loss**" includes a loss by not getting what one might get, as well as a loss by parting with what one has;

"**goods**" includes money and every other description of property except land, and includes things severed from the land by stealing.

SUB-PART B
Forgery
Special Provisions

232. DEFINITION

In this Sub-Part—

"**note**" means any metal or paper used as money, either in this State or in another place or country, and issued by authority of any government in order to be so used;

"**document**" includes a document of title to land, will, power of attorney, judicial record, policy of insurance or bank note, cheques, credit cards, bill of exchange, promissory note or other negotiable instrument or other authority for the payment of money by a person carrying on business as a bank, or any instrument in writing entitling or evidencing the title of the person to any share, interest in any public stock, annuity, fund or debt of any government or State or the stock, fund or debt of a company established in this State or elsewhere.

233. COUNTERFEITING OF STAMP, NOTE, ETC. DEFINED

(1) A person counterfeits a stamp or note if—

(a) he or she makes any imitation of it, or anything which is intended to pass or which may pass as such stamp, note or mark;

(b) he or she makes anything which is intended to serve as a specimen, or pattern or trial of any process for counterfeiting a stamp, note or mark.

(2) A person commits the offence of counterfeiting, within the meaning of this Sub-Part, although he or she does not intend that any person should be defrauded or injured by, or that any further use should be made of such specimen or pattern.

234. FALSIFICATION OF NOTE, NOTEAGE, ETC.. DEFINED

A person falsifies a note of any noteage, denomination, date or country, if he or she removes any such part of it, or by any means he or she so alters it, whether permanently or temporarily, and whether in substance or appearance, as to pass for a note of a different noteage, denomination, date or country.

235. FORGERY OF DOCUMENTS DEFINED

(1) A person forges a document if he or she makes a false document with the intention that he, she, or another person shall use it to induce somebody to accept it as genuine and by reason of so accepting it to do or not to do any act to his or her own or any other person's prejudice.

(2) A person makes a false document if he or she makes or alters the document, or any material part of it, with intent to cause it to be believed—

(a) that such document or part of it has been so made or altered by another person who did not in fact so make or alter it;

(b) that such document or part of it has been so made or altered with the authority or consent of another person who did not in fact give such authority or consent;

(c) that such document or part of it has been so made or altered at a time different from that at which it was in fact so made or altered.

(3) A person who issues or uses any document which is exhausted or cancelled, with intent that it may pass or have effect as if it were not exhausted or cancelled commits the offence of forging such document.

(4) The making or alteration of a document or part of it by a person in his or her own name may be forgery if the making or alteration is done with any of the intents mentioned in subsection (1).

(5) The making or alteration of a document or part of it by a person in a name which is not his or her real or ordinary name is not forgery unless the making or alteration is done with any of the intentions mentioned in this section.

(6) It is immaterial whether the person by whom or with whose authority or consent a document or part of it is purported to be made, or is intended to be believed to have been made, is living or dead or a fictitious person.

(7) A material part of a document is every word, letter, figure, seal, or thing expressed on or in a document, or forming part of it or attached to it, and any colouring, shape, or device used in the document which purports to indicate the person by whom or with whose authority or consent, the document or part of it has been made, altered, executed, delivered, attested, verified, certified or issued, or which may affect the purport, operation or validity of the document in any material particular.

(8) In this section "**alteration**" includes any cancellation, erasure, severance, interlineation, or transposition in a document or in any material part to the document and the addition of any material part to the document, and any other act or device by which the purport, operation, or validity of the document may be affected.

(9) The provisions of this section apply with respect to the forgery of a stamp in the same manner as they apply with respect to the forgery of a document.

236. POSSESSING OR DOING ACT AS TO NOTE OR STAMP NOT GENUINE DEFINED

(1) A person possesses or does any act with respect to a note or stamp which he or she knows is not genuine, if he or she possesses it or does such act with respect to it, knowing that it is in fact counterfeit or falsified.

(2) It is immaterial whether or not the act of the person who counterfeited or falsified the note or stamp was a crime.

237. POSSESSING OR DOING ACT AS TO DOCUMENT NOT GENUINE DEFINED

(1) A person possesses or does any act with respect to a document which he or she knows is not genuine, if he or she possesses it, or does such act with respect to it, knowing that it was not in fact made or altered at the time, or by the person, or with the authority or consent of the person, at which, or by whom, or with whose authority or consent, it purports or is represented by him or her to have been made or altered.

(2) It is immaterial whether or not the act of the person who made or altered the document was a crime.

238. COMPLETENESS OF IMITATION UNNECESSARY

For the purposes of the provisions of this Code relating to the forgery, counterfeiting, falsifying, uttering, dealing with, using, or possessing of any document, stamp or note, or trade-mark, it is not necessary that such document, stamp or note, should be so complete, or should be intended to be made so complete or should be capable of being made so complete as to be valid or effectual for any of the purposes of a thing of the kind which it purports or is intended to be or to represent, or as to deceive a person of ordinary judgement and observation.

239. FALSIFICATION EFFECTED WITHIN OR BEYOND JURISDICTION IMMATERIAL

For the purposes of the provisions of this Code relating to the possessing or doing of any act with respect to a document, stamp or note, which is forged, counterfeited, or falsified, or which is not genuine, it is immaterial whether such document, stamp or note has

been forged, counterfeited, falsified, made or altered within or outside the jurisdiction of the Courts.

240. TESTING SUSPECTED TENDERED NOTE

(1) Where any note is tendered as legal tender to any person who suspects such note to be diminished, otherwise than by reasonable wear and tear or to be counterfeit, it is lawful for the person to cut or deface such note.

(2) If any note so cut or defaced appears to be diminished, otherwise than by reasonable wear and tear or to be counterfeit, the person tendering the note shall bear the loss thereof; but if the note is of due weight and appears to be a lawful note, the person cutting or defacing it is required to receive it at the rate for which it was noted.

(3) If any dispute arises whether the note so cut or defaced is diminished in the manner stated in subsection (1) or is counterfeit, the dispute shall be heard and finally determined in a summary manner by any magistrate who shall examine on oath the parties to the dispute as well as any other person.

False Claims

241. FALSE CLAIMS GENERALLY

(1) A person who, with intent to defraud by any means or in any way or manner makes any false claim to any public monies or to public property is liable on conviction on indictment to imprisonment for 5 years.

(2) In this section "make" includes to put forward or to be concerned in or be a party to the making or putting forward of a false claim.

(3) When a person is convicted of obtaining by fraud any notified plant or notified plant product, the Court may, in substitution for or in addition to any penalty to which he or she may otherwise be liable, sentence him or her to an additional term of 6 months imprisonment.

Noteage Offences

242. COMMON NOTEING

(1) A person who is convicted of being a common noteer is liable on conviction on indictment to imprisonment for life.

(2) A person is a common noteer—

(a) if he or she is proved to have used, or to have aided and abetted the use of a device specially contrived or adapted for purposes of committing any crime with respect to note;

(b) if he or she is convicted of a crime with respect to note, having been previously convicted of any offence punishable on indictment for counterfeiting, falsification or forgery; or

(c) if he or she is proved to have had in his or her possession, custody, or control at the same time or at different times, 3 or more notes which he or she knew to have been counterfeited or falsified, and by means of which he or she intended to commit any such indictable offence.

243. FALSIFYING NOTE

A person who, with intent to defraud or deceive—

(a) counterfeits or falsifies any note;

(b) imports or exports any counterfeited or falsified note,

is liable on conviction on indictment to imprisonment for 7 years.

244. DAMAGING OR DESTROYING NOTE

A person who, without lawful authority defaces, or destroys any note is liable on conviction on indictment to imprisonment for 2 years.

245. POSSESSING FALSE NOTE

A person who has in his or her possession any note which is counterfeited, or falsified, or which he or she knows not to be genuine, is liable to be punished in the same manner as if he or she

had himself or herself, with any of the requisite intents stated in this Sub-Part counterfeited or falsified such note.

246. PURCHASING OR POSSESSING FORGED BANK NOTE

A person who, without lawful authority or excuse, (the proof of which lies on him or her) purchases or receives from any person, or has in his or her custody or possession, any forged bank note or forged blank bank note, whether or not complete, which he or she knows is forged, is liable on conviction on indictment to imprisonment for 14 years.

247. IMITATION OF CURRENCY NOTES

(1) Any person who makes or causes to be made or uses for any purpose whatsoever, or utters any document purporting to be or in any way resembling or so nearly resembling as to be calculated to deceive any currency note or any part thereof, is liable on conviction on indictment to imprisonment for 10 years.

(2) In addition, the Court shall order the document in respect of which the offence was committed and any copies of that document as well as any plates, blocks, dies or other instruments used for or capable of being used for printing and reproducing any such document found in the possession of such offender, to be forfeited and destroyed.

248. UTTERING OR USING FALSE NOTE

A person who, with any of the intents stated in this Sub-Part, utters, or in any manner deals with or uses, any note as stated in this Sub-Part which he or she knows is counterfeited, or falsified, or not genuine, is liable to the same punishment as if he or she had himself or herself with that intent counterfeited or falsified such note.

249. FORGERY OF HALL-MARK OR THE LIKE

A person who, with intent to defraud, forges or counterfeits any hall-mark or mark appointed, under authority of law, by any corporation or public officer to denote the weight, fineness, or age, or place of

manufacture, of any gold or silver plate or bullion is liable on conviction on indictment to imprisonment for 2 years.

Offences Relating to Documents Including Stamps and Telegrams and Telephone Messages

250. COMMON FORGERY

(1) A person who is convicted of being a common forger is liable on conviction on indictment to imprisonment for life.

(2) A person is a common forger if—

(a) he or she is proved to have used, or to have aided and abetted the use of a device specially contrived or adapted for the purposes of forgery;

(b) he or she is convicted on indictment of forgery, having been previously convicted on indictment for counterfeiting, falsification or forgery;

(c) he or she is proved to have had in his or her possession, custody, or control, at the same time or at different times, 2 or more documents which he or she knew to have been forged, and by which he or she intended to commit any such indictable offence.

251. FORGERY, CONCEALMENT, ETC., OF ACCOUNTS

A person who, being a clerk, or an employee, or an officer of any partnership, company or corporation, with intent to cause or enable any person to be defrauded or deceived, or with intent to commit or facilitate the commission, by himself or herself or by any other person, of any crime—

(a) conceals, forges, alters or falsifies any account kept by or belonging or entrusted to his or her employers or to such partnership, company, or corporation, or entrusted to him or her, or to which he or she has access, as such clerk, employee, or officer, or omits to make a full and true entry in any account of anything which he or she is bound to enter in the account;

(b) publishes any account, statement, or prospectus relating to the affairs of such partnership, company or corporation, which he or she knows to be false in any material particular;

(c) aids and abets a person to do any of the acts mentioned in paragraphs (a) and (b),

is liable on conviction on indictment to imprisonment for 7 years.

252. CONCEALING OR FALSIFYING AFFAIRS OF COMPANY OR TRUST

(1) A person who, with intent to defraud, conceals, forges, alters or falsifies any account or document which relates to the affairs of any company or trust, or which he or she is under any duty to make, keep, or deal with, as the clerk or employee of any person, is liable on conviction on indictment to imprisonment for 5 years.

(2) Nothing in this section relieves a person of any liability to greater or other punishment under any other provision of this Code or any other enactment, but a person shall not be punished twice for the same offence.

253. CONCEALING, FALSIFYING, ETC. CERTAIN DOCUMENTS

(1) A person who, with intent to defraud or deceive, conceals, forges, alters or falsifies any bill of lading, invoice, manifest, receipt, or other document evidencing the quantity, character, or condition of any property, or the receipt or disposition of, or the title of any person to any property, is liable on conviction on indictment to imprisonment for 2 years.

(2) Nothing in this section relieves a person of any liability to greater or other punishment under any other provision of this Code or any other enactment, but a person shall not be punished twice for the same offence.

254. CONCEALING TITLE ON MORTGAGE OR SALE OF LAND

A person who, in order to induce any person to become a purchaser or mortgagee of any land or interest in land, fraudulently conceals

any document which is material to the title to such land or interest, is liable on conviction on indictment to imprisonment for 2 years.

255. PUNISHMENT FOR FORGERY BY CLAIMING ON FORGED DOCUMENT

A person who with intent to defraud or deceive demands, or accepts for himself or herself or for any other person, any money or money's worth as being due by virtue of any document which he or she knows to be forged or not to be genuine is liable to the same punishment as if he or she had himself or herself forged the document with intent to defraud or deceive some other person of such money or money's worth.

256. PUNISHMENT FOR FORGERY OF DOCUMENT BY COERCION

A person who, with any of the intents mentioned in this Sub-Part, causes any person, by force, duress, threats, deception or in any manner without that person's consent, to make, alter, cancel or mutilate any document referred to in this Sub-Part, is liable to the same punishment as if he or she had himself or herself forged such document with such intent.

257. FORGERY OF DOCUMENT

(1) A person who, with intent to defraud or deceive any person of an amount or value of $10,000 or more, forges any document is liable on conviction on indictment to imprisonment for 5 years.

(2) A person who, with intent to defraud or deceive any person of an amount or value less than $10,000, forges any document, is liable on summary conviction to imprisonment for 2 years.

258. PUNISHMENT FOR FORGERY OF DOCUMENT MADE OR USED IN NAME OF OR FOR ANOTHER WITHOUT AUTHORITY

A person who, with intent to defraud or deceive and without lawful authority or excuse, makes or executes, draws, signs, accepts or indorses, in the name or on behalf of another person, by procuration or otherwise, any document, or uses or utters any such document which he or she knows to have been so made, executed, signed,

accepted or indorsed, is liable to the same punishment as if he or she had forged such document.

259. FORGERY OF CERTAIN DOCUMENTS

A person who, with intent to defraud or to defeat, obstruct, or pervert the course of justice, forges any document is liable on conviction on indictment to imprisonment for 15 years.

260. FORGERY OF OFFICIAL OR JUDICIAL DOCUMENT

(1) A person who, with intent to defraud or deceive or with intent to defeat, obstruct, or pervert the course of justice or the due execution of the law, forges any judicial or official document, is liable on conviction on indictment to imprisonment for 10 years.

(2) "**official document**" means any document purporting to be made, used, or issued by any public officer for any purpose relating to his or her office or connected with the functions of his or her office.

261. FORGERY OF STAMP

A person who forges any stamp, with intent—

(a) to defraud or deceive or injure the person;

(b) to defeat, obstruct, or pervert the course of justice or the due execution of the law;

(c) to evade the requirements of the law; or

(d) to commit, or facilitate the commission of any other crime,

is liable on conviction on indictment to imprisonment for 5 years.

262. FORGERY OF OTHER DOCUMENTS

A person who forges any document other than the document mentioned in section 261, with intent—

(a) to defraud or deceive or injure the person;

(b) to defeat, obstruct, or pervert the course of justice or the due execution of the law;

(c) to evade the requirements of the law; or

(d) to commit or facilitate the commission of any other crime,

is liable on conviction on indictment to imprisonment for 2 years.

263. UTTERING OR USING FALSE DOCUMENT

A person who, with any of the intents mentioned in this Sub-Part, utters or in any manner deals with or uses, any document including a stamp referred to in this Sub-Part, which he or she knows to have been forged, or falsified, or which is not genuine, is liable to the same punishment as if he or she had himself or herself with that intent, forged, or falsified the document.

Possessing False Document

264. POSSESSING FALSE DOCUMENT

A person who, with any of the intents mentioned in this Sub Part, has in his or her possession any document including a stamp which is forged or falsified, or which is not genuine, is liable to the same punishment as if he or she had himself or herself with that intent forged or falsified such document.

Fraud as to Certain Other Property

265. FRAUD AS TO BOUNDARY MARK

A person who, with intent to defraud, or deceive, removes, damages, alters, or falsifies any boundary mark or thing that distinguishes the land or other property of himself or herself or any person, from the land or other property of any other person, is liable on conviction on indictment to imprisonment for 5 years.

266. FRAUD AS TO INSURANCE

A person who intentionally destroys or causes damage to any building, vessel, goods, cattle or other thing, with the intention of claiming, obtaining or enabling any person to claim or obtain, any monies or compensation of any kind from any person who has insured such building, vessel, goods, cattle or other thing, is liable on conviction on indictment to imprisonment for 20 years.

267. COMPUTER FRAUD

(1) A person who, with intent to defraud or deceive—

(a) alters, damages, destroys or otherwise manipulates data or programmes held in or used in connection with a computer or computer network by adding to, erasing or otherwise altering the data or programme; or

(b) does any act which causes an unauthorised modification of the contents of a computer or computer network;

commits an offence and is liable on conviction on indictment to imprisonment for 15 years.

(2) A modification of the contents of a computer is unauthorised—

(a) if the person who causes it is not himself or herself entitled to determine whether the modification should be made; and

(b) if the person does not have the consent of the person who is entitled to grant consent for the modification.

(3) In this section—

"**computer**" means any device for storing and processing information;

"**computer network**" means the interconnection of 2 or more computers, whether geographically separated or in close proximity, or the interconnection of communication systems with a computer through terminals whether remote or local;

"**modification of the contents of a computer**" includes the alteration of a programme or data held in a computer or any addition to the contents of a computer of a programme or data.

SUB-PART C
Bankruptcy Fraud

268. DEFINITION

In this Sub-Part—

"**the bankrupt**" means an individual who has been adjudged bankrupt or in respect of whose estate a receiving order has been made;

"**bankruptcy petition**" means a petition to the Court for a bankruptcy order;

"**initial period**" means the period between the presentation of the bankruptcy petition and the commencement of the bankruptcy;

"**trustee**" means the official receiver of the debtor's estate or trustee administering his or her estate for the benefit of his or her creditors.

269. NON-DISCLOSURE OF PROPERTY

(1) The bankrupt commits of an offence if—

(a) he or she does not to the best of his or her knowledge and belief disclose all the property comprised in his or her estate to the trustee; or

(b) he or she does not inform the trustee of the disposal of any property which but for the disposal would be comprised in his or her estate stating how, when, to whom and for what consideration the property was disposed of.

(2) The provisions of subsection (1)(b) do not apply to any disposal in the ordinary course of a business carried on by the bankrupt or to any payment of the ordinary expenses of the bankrupt or his or her family.

270. CONCEALMENT OF PROPERTY

The bankrupt commits of an offence if—

(a) he or she does not deliver up possession to the trustee, or as the trustee may direct, of such part of the property comprised in his or her estate as is in his or her possession or under his or her control and possession of which he or she is required by law so to deliver up;

(b) he or she conceals any debt due to or from him or her or conceals any property the value of which is not less than $500 and possession of which he or she is required to deliver up to the trustee; or

(c) in the 6 months before the petition or in the initial period, he or she did anything which would have been an offence under paragraph (b) if the bankruptcy order had been made immediately before he or she did it.

(2) The bankrupt commits an offence if he or she removes or in the initial period removed any property the value of which was not less than $500 and possession of which he or she has or would have been required to deliver up to the trustee.

(3) The bankrupt commits an offence if he or she, without reasonable excuse fails on being required to do so by the trustee or the Court—

(a) to account for the loss of any substantial part of his or her property incurred in the 6 months before the petition or in the initial period; or

(b) to give satisfactory explanation of the manner in which such a loss was incurred;

(c) he or she makes, or causes or permits the making of any false entries in any book, or records relating to his or her estate or affairs; or

(d) in the 6 months before the petition or in the initial period, he or she did anything which would have been an offence under paragraph (b) or (c) if the bankruptcy order had been made before he or she did it.

(4) The bankrupt commits an offence if—

(a) he or she disposes, or alters or makes any omission in or causes or permits the disposal, altering or making of any omission in, any book, document or record relating to his or her estate or affairs; or

(b) in the 6 months before the petition, or in the initial period he or she did anything which would have been an offence under paragraph (a) if the bankruptcy order had been made before he or she did it.

271. CONCEALMENT OF BOOKS AND PAPERS; FALSIFICATION

(1) The bankrupt commits an offence if he or she does not deliver up possession to the trustee, or as the trustee may direct, of all books, papers and other records of which he or she has possession or control and which relate to his or her estate or affairs.

(2) The bankrupt commits an offence if—

(a) he or she prevents or in the initial period prevented, the production of any books, papers or other records relating to his or her estate or affairs;

(b) he or she conceals, destroys, mutilates or falsifies or causes or permits the concealment, destruction, mutilation or falsification of any books, papers or other records relating to his or her estate or affairs;

(c) he or she makes or causes or permits the making of, any false entries in any book, document or record relating to his or her estate or affairs; or

(d) in the 6 months before the petition or in the initial period, he or she did anything which would have been an offence under paragraph (b) or (c) if the bankruptcy order had been made before he or she did it.

(3) The bankrupt commits an offence if—

(a) he or she disposes of, or alters or makes any omission or causes or permits the disposal, altering or making of any omission in any book, document or record relating to his or her estate or affairs;

(b) six months before the petition or in the initial period he or she did anything which would have been an offence under paragraph (a) if the bankruptcy order had been made before he or she did it.

272. FALSE STATEMENTS

(1) The bankrupt commits an offence if he or she makes or has made any material omission in any statement required to be made under any provision of this Sub-Part in relation to his or her affairs.

(2) The bankrupt commits an offence if—

(a) knowing or believing that a false debt has been proved by the person under the bankruptcy, he or she fails to inform the trustee as soon as practicable;

(b) he or she attempts to account for any part of his or her property by fictitious losses or expenses;

(c) at any meeting of his or her creditors in the 6 months before the petition or (whether or not at such a meeting) at any time in the initial period, he or she did anything which would have been an offence under paragraph (b) if the bankruptcy order had been made before he or she did it; or

(d) he or she is or at anytime has been, convicted of any false representation or other fraud for the purpose of obtaining the consent of his or her creditors, or any of them, to an agreement with reference to his or her affairs or to his or her bankruptcy.

(3) The bankrupt commits an offence if he or she conceals or removes, or has at anytime before the commencement of the bankruptcy concealed or removed, any part of his or her property after, or within 6 months before, the date on which a judgment or an order for the payment of the money has been obtained against him or her, being a judgment or an order which was not satisfied before the commencement of the bankruptcy.

273. FRAUDULENT DISPOSAL OF PROPERTY

(1) The bankrupt commits an offence if he or she makes or causes to be made or has in the period of 5 years ending with the commencement of the bankruptcy made or caused to be made, any gift or transfer of, or any charge on, his or her property.

(2) The reference to making a transfer of or charge on any property includes causing or conniving at the levying of any execution against such property.

(3) The bankrupt commits an offence if he or she conceals or removes or has at any time before the commencement of the bankruptcy concealed or removed, any part of his or her property after, or within 2 months before, the date on which a judgment or an order for the payment of money has been obtained against him or her, being a judgment or an order which was not satisfied before the commencement of the bankruptcy.

274. ABSCONDING

(1) The bankrupt commits an offence if—

(a) he or she leaves, or attempts or makes preparations to leave Saint Lucia with any property the value of which is not less than $500 and possession of which he or she is required to deliver up to the trustee; or

(b) in the 6 months before the petition, or in the initial period, he or she did anything which would have been an offence under paragraph (a) if the bankruptcy order had been made before he or she did it.

(2) The bankrupt commits an offence under subsection (1) and is liable on conviction on indictment to imprisonment for 7 years.

275. FRAUDULENT DEALING WITH PROPERTY OBTAINED ON CREDIT

(1) The bankrupt commits an offence if, in 6 months before the petition or in the initial period, he or she disposed of any property which he or she had obtained on credit and, at the time he or she disposed of it, he or she had not paid for.

(2) A person commits an offence if, in the 6 months before the petition or in the initial period, he or she acquired or received any property from the bankrupt knowing or believing—

(a) that the bankrupt owed money in respect of the property; and

(b) that the bankrupt did not intend, or was unlikely to be able, to pay the money he or she so owed.

(3) A person is not liable under subsection (1) or (2) if the disposal, acquisition or receipt of the property was in the ordinary course of business carried on by the bankrupt at the time of the disposal, acquisition or receipt.

(4) In determining for the purposes of this section whether any property is disposed of, acquired or received in the ordinary course of a business carried on by the bankrupt regard may be had, in particular, to the price paid for the property.

(5) In this section reference to disposing of property include pawning or pledging it, and reference to acquiring or receiving property are to be construed accordingly.

276. OBTAINING CREDIT FALSELY

The bankrupt commits an offence if, in incurring any debt or liability, he or she obtains credit under false pretences or by means of any other fraud, and is liable on conviction on indictment to imprisonment for one year.

277. FALSE CLAIMS OR PROOFS IN BANKRUPTCY

If any creditor or person who claims to be a creditor in any bankruptcy proceedings, wilfully and with intent to defraud makes any false claim, or any proof, declaration or statement of account, which is false in any material particular he or she commits an offence and is liable on conviction on indictment to imprisonment for 2 years.

278. OBTAINING CREDIT; ENGAGING IN BUSINESS

(1) The bankrupt commits an offence if—

(a) either alone or jointly with any other person, he or she obtains credit to the extent of $500 or more without giving the person from whom he or she obtains it the relevant information about his or her status; or

(b) he or she engages (whether directly or indirectly) in any business under a name other than that in which he or she was adjudged bankrupt without disclosing to all persons

with whom he or she enters into any business transaction the name in which he or she was so adjudged.

(2) The reference to the bankrupt obtaining credit includes the following cases—

(a) where goods are bailed out to him or her under a hire-purchase agreement, or agreed to be sold to him or her under a conditional sale agreement; and

(b) where he or she is paid in advance (whether in money or otherwise) for the supply of goods or services.

(3) For the purposes of subsection (1)(a) the relevant information about status of the person in question is the information that he or she is an undischarged bankrupt.

279. FAILURE TO KEEP PROPER ACCOUNTS OF BUSINESS

(1) Where the bankrupt has been engaged in any business for any period of 2 years before the petition, he or she commits an offence if—

(a) he or she has not kept proper accounting records throughout that period and throughout any part of the initial period in which he or she was so engaged; or

(b) he or she has not preserved all the accounting records which he or she has kept.

(2) The bankrupt is not liable under subsection (1)—

(a) if his or her unsecured liabilities at the commencement of the bankruptcy did not exceed $1,000; or

(b) if he or she proves that in the circumstances in which he or she carried on business the omission was honest and excusable.

(3) For the purposes of this section a person is deemed not to have kept proper accounting records if in the 2 years before the petition he or she has not kept such records as are necessary to show or explain his or her transactions and financial position in his or her business, including—

(a) records containing entries from day to day, in sufficient detail, of all cash paid and received;

(b) where the business involved dealings in goods, statements of annual stock takings; and

(c) except in the case of goods sold by way of retail trade to the actual customer, records of all goods sold and purchased showing the buyers and sellers in sufficient detail to enable the goods and buyers and sellers to be identified.

280. GAMBLING

(1) The bankrupt commits an offence if he or she has—

(a) in the 2 years before the petition, materially contributed to or increased the extent of his or her insolvency by gambling or by rash and hazardous speculations; or

(b) in the initial period, lost part of his or her property by gambling or by rash and hazardous speculations.

(2) In determining for the purposes of this section whether any speculations were rash and hazardous, the financial position of the bankrupt at the time when he or she entered into them shall be taken into consideration.

281. DEFENCE OF INNOCENT INTENTION

Except as otherwise provided in section 275(2) and section 279 a person is not liable under the provisions of this Sub-Part if he or she proves that, at the time of the conduct constituting the offence, he or she had no intent to defraud or to conceal the state of his or her affairs.

282. PENALTY

Except as otherwise expressly provided in this Sub-Part, a person who commits an offence under this Sub-Part is liable on conviction on indictment to imprisonment for 2 years or on summary conviction to imprisonment for one year.

283. CRIMINAL LIABILITY OF DEBTOR DESPITE COMPOSITION OR DISCHARGE

Where a debtor commits any criminal offence he or she is not exempt from prosecution for the offence by reason of the fact that he or she has been discharged or that a composition or arrangement has been accepted or approved.

SUB-PART D
Extortion

284. EXTORTION BY ACCUSATION OF INFAMOUS OFFENCE

(1) A person who, for the purposes of extortion, accuses or threatens to accuse any other person, whether living or dead, of an infamous offence, is liable on conviction on indictment to imprisonment for 10 years.

(2) In this section "**infamous offence**" means any indictable offence, or indecent assault, or unnatural connection with a person or animal, or an attempt to commit, or aiding and abetting of, or conspiracy for, any such offence.

285. EXTORTION OR ATTEMPTED EXTORTION BY THREATS

A person who extorts or attempts to extort any property from another person by means of threats, is liable on conviction on indictment to imprisonment for 10 years, or on summary conviction to imprisonment for 2 years.

SUB-PART E
Damage to Property

Arson

286. DEFINITIONS

In this Sub-Part—

"**arson**" means any offence committed by fire as referred to in this Sub-Part;

"**building**" means any structure, booth, tent, excavation, cave or other covered place, whether fixed or movable, which is constructed, used, or adapted for the habitation, or meeting, or shelter of human beings, or for the keeping or shelter of any cattle or goods, or for the manufacture, keeping, or sale of goods, and any fixture in or attached to a building;

"**damage**" includes not only damage to property, but also any interruption of its use, or any interference with it, by which the property becomes permanently or temporarily useless, or by which it becomes necessary to incur some expense in order to render the property fit for the purposes for which it is used or maintained and in relation to a mine includes the flooding of a mine;

"**dwelling-house**" means any building or vessel or any part of a building or vessel which, is ordinarily or at the time of the alleged crime occupied by the person, whether as an owner or as a tenant, servant, trespasser, or otherwise as a sleeping place during the night or any part of the night; and includes an outhouse or covered place which connects by an interior or covered doorway, window, passage, or other opening, with a building and is part of that building, whether or not the doorway, window, passage, or opening is used or fastened on either side or both sides, and whether the outhouse or covered place is occupied by the same person as the building or by a different person, or is not occupied by the person;

"**mine**" includes any mine of coal, metal, stone, or any other mineral or matter whether it is under ground, or wholly or partly open.

287. ARSON BY FIRE OF BUILDING, MINE OR ADJACENT THING OR OF THING NEAR A VESSEL

A person who intentionally or recklessly sets on fire or causes to be set on fire any building, whether the building is completed or in an unfinished state, or any mine, or anything in or near to any such building, or mine, or anything in or near to any vessel, with intent to destroy or materially damage such or any other building, mine, or

vessel, is liable on conviction on indictment to imprisonment for 20 years.

288. ARSON BY FIRE OF DWELLING OR VESSEL

A person who intentionally or recklessly sets on fire or causes to be set on fire any dwelling-house or vessel is liable on conviction on indictment to imprisonment for 15 years.

289. ARSON BY FIRE OF CROP, FOREST OR PLANTATION

A person who intentionally or recklessly sets on fire or causes to be set on fire any crop, or any forest or plantation of trees, is liable on conviction on indictment to imprisonment for 10 years, or on summary conviction to imprisonment for 2 years.

290. ARSON BY EXPLOSION TO BUILDING, MACHINE, ROAD OR OTHER PROPERTY; AND POSSESSION OF EXPLOSIVES

(1) A person who intentionally or recklessly uses an explosive matter to cause damage to any building, engine, or machine or to any road, or to any property (movable or immovable) is liable on conviction on indictment to imprisonment for 20 years.

(2) A person who intentionally or recklessly uses any explosive matter to cause damage to any property whereby harm is likely to be caused to the person is liable on conviction on indictment to imprisonment for 20 years.

(3) A person who has in his or her possession or control any explosive matter without lawful authority or excuse, proof of which lies on him or her, is liable on conviction on indictment to imprisonment for 5 years or on summary conviction to imprisonment for one year.

291. ARSON BY FIRE NOT OTHERWISE EXPRESSLY PROVIDED FOR

A person who intentionally or recklessly in any case not otherwise expressly provided for in this Sub-Part, causes damage by fire or explosion to any movable or immovable property, is liable on

conviction on indictment to imprisonment for 10 years or on summary conviction to imprisonment for 2 years.

Criminal Damage to property

292. EXPLANATION OF UNLAWFUL DAMAGE AND AMOUNT OF DAMAGE

(1) Except as otherwise expressly provided in this Sub-Part, any person who intentionally or recklessly causes damage to any property is liable on conviction on indictment to imprisonment for 15 years.

(2) It is immaterial whether or not the person accused of an offence under subsection (1) is in possession or occupation of such property.

(3) A person who has jointly or in common with other persons interest in such property as owner or otherwise, or who is a trustee may commit an offence under subsection (1).

(4) A person who is sole owner of such property for his or her own benefit may commit any crime punishable under this section with respect to any act done with intent to injure or defraud any other person or to cause harm to any other person, although such act is not otherwise unlawful.

(5) Despite the provisions of Part 2 of Chapter One as to mistake of law, a person is not liable to punishment under the provisions of this section in respect of anything done in good faith and which he or she believes he or she is entitled to do.

(6) Where proof of an intention to cause damage to a certain amount is required by any provisions of this Code relating to unlawful damage, it is not necessary that damage to that amount should be intended or done or intended to be done to any individual thing of a kind mentioned in any such provision, but it is sufficient if damage to that amount in the aggregate is intended or done, as the case may be, to any number or combination of such things.

(7) Where different punishments are provided by any provisions of this Code with respect to unlawful damage according to differences in the amount or damage caused, a person who is

accused of having attempted to cause damage to a greater amount shall not be acquitted or relieved of liability to the greater punishment on the ground that he or she actually caused damage to a lesser amount.

293. DESTROYING BANKERS' BOOKS

(1) An employee or officer of a bank who, without lawful authority (proof of which lies on him or her) destroys or damages or attempts to destroy or damage any bankers' books commits an offence and is liable on conviction on indictment to imprisonment for 15 years.

(2) In this section "bankers' books" include ledgers, day books, cash books, accounts books and other records used in the ordinary business of the bank, whether these records are in written form or are kept on microfilm, magnetic tape or any other form of mechanical or electronic data retrieval mechanism.

294. DAMAGE TO BUILDING, BRIDGE, MINE, VESSEL OR OTHER WORK ON LAND, IN WATER OR MACHINERY OR TOOLS

Any person who in any manner intentionally or recklessly causes material damage—

(a) to any building, mine or vessel, or to any engine, or to any bridge; or

(b) to any structure, work or apparatus constructed, used or maintained—

(i) for the purposes of any dock, harbour, canal, mine, waterworks or gasworks, or

(ii) for the purpose of regulating the action of the sea or any river, or

(iii) for the purpose of protecting any coast or land from inundation by sea-water or other body of water, or

(iv) for the purposes of the supply of water to or from any factory, mine, machinery, building or stream, or

(v) for the purposes of irrigation,

is liable on conviction on indictment to imprisonment for 10 years or on summary conviction to imprisonment for 2 years.

295. DAMAGE TO DOCUMENT

A person who intentionally or recklessly destroys or materially damages any document with intent to defraud or injure any person, is liable on conviction on indictment to imprisonment for 5 years or to imprisonment for 20 years, if the document is a will or a document of title to land or interest in land.

296. DAMAGE TO LIGHTHOUSE OR OTHER SAFETY SIGNAL

A person who intentionally or recklessly causes damage to or renders permanently useless, or obstructs the operation of, any lighthouse, beacon, buoy, signal, or other apparatus or thing whatsoever, which is used or maintained for the safety of navigation, whether on the sea or on a river or other body of water, is liable on conviction on indictment to imprisonment for 10 years.

297. DAMAGE TO THING MANUFACTURED

A person who intentionally or recklessly causes damage to anything in the course of manufacture or of preparation for sale, or to anything manufactured or prepared for sale, is liable on conviction on indictment to imprisonment for 2 years, or on summary conviction to imprisonment for 6 months.

298. COMPENSATION FOR DAMAGE TO PROPERTY

(1) Subject to the provisions of this Code, when a person is convicted of an offence under this Sub-Part the Court may, in addition to any penalty it may impose in respect of the offence, order the convicted person to pay such compensation as the Court may consider appropriate for any damage to property including the cost of any repair or reinstatement of the property resulting from the offence, and within such time as the Court may determine.

(2) If the convicted person defaults in payment of such compensation, he or she shall be liable to imprisonment for a further term not exceeding 5 years.

(3) Nothing in this section shall affect any civil liability of the convicted person in respect of any damage to property resulting from the offence except that he or she shall not be liable to pay compensation twice for the same damage.

PART 3
OFFENCES AGAINST PUBLIC ORDER

Sedition

299. ABETTING ASSAULT ON SUPERIOR OFFICER, OR DESERTION, BY SOLDIER OR SAILOR

A person who, not being subject to any articles of war or articles of the navy, aids and abets—

(a) the desertion of any person subject to such articles; or

(b) the commission by the person of any assault upon a superior officer in the execution of his or her office,

is liable on conviction on indictment to imprisonment for 5 years.

300. ABETTING INSUBORDINATION BY SOLDIER OR SAILOR

A person who, not being subject to any articles of war or articles of the navy, aids and abets any act of insubordination by the person subject to such articles, is liable on conviction on indictment to imprisonment for 5 years.

301. ABETTING MUTINY BY SOLDIER OR SAILOR

A person who, not being subject to any articles of war or articles of the navy, aids and abets the commission of mutiny by any person subject to such articles, is liable on conviction on indictment to imprisonment for 20 years.

302. INTENTIONALLY AIDING ESCAPE OF INMATE OF WAR

(1) A person who intentionally and unlawfully aids and abets or permits the escape of an inmate of war is liable on conviction on indictment to imprisonment for 10 years.

(2) A person who negligently and unlawfully permits the escape of a prisoner of war is liable on conviction on indictment to imprisonment for 2 years.

(3) In this section, "**escape**" includes the departure by an inmate on parole or beyond the limits within which he or she is allowed to be at large.

303. EVADING MILITARY OR NAVAL SERVICE

A person who causes harm to himself or herself, or procures any other person to cause harm to him or her for the purpose of evading any obligation to perform military or naval service or duty is liable on conviction on indictment to imprisonment for 2 years.

304. DEFINITIONS

For purposes of this Part—

"**seditious assembly**" is an assembly of 5 or more persons with a seditious purpose, or at which any seditious libel is published, or at which any speeches are made with a seditious purpose;

"**seditious libel**" is the publication, by any such art as is specified in the provisions of this Part with respect to libel as amounting to publication of a libel, or of any matter with a seditious purpose;

"**seditious purpose**" means a purpose to excite any of Her Majesty's subjects to obtain by force or other unlawful means an alteration in the laws or in the form of government or to commit any offence under sections 306 to 308.

305. SEDITIOUS LIBEL OR PARTY TO SEDITIOUS ASSEMBLY

(1) A person who commits the offence of seditious libel, or of having been a party to a seditious assembly, is liable on conviction on indictment to imprisonment for 5 years.

(2) A seditious libel shall not be justified on any ground of absolute or conditional privilege.

Piracy

306. PENALTY FOR PIRACY

A person who commits the offence of piracy, or of any crimes connected with or relating or akin to piracy, is liable on conviction on indictment to imprisonment for life.

Treason and Like Offences

307. TREASON

(1) A person who, in Saint Lucia—

(a) kills or attempts to kill the Governor General or any person performing the functions of the Governor General under the Constitution;

(b) levies war against Saint Lucia or does any act preparatory thereto; or

(c) assists an enemy at war with Saint Lucia,

commits the offence of treason and is liable on conviction on indictment to imprisonment for life.

(2) A person who, in Saint Lucia—

(a) uses force or violence for the purpose of overthrowing the Government of Saint Lucia;

(b) without lawful authority, communicates or makes available to an agent of a State other than Saint Lucia, any information, or any sketch, plan, model, article, note or document of any character that he or she knows or ought

to know can be used for a purpose prejudicial to the safety or defence of Saint Lucia;

(c) instigates any person to make an invasion into Saint Lucia;

(d) conspires with any person to commit treason or to do anything mentioned in paragraph (a);

(e) forms an intention to do anything that is treason or that is mentioned in paragraph (a) and manifests that intention by an overt act;

(f) conspires with any person to do anything mentioned in paragraph (b) or forms an intention to do anything mentioned in paragraph (b) and manifests that intention by an overt act,

commits the offence of treason and is liable on conviction on indictment to imprisonment for a term of not less than 25 years.

308. CONCEALMENT OF TREASON

A person who—

(a) knowing that the person intends to commit treason, does not report such information with all reasonable despatch to a magistrate, justice of the peace or a police officer, or use other reasonable means to prevent the commission of the offence; or

(b) knowing or believing that the person has committed the offence of treason, does any act with intent to obstruct or prevent his or her arrest or prosecution for that offence,

commits an offence and is liable on conviction on indictment to imprisonment for 7 years.

309. PROSECUTION FOR TREASON

(1) A person charged with an offence under sections 307 or 308 shall not be convicted, otherwise than on his or her own plea of guilty, except on the evidence in open Court of 2 witnesses at least to one overt act of the kind alleged or the evidence of one witness to one overt act and one other witness to another act relevant to the same kind of offence.

(2) This section does not apply in the case in which the act of treason alleged is in respect of the killing of the Governor General or a direct attempt to endanger the life or injure the person of the Governor General.

310. DEFINITION OF OVERT ACT

For the purposes of any offence under section 307 or 308, when the manifestation by an overt act of an intention to effect any purpose is an element of the offence, in addition to any other act which may be held to constitute an overt act, every act of conspiring with any person to effect that purpose, and every act done in furtherance of the purpose by any of the persons conspiring, shall be deemed to be an overt act manifesting the intention.

Offences Affecting the Police Force

311. CAUSING DISAFFECTION IN POLICE FORCE

(1) A person who—

(a) causes, or attempts to cause, or does any act calculated to cause disaffection amongst the members of the Police Force;

(b) induces, or attempts to induce, or does any act calculated to induce any member of the Police Force to withhold his or her services or to commit breaches of discipline, is liable on conviction on indictment to imprisonment not exceeding 5 years, or on summary conviction, to imprisonment not exceeding 2 years, or to a fine not exceeding $10,000, or to both such imprisonment and fine.

(2) Subject to subsection (3), where a person convicted under subsection (2) is a member of the Police Force, he or she shall forfeit all pension rights and shall be disqualified from being a member of the Police Force.

(3) Cabinet may review the order of forfeiture made under subsection (2) and may either confirm the order or grant such relief as it thinks fit.

312. UNAUTHORISED USE OF POLICE UNIFORMS

(1) Subject to subsection (2), any person who, not being a member of the Police Force, wears without the permission of the Commissioner of Police, the uniform of the Police Force, or any dress having the appearance or bearing any of the distinctive marks of that uniform, is liable on conviction on indictment to imprisonment not exceeding 2 years or on summary conviction to a fine not exceeding $1,000.

(2) The provisions of this section shall not apply in the case of persons who wear any such uniform or dress in the course of a stage play or other performance to the public.

Defamation

313. LIBEL

(1) A person commits the offence of libel who, by print, writing, painting, effigy, or by any means otherwise than solely by gestures, spoken words, or other sounds, unlawfully publishes any defamatory matter concerning another person, whether living or dead, either negligently or with intent to defame that other person.

(2) In the case of a dead person, it must be alleged and proved that it was done with intent to bring contempt on his or her family and relatives and so provoke them to a breach of the peace.

314. DEFAMATORY MATTER DEFINED

(1) A person is defamed if matter is imputed to him or her which amounts to a crime, or which imputes to him or her misconduct in any public office, or which is likely to injure him or her in his or her occupation, calling, or office, or to expose him or her to general hatred, contempt or ridicule.

(2) In this section "**crime**" means any offence punishable on indictment under this Code, and any act punishable on indictment under any enactment within the jurisdiction of the Courts, and also any act, wheresoever committed, which, if committed by a person within the jurisdiction of the Courts, would be punishable on indictment under any enactment.

315. PUBLICATION OF DEFAMATORY MATTER

(1) A person publishes a libel if he or she causes the print, writing, painting, effigy or other means by which the defamatory matter is conveyed, to be so dealt with, either by exhibition, reading, recitation, description, delivery, or otherwise, so that the defamatory meaning thereof becomes known or is likely to become known to the person other than the person defamed.

(2) It is not necessary for libel that a defamatory meaning should be directly or completely expressed, it is sufficient if such meaning and its application to the person alleged to be defamed can be inferred either from the alleged libel itself or from any extrinsic circumstances, or partly by the one and partly by the other means.

316. DEFAMATORY PUBLICATION UNLAWFUL UNLESS PRIVILEGED

A publication of defamatory matter concerning a person is unlawful, within the meaning of this Part, unless it is privileged on any of the grounds mentioned in section 317.

Privileged Publications

317. ABSOLUTE PRIVILEGE GOOD DEFENCE

(1) The publication of defamatory matter is absolutely privileged and no person shall under any circumstances be liable to punishment under this Code in respect thereof, in any of the following cases—

(a) if the matter is published by the Governor General, or by Cabinet or by Parliament, in any official document or proceeding;

(b) if the matter is published by order of Cabinet;

(c) if the matter is published in Cabinet, in the House of Assembly or the Senate by any member of Cabinet or Parliament;

(d) if the matter published is in fact a fair report of anything said, done, or published in Cabinet or in Parliament;

(e) if the matter is published by a person acting in any judicial proceeding as a judge or magistrate, or as Attorney General, Director of Public Prosecutions or other public prosecutor, or as a juror or witness;

(f) if the matter is published concerning a person subject to the police force discipline, and relates to his or her conduct as a person subject to such discipline, and is published by a person having authority over him or her in respect of such conduct, or to the person having authority over him or her in respect of such conduct;

(g) if the person who publishes the matter is legally bound to publish it;

(h) if the matter is true, and it is found by the jury that it was for the public benefit that the matter should be published.

(2) Except as otherwise provided in subsection (1)(a), where a publication is absolutely privileged, it is immaterial for the purposes of this Part (despite any of the general provisions of Chapter One of this Code with respect to justifications or excuses) whether the matter is true or false, and whether or not it is known or believed to be false and whether or not it is published in good faith.

(3) Nothing in this section shall exempt a person from any liability to punishment under any other provisions of this Code or under any other enactment.

318. CONDITIONAL PRIVILEGE ON PUBLICATION IN GOOD FAITH

A publication of defamatory matter is privileged, on condition that it is published in good faith, and in any of the following cases—

(a) if the matter published is a copy or reproduction, or in fact a fair abstract, of any matter which has been previously published, and the previous publication of which was or would have been privileged under section 317;

(b) if the matter is a censure passed by a person in good faith on the conduct of another person in any matter in respect of which he or she has authority, by contract or otherwise over that other person, or on the character of that other person so far as it appears in such conduct;

(c) if the matter is a complaint or accusation made by a person in good faith against another person in respect of his or her conduct in any matter, or in respect of his or her character so far as it appears in such conduct to the person who has authority, by contract or otherwise, over that other person in respect of such conduct or matter or has authority by law to inquire into or receive complaints concerning such conduct or matter;

(d) if the matter is an expression of opinion in good faith as to the conduct of the person as disclosed by evidence given in a legal proceeding in open Court, whether civil or criminal, or concerning the conduct of the person who is a party, witness or otherwise in any such proceeding, or concerning the character of any person so far as it appears in any such conduct;

(e) if the matter is an expression of opinion in good faith concerning the conduct of a person in a judicial, official, or other public capacity, or his or her personal character so far as it appears in such conduct;

(f) if the matter is published by a person acting as counsel or advocate in the course of, or in preparation for any legal proceeding;

(g) if the matter published is in fact a fair report of anything said, done, or shown in a civil or criminal inquiry or proceeding before any Court, unless the Court prohibits the publication of anything said or shown before it, on the ground that it is seditious, immoral, or blasphemous;

(h) if the matter is an expression of opinion in good faith concerning the conduct of a person in relation to any public issue or matter, or concerning his or her personal character so far as it appears in such conduct;

(i) if the matter is an expression of opinion in good faith as to the merits of any book, writing, painting, speech, other work, performance, or act published, or publicly done or made or submitted by a person to the judgment of the public or concerning the character of the person so far as it appears therein;

(j) if the matter is published in good faith for the protection of the rights or interests of the person who publishes it, or

of the person to whom it is published, or of some other person in whom the person to whom it is published is interested.

319. ABSENCE OF GOOD FAITH

The publication of defamatory matter shall not be deemed to have been made in good faith by a person, within the meaning of section 318 if it is made to appear—

(a) that the matter was untrue, and that he or she did not believe it to be true;

(b) that the matter was untrue, and that he or she published it without having taken reasonable care to ascertain whether it was true or false;

(c) that in publishing the matter, he or she acted with intent to injure the person defamed in a substantially greater degree than was reasonably necessary for the interest of the public or for the protection of the private right or interest in respect of which he or she claims to be privileged.

320. CIRCUMSTANCES SHOWING GOOD FAITH

If it is proved that the defamatory matter was published under such circumstances that the publication would have been justified if made in good faith, the publication shall be presumed to have been made in good faith unless the contrary is proved, either from the libel itself, or from the evidence given on behalf of the accused person or on the part of the prosecution.

Newspapers, Books, Periodicals

321 NEWSPAPER PROPRIETOR PRESUMED RESPONSIBLE

The proprietor of any newspaper is presumed to be criminally responsible for defamatory matter inserted and published in the newspaper, but such presumption may be rebutted by proof that the particular defamatory matter was inserted and published in the

newspaper without knowledge of the proprietor or negligence on his or her part.

322. NEWSPAPER PROPRIETOR'S GENERAL AUTHORITY TO MANAGE, WHEN NEGLIGENCE

A general authority given to the person who actually inserts and publishes defamatory matter to manage, as editor or otherwise, the newspaper, and to insert and publish in the newspaper what he or she in his or her discretion thinks fit, shall not be negligence unless it is proved that the proprietor when originally giving such authority had meant that it should extend to the insertion and publication of defamatory matter, or had meant to continue such general authority knowing that it had been exercised by inserting and publishing defamatory matter in any number or part of the newspaper.

323. PROTECTION OF INNOCENT SELLER OF NEWSPAPER

A person is not liable if he or she sells any number or part of a newspaper, unless he or she knows that such number or part of the newspaper contains defamatory matter or that the newspaper has regularly contained the defamatory matter.

324. PROTECTION OF THE INNOCENT SELLER OF BOOK OR PERIODICAL

A person is not liable when he or she sells any book, magazine, pamphlet or other publication (whether forming part of any periodical or not) which contains the defamatory matter, if he or she proves at the time of such sale that he or she did not know that such defamatory matter was contained in the book, magazine, pamphlet or other publication.

325. SALE BY EMPLOYEE

The sale by an employee of any book, magazine, pamphlet or other publication, whether periodical or not, shall not make his or her employer criminally responsible in respect of defamatory matter contained therein unless it is proved that the employer authorised such sale knowing that the book, magazine, pamphlet or other publication contained defamatory matter, or in case of a number or

part of a periodical, that such periodical has regularly contained defamatory matter.

326. PLEA OF JUSTIFICATION OF LIBEL

(1) Where a person accused of publishing defamatory matter pleads that the defamatory matter published by him or her was true, and that it was for the public benefit that the matter should be published in the manner in which and at the time when it was published, such plea may justify the defamatory matter in the sense specified, if any, in the count, or in the sense which the defamatory matter bears without any such specific justification, or separate pleas justifying the defamatory matter in each sense may be pleaded separately, as if 2 libels had been charged in separate counts.

(2) Every such plea must be in writing, and must set forth the particular fact or facts by reason of which it was for the public benefit that such matter should be so published.

(3) The prosecutor may reply generally denying the truth of the plea.

(4) The truth of matters charged in an alleged libel shall not be inquired into if a plea of justification has not been pleaded, unless the accused is put upon his or her trial on any indictment charging him or her with publishing the libel, which he or she knows to be false in which case evidence of the truth may be given in order to negative allegations that the accused knew the libel to be false.

(5) The accused may, in addition to such plea, plead not guilty, and both pleas shall be inquired into together.

(6) No plea of justification shall be pleaded to any indictment or count of a charge of seditious, blasphemous or obscene libel.

(7) Where an accused despite his or her plea of justification is convicted, the Court may, in pronouncing sentence, consider whether his or her guilt is aggravated or mitigated by the plea.

(8) Where the issue raised by a plea of justification is found against the accused, the prosecutor is entitled to recover from the accused the costs sustained by reason of such plea.

(9) If the accused is acquitted either upon an indictment preferred or complaint filed by a private prosecutor for libel, the accused is entitled to recover from the private prosecutor the costs sustained by him or her by reason of such prosecution.

(10) Any costs recoverable under subsection (8) or (9) by the prosecutor or the accused respectively shall be taxed by the Registrar.

327. PENALTY FOR INTENTIONAL LIBEL

A person who is convicted of intentional libel is liable on conviction on indictment to imprisonment for 5 years.

328. PENALTY FOR NEGLIGENT LIBEL

A person who is convicted of negligent libel is liable on conviction on indictment to imprisonment for 2 years.

329. DEFAMING OR INSULTING THE CROWN

A person who, with intent to bring the Governor-General into hatred, contempt or ridicule, publishes any defamatory or insulting matter, whether by writing, print, word of mouth or in any other manner concerning the Governor General is liable on conviction on indictment to imprisonment for 5 years.

Sale of Pornographic Material

330. SALE OF PORNOGRAPHIC MATERIAL

A person who knowingly and without lawful justification or excuse publicly sells or exposes for sale, or lets on hire or exposes for letting on hire, any obscene book or other obscene printed or written matter, any obscene picture, photograph, video recording, or model, or any other object tending to corrupt morals of a minor, is liable on conviction on indictment to imprisonment for 5 years.

331. PUBLIC BENEFIT GOOD DEFENCE

(1) It is a defence to a charge of any of the offences defined in section 330 to prove that it was for the public benefit that the act complained of should be done.

(2) It is a question of fact whether or not the doing of any such act is for the public benefit.

(3) For the purposes of section 330—

"**photograph**" includes data stored on computer disc or by other electronic means which is capable of conversion into photograph;

"**video recording**" means any recording on any medium from which a moving image may by any means be produced and includes the accompanying sound track.

Public Election Offences

332. PUBLIC ELECTION

"**Public election**" means any election, at which the qualification for voting, or the mode of voting at which, is determined or regulated by law.

333. INTIMIDATION

A person commits the offence of intimidation at a public election if he or she endeavours to influence the conduct of any voter in respect of such election by a threat of any consequences to be caused to the voter, or to any other person, on account of his or her conduct as a voter.

334. IRREGULARITY NO DEFENCE

No person is relieved of any liability to punishment for any offence in connection with a public election under this Part by reason of any irregularity or informality in the proceedings at or subsequent to the election.

335. CORRUPTION, INTIMIDATION, PERSONATION AS TO ELECTION

A person who commits the offence of corruption, intimidation, or personation in respect of a public election is liable on conviction on indictment to imprisonment for 2 years and shall, during 10 years from the date of his or her conviction, be incapable of voting at any public election and of holding the public office in respect of which the election was held or any public office of the same nature.

336. FALSE DECLARATION OR THE LIKE FOR VOTING AT ELECTION

A person who, in order that he or she may qualify to vote at any public election, makes, signs, publishes, or uses—

(a) any declaration, statement or oath required by law in such cases; or

(b) any certificate or testimonial as to his or her conduct or services, or as to any other matter which is material for his or her qualification to vote at such election,

if he or she does so knowing that such declaration, statement, oath, certificate, or testimonial is false in any material particular is liable on conviction on indictment to imprisonment for 2 years.

337. FALSIFYING, DAMAGING OR DESTROYING VOTING PAPER OR THING USED AT ELECTION

A person who—

(a) forges or falsifies;

(b) intentionally or recklessly damages or destroys any voting paper or other similar thing;

(c) intentionally or recklessly damages or destroys any ballot box, polling booth ,or other thing used for the purposes of a public election,

is liable on conviction on indictment to imprisonment for 7 years.

338. FALSE COUNT OR RETURN OF VOTES AS TO ELECTION

A person who, being a public officer charged with the counting of votes or the making of a return at any public election, wilfully falsifies the account of such vote or makes a false return is liable on conviction on indictment to imprisonment for 10 years.

339. PREVENTING OR DISTURBING ELECTION BY FORCE, THREATS, CRIME

A person who attempts to prevent, obstruct, or disturb any public election by any kind of force, violence, or threats, or by any act which is a crime punishable under this Code, is liable on conviction on indictment to imprisonment for 10 years.

340. VOTING OR OFFERING TO VOTE UNLAWFULLY

A person who votes or offers to vote at any public election at which he or she knows that he or she is not entitled or qualified to vote, is liable on summary conviction to imprisonment for one year.

Rioting

341. DEFINITION OF RIOTING

(1) A person who together in any public or private place commences or attempts to do any of the following acts—

(a) to execute any common purpose with violence, and without lawful authority to use such violence for that purpose;

(b) to execute a common purpose of obstructing or resisting the execution of any legal purpose or authority;

(c) to facilitate, by force or by show of force or numbers, the commission of crime,

commits the offence of rioting.

(2) Persons are not liable of rioting by reason that 2 or more of them suddenly engage in any unlawful fight, unless 2 or more of them fight with a common purpose against some other person or persons.

342. ORDER FOR RIOTERS TO DISPERSE

A police officer, in whose presence a riot is being committed, or who apprehends that a riot is about to be committed by persons being assembled in his or her presence may make or cause to be made an order commanding the rioters or persons assembled to disperse peaceably.

343. DISPERSING RIOTERS AFTER ORDER MADE

(1) If, upon the expiration of one hour after such order has been made or after the making of such order has been prevented by force, persons continue riotously to assemble together, the police officer or any other person acting in aid of such officer, may do all that is necessary for the purpose of dispersing the persons so continuing to assemble or arresting them or any of them.

(2) Where any person resists, the police or the person acting in the aid of such officer, may use such force as is reasonably necessary for overcoming such resistance, and is not liable in any criminal or civil proceeding for having, by the use of such force, caused harm or death to the person resisting.

(3) Nothing in this section affects or limits the power to use such force as mentioned in this section at any time before the expiration of one hour from the making of the order, or after the making of the order has been prevented, if in the circumstances it is reasonably necessary to use such force for the suppression, or prevention of the continuance of any riot.

344. ASSAULTING PERSON SUPPRESSING OR DISPERSING RIOT

A person who assaults any police officer or person in the execution of any duty or authority for the suppression of a riot, or for the dispersion or arrest of any persons engaged in a riot or assembled with the intention of committing a riot, is liable on conviction on indictment to imprisonment for 10 years.

345. ASSEMBLING TO COMMIT RIOT

Where persons assemble or are together with the intention of committing a riot each of them is liable on conviction on indictment to imprisonment for 2 years.

346. PREVENTING MAKING OF ORDER

(1) A person who forcibly prevents or obstructs the making of any order commanding the persons engaged in a riot or assembled with the intention of committing a riot to disperse, is liable on conviction on indictment to imprisonment for 10 years.

(2) Where the making of the order is prevented under subsection (1), the person who, knowing that it has been so prevented, takes part or continues to take part in the riot or assembly is liable on conviction on indictment to imprisonment for 5 years.

347. PROVOKING RIOT

A person who does any act with intent to provoke a riot is liable on conviction on indictment to imprisonment for 2 years.

348. TAKING PART IN RIOT

A person who takes part in a riot is liable on conviction on indictment to imprisonment for 5 years.

349. COMMISSION OF OTHER OFFENCE IN COURSE OF RIOTING

A person who in the course of rioting commits any offence punishable under Part 1 (Offences Against the Person) and Part 2 (Offences Against Property) of Chapter 2 of this Code is liable on conviction on indictment to imprisonment for a term which may exceed by 3 years the term to which he or she would otherwise be liable under the provisions of those Parts, as the case may be.

350. RIOTING AFTER ORDER

Where an order is made commanding the persons engaged in a riot, or assembled with the intention of committing a riot, to disperse, any person who at or after the expiration of one hour from the making of

such order takes or continues to take part in the riot or assembly is liable on conviction on indictment to imprisonment for 7 years.

351. RIOTING WITH WEAPONS

A person who takes part in a riot, armed with any offensive instrument is liable on conviction on indictment to imprisonment for 5 years.

352. CARRYING ARMS UNLAWFULLY TO CAUSE TERROR

If persons together in any public place openly carry, without lawful cause, any deadly or dangerous instruments, with intent to cause terror to any member of the public, each of them is liable on summary conviction to imprisonment for 2 years.

Affray and Violent and Disorderly Offences

353. AFFRAY

(1) A person commits the offence of affray if he or she uses or threatens violence towards another person and his or her conduct is such as would cause another person of reasonable firmness present at the scene to fear for his or her personal safety.

(2) A person commits the offence of affray only if he or she intends to use or threaten violence or is aware that his or her conduct may be violent or threaten violence.

(3) For the purposes of subsection (1)—

(a) where 2 or more persons use or threaten to use violence, the Court shall, in determining the case have regard to the conduct of the persons taken together; and

(b) no person of reasonable firmness need actually be, or be likely to be present at the scene.

(4) An offence of affray may be committed in a private or public place.

(5) A person who commits the offence of affray is liable—

(a) on conviction on indictment to imprisonment for 5 years; or

(b) on summary conviction to imprisonment for 2 years.

354. VIOLENT DISORDER

(1) Where 3 or more persons present together use or threaten violence and their conduct taken together is such as would cause a person of reasonable firmness present at the scene to fear for his or her personal safety, each of the persons using or threatening violence commits the offence of violent disorder.

(2) A person commits the offence of violent disorder only if he or she intends to use or threaten violence or is aware that his or her conduct may be violent or threaten violence.

(3) For the purposes of subsection (1)—

(a) it is immaterial whether or not the 3 or more persons use or threaten unlawful violence simultaneously; and

(b) no person of reasonable firmness need be, or be likely to be present at the scene.

(4) An offence of violent disorder may be committed in a private or public place.

(5) A person who commits the offence of violent disorder is liable on conviction on indictment to imprisonment of 5 years.

355. FEAR OF PROVOCATION OF VIOLENCE

(1) Subject to subsection (2), where a person—

(a) uses towards another person threatening, abusive or insulting words or behaviour; or

(b) distributes or displays to another person any writing, signs or other visible representation which is threatening, abusive or insulting with intent—

(i) to cause that person to believe that unlawful violence will be used against him or her or another by the person,

(ii) to provoke the immediate use of unlawful violence by that person or another, or whereby that person is

likely to believe that such violence will be used or it is likely that such violence will be provoked,

commits an offence.

(2) A person commits an offence under subsection (1) if he or she intends by his or her words or behaviour or the writing, sign or visible representation, to be threatening, abusive or insulting, or is aware that it may be threatening, abusive or insulting.

(3) An offence under this section may be in a private or public place except that no offence is committed where the words or behaviour are used, or the writing, sign or other visible representation is distributed or displayed by a person inside a dwelling and the other person is also inside that or another dwelling.

(4) A person who commits an offence under this section is liable on summary conviction to imprisonment for 5 years.

356. HARASSMENT, ALARM OR DISTRESS

(1) Subject to the provisions of this section, where a person—

(a) uses threatening, abusive or insulting words or behaviour, or disorderly behaviour; or

(b) displays any writing, sign or other visible representations which is threatening, abusive or insulting,

within the hearing or sight of a person likely to be harassed, alarmed or distressed by such threatening, abusive or insulting words or writing or sign or other visible representation or disorderly behaviour he or she commits an offence and is liable on conviction on indictment to imprisonment for 3 years.

(2) A person commits an offence under subsection (1) if he or she intends his or her words or behaviour or the writing, sign or other visible representation to be threatening, abusive or insulting or, as the case may be, he or she intends his or her behaviour to be or is aware that it may be disorderly.

(3) An offence under this section may be committed in a private or public place, except that no offence is committed where the words or behaviour are used, or the writing, sign or visible

representation is displayed, by a person inside a dwelling and the other person is also inside that or another dwelling.

(4) It is a defence for a person charged with an offence under this section to prove—

(a) that he or she had no reason to believe that there was a person within hearing who was likely to be harassed, alarmed or distressed;

(b) that he or she was inside a dwelling and had no reason to believe that the words or behaviour used, or the writing, sign or other visible representation, would be heard or seen by a person outside that or any other dwelling;

(c) that his or her conduct was reasonable.

357. DEFINITIONS

For the purpose of sections 355 to 356—

"**dwelling**" means any structure or part of a structure occupied as a person's home or as other living accommodation, whether the occupation is separate or shared with others, and does not include any part not so occupied;

"**structure**" includes a tent, vehicle, vessel or other temporary or movable structure.

358. ADVOCATING GENOCIDE

(1) Every one who advocates or promotes genocide commits an indictable offence and is liable to imprisonment for 15 years.

(2) In this section, "**genocide**" means any of the following acts committed with intent to destroy in whole or in part any identifiable group, namely—

(a) killing members of the group; or

(b) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction.

(3) No proceeding for an offence under this section shall be instituted without the consent of the Attorney General.

(4) In this section, "**identifiable group**" means any section of the public distinguished by colour, race, religion or ethnic origin.

359. PUBLIC INCITEMENT OF HATRED

(1) Every one who, by communicating statements in any public place, incites hatred against any identifiable group where such incitement is likely to lead to a breach of the peace commits an indictable offence and is liable to imprisonment for 15 years.

(2) Every one who, by communicating statements other than in private conversation, wilfully promotes hatred against any identifiable group commits an indictable offence and is liable to imprisonment for 10 years.

(3) No person shall be convicted of an offence under subsection (2)—

(a) if he or she establishes that the statements communicated were true;

(b) if, in good faith, he or she expressed or attempted to establish by argument an opinion on a religious subject;

(c) if the statements were relevant to any subject of public interest, the discussion of which was for the public benefit, and if on reasonable grounds he or she believed them to be true; or

(d) if, in good faith, he or she intended to point out, for the purpose of removal, matters producing or tending to produce feelings of hatred toward an identifiable group in Saint Lucia.

(4) Where a person is convicted of an offence under section 358 or subsection (1) or (2) of this section, anything by means of or in relation to which the offence was committed, on such conviction, may, in addition to any other punishment imposed, be ordered by the Court to be forfeited to the State for disposal as the Court may direct.

(5) No proceeding for an offence under subsection (2) shall be instituted without the consent of the Attorney General.

(6) In this section—

"**communicating**" includes communicating by telephone, broadcasting or other audible or visible means;

"**identifiable group**" has the same meaning as in section 358;

"**public place**" includes any place to which the public has access as of right or by invitation, express or implied;

"**statements**" includes words spoken or written or recorded electronically or electromagnetically or otherwise, and gestures, signs or other visible representations.

360. WARRANT OF SEIZURE

(1) A judge who is satisfied by information on oath that there are reasonable grounds for believing that any publication, copies of which are kept for sale or distribution in premises within the jurisdiction of the Court, is hate propaganda, shall issue a warrant under his or her hand authorizing seizure of the copies.

(2) Within 7 days of the issue of the warrant under subsection (1), the judge shall issue a summons to the occupier of the premises requiring him or her to appear before the Court and show cause why the matter seized should not be forfeited to the State.

(3) The owner and the author of the matter seized under subsection (1) and alleged to be hate propaganda may appear and be represented in the proceedings in order to oppose the making of an order for the forfeiture of the matter.

(4) If the Court is satisfied that the publication referred to in subsection (1) is hate propaganda, it shall make an order declaring the matter forfeited to the State for disposal as the Court may direct.

(5) If the Court is not satisfied that the publication referred to in subsection (1) is hate propaganda, it shall order that the matter be restored to the person from whom it was seized forthwith after the time for final appeal has expired.

361. SPREADING FALSE NEWS

Every one who wilfully publishes a statement, tale or news that he or she knows is false and that causes or is likely to cause injury or mischief to a public interest, commits an indictable offence and is liable to imprisonment for a term not exceeding 2 years.

Unlawful Disturbance

362. BOMBS, HOAXES, SENDING MESSAGES OR ARTICLES TO ALARM OR INJURE OTHER PERSONS

(1) A person who—

(a) places any article in any place; or

(b) dispatches any article by post or by any other means,

with intention (in either case) of inducing in another person a belief that such article is likely to explode or ignite and thereby cause personal injury or damage to property is liable on conviction on indictment to imprisonment for 2 years or on summary conviction to imprisonment for one year.

(2) A person who communicates any information which he or she knows or believes to be false to another person with the intention of inducing in him or her or any other person a false belief that a bomb or other thing likely to explode or ignite is planted in any place or location is liable on conviction on indictment to imprisonment for 5 years or on summary conviction to imprisonment for 2 years.

(3) For a person to be convicted of an offence under subsection (1) or (2) it is not necessary for him or her to have any particular person in mind as the person in whom he or she intends to induce such belief.

(4) In this section "**article** includes a substance.

363. OBSTRUCTING, ETC, LAWFUL ASSEMBLY WITH VIOLENCE

A person who unlawfully and with violence—

(a) obstructs the assembly of the persons for a lawful purpose;

(b) disturbs any such assembly;

(c) disperses or attempts to disperse any such assembly,

is liable on conviction on indictment to imprisonment for 2 years.

364. FORCIBLE OCCUPATION OR POSSESSION OF BUILDING OR LAND

A person who, being unlawfully in or upon any building or land, maintains or attempts to maintain his or her possession or occupation of such building or land with violence, is liable on conviction on indictment to imprisonment for 2 years, or on summary conviction to imprisonment for 6 months.

365. FORCIBLE ENTRY INTO BUILDING OR LAND

(1) A person who with violence makes an entry into any building or land whether or not he or she is entitled to the possession of it, unless he or she does so in pursuance of a warrant or other lawful authority to use such violence, is liable on conviction on indictment to imprisonment for 2 years or on summary conviction to imprisonment for 6 months.

(2) A person who is the owner or in possession of any building or land may use such force as is reasonable in the circumstance to resist any forcible entry into such building or land.

Offences Relating to Correctional Facilities

366. CORRECTIONAL OFFICER TORTURING ETC. INMATE

An officer of a correctional facility who uses any kind of torture on an inmate, or who commits the offence of cruelty to an inmate or who intentionally and unlawfully causes any harm to an inmate, is liable on conviction on indictment to imprisonment for 7 years.

367. INTRODUCING PROHIBITED THING INTO CORRECTIONAL FACILITY

If any person introduces into a correctional facility anything not permitted by the regulations of the correctional facility, it is lawful for an officer of the correctional facility, or a police officer, to arrest the person, and for such offence he or she is liable on conviction on indictment to imprisonment for 2 years.

Offences Relating to Trade

368. DISTURBING MARKET OR EXCHANGE BY PUBLICATION OF FALSE NEWS OR TELEGRAMS

A person who with intent to cause any public alarm or disturbance, or with intent to disturb or maintain the price of any goods, stocks, or other things in any public market or exchange, publishes, or attempts to cause the publication by print or electronic or telegraphic or any other means any information, data, statement or report or any other matter which he or she knows or believes to be false is liable on conviction on indictment to imprisonment for 2 years.

PART 4
OFFENCES AGAINST THE ADMINISTRATION OF JUSTICE

Unlawful Oaths

369. UNLAWFUL OATH

(1) A person who takes, or administers, or attempts or offers to administer, to a person, any unlawful oath is liable on conviction on indictment to imprisonment for 5 years.

(2) In this section—

"**unlawful oath**" means any oath or engagement to commit or aid and abet any crime, or to conceal a design to commit any crime, or to prevent the discovery of any crime or the conviction of the person for any crime, and any oath or engagement to conceal the existence, purposes, or proceedings of any association of persons associated for any treasonable or seditious purpose;

"**crime**" includes any crime punishable on indictment, whether under this Code or any other enactment.

Compounding Offences

370. DEFINITION OF COMPOUNDING CRIME

A person compounds a crime if he or she offers or agrees to forbear from prosecuting or giving evidence against a person on a criminal charge, in consideration of money, or of any other valuable thing, or of any advantage whatsoever to himself or herself or to any other person or on an account of compassion or fear of bodily injury or by agreement with the person charged.

371. COMPOUNDING CRIME

Any person who accepts, or agrees or offers to accept any reward under pretence or on account of restoring to the person, or of helping the person to recover, anything which has been appropriated by deception, or other frauds, fraudulent breach of trust or stealing, handling, robbery, or extortion, or unlawful possession, upon the terms or with the understanding that such crime shall be compounded, is liable on conviction on indictment to imprisonment for 10 years.

372. COMPOUNDING INDICTABLE OFFENCE ON SUMMARY OFFENCE

(1) A person who, without leave of a Court, compounds any crime punishable on indictment, is liable on conviction on indictment to imprisonment for 10 years.

(2) Unless in the opinion of the Court it was proper to do so in the circumstances, any person who without leave of the Court directly or indirectly, receives any sum of money or other reward in order not to prosecute a summary offence is liable on conviction to indictment to imprisonment for 2 years.

373. COMPOUNDING ANY OFFENCE INVOLVING CHILD

A person who, without leave of a Court, compounds any crime in which a child was abused in any way, is liable on conviction on indictment to imprisonment for 15 years.

Interference with Witnesses

374. CAUSING PERSON TO REFRAIN FROM GIVING EVIDENCE AT CRIMINAL TRIAL

A person who, with intent to defeat, obstruct, or pervert the course of justice at the trial of any other person for any crime, in any manner causes the other person to refrain from giving evidence at such trial, is liable on conviction on indictment to imprisonment for 7 years.

375. CAUSING WITNESS TO DISOBEY SUMMONS OR NOT TO PRODUCE EVIDENCE

A person who, in any manner wilfully causes any other person to disobey a summons, subpoena, or order—

(a) for his or her attendance as a witness in any judicial proceeding; or

(b) for the production by him or her of any written or other evidence in any judicial proceedings,

is liable on conviction on indictment to imprisonment for 5 years.

376. PERVERTING THE COURSE OF JUSTICE

(1) A person commits an offence of perverting the course of justice if he or she acts or embarks upon a course of conduct which has a tendency to and is intended to pervert the course of justice.

(2) Without prejudice to the generality of subsection (1) the following acts or course of conduct may amount to the offence of perverting the course of justice—

(a) where a person knowingly makes a false allegation to the police to the effect that another person has committed a crime and as a result that other person is arrested;

(b) where an act is done by a person with the intention of concealing the fact that a crime has been committed, and it is immaterial whether or not proceedings are pending or have commenced in respect of the crime;

(c) where a person does an act with the intention of assisting another person whom he or she knows is wanted by the police to evade lawful arrest;

(d) where in judicial proceedings a witness alters his or her evidence or does not give evidence on account of affection, gain, reward or hope or promise of a reward;

(e) where a person who has been summoned as a witness without lawful excuse absents himself or herself in return for payment or reward;

(f) where a person by any means or with any promise, induces another to withdraw charges made or induces another not to pursue the prosecution of an offence;

(g) the publication of any matter calculated to prejudice the fair trial of a case pending in the Court.

(3) A person who commits an offence under this section is liable on conviction on indictment to imprisonment for 5 years.

Intimidation of Judicial Officers

377. VIOLENCE TO INTIMIDATE JUDICIAL OFFICERS, ETC.

A person who uses any violence with intent to deter any other person—

(a) from acting in any manner as a judge, magistrate, juror, witness, counsel, agent, prosecutor, or party in any legal proceeding or inquiry; or

(b) from acting in execution of his or her duty as a judge or magistrate, or peace officer, or in any judicial capacity;

(c) from having recourse to any Court or on account of his or her having so acted or had recourse to the Court;

is liable on conviction on indictment to imprisonment for 10 years.

Hindering the Holding of Inquests

378. DELAYING OR PREVENTING INQUEST BY BURIAL, OR OTHER DISPOSAL OF BODY

A person who, with intent to prevent, obstruct, or delay the holding of an inquest upon the dead body or concerning the death of any other person, or to defeat the ends of justice, buries, or in any manner conceals or disposes of such body is liable on conviction on indictment to imprisonment for 2 years.

379. FAILURE BY CORONER OR OTHERS LIABLE, TO TAKE STEPS TO HOLD INQUEST

(1) A person who is under a duty as a magistrate, coroner, correctional officer, overseer, peace officer, or in any other capacity, to give any notice or take any measures for the purpose of holding an inquest upon the dead body or concerning the death of any person, wilfully or negligently fails to perform such duty is liable on conviction on indictment to imprisonment for 2 years.

(2) The provisions of this section are without prejudice to any provision of the Coroner's Act.

Contempt

380. CONTEMPT OF COURT

(1) A person commits the offence of contempt of court if he or she—

(a) assaults a judge or any other judicial officer while he or she is carrying out his or her official functions in the Court or threatens to assault the person in Court during Court proceedings;

(b) disturbs or obstructs Court proceedings by insulting behaviour;

(c) by words or conduct wilfully interrupts or disturbs proceedings of the Court;

(d) wilfully with force or threats hinders the person from entering or leaving any Court or removes any person from, or detains him or her in any Court;

(e) being a witness, without lawful excuse, refuses to be sworn or on being sworn in refuses to answer any question;

(f) being counsel in proceedings of a Court fails or refuses without lawful excuse to obey an order of the Court;

(g) publishes any matter which is intended or is likely to prejudice the fair trial or conduct of criminal proceedings;

(h) publishes any matter which prejudges issues which are to be tried or are being tried by the Court;

(i) publishes any matter which is calculated to bring the Court or a Judge into contempt or to lower his or her authority or the lawful process of the Court;

(j) makes any false or misleading statement either orally or in writing to or concerning a judge or magistrate in respect of the performance of his or her function which is calculated or is likely to bring him or her into ridicule odium or contempt.

(2) A person who commits of an offence under subsection (1) is liable on conviction on indictment to imprisonment for 2 years.

Perjury and Related Offences

381. FALSIFYING, DESTROYING, ETC. REGISTER OF RECORD

A person who, intentionally and unlawfully falsifies, destroys, damages, removes, or conceals any public register of marriages, births, baptisms, deaths, or burials, or any other public register or record, with intent to defeat, obstruct, or pervert the course of justice or to defraud or injure any other person, is liable on conviction on indictment to imprisonment for 7 years.

382. DESTROYING, DAMAGING, ETC. WILL OR LAND TITLE

A person who, intentionally or unlawfully destroys, or damages, removes, or conceals any will or any document of title to land, with

intent to defeat, obstruct, or pervert the course of justice or to defraud or injure any other person, is liable on conviction on indictment to imprisonment for 7 years.

383. REMOVING, DAMAGING, ETC. DOCUMENT

A person who, unlawfully, with intent to defeat, obstruct, or pervert the course of justice or to defraud or injure any other person removes, conceals, damages, or alters any instrument or document used or intended to be used in any judicial proceeding, is liable on conviction on indictment to imprisonment for 5 years.

384. FABRICATING FALSE EVIDENCE

A person fabricates false evidence—

(a) if he or she causes any circumstance to exist; or

(b) makes any false entry in any book, accounts, or records; or

(c) makes any document containing a false statement ; or

(d) forges any document,

with intent to mislead any public officer, judge, magistrate, or juror acting in any judicial proceedings.

385. FABRICATING FALSE EVIDENCE PUNISHABLE LIKE PERJURY

A person who fabricates false evidence with intent to defeat, obstruct, or pervert the course of justice in any proceeding is liable to the same punishment as if he or she had committed perjury in that proceeding.

386. BRINGING FICTITIOUS ACTION

A person who fraudulently brings an action against another person in a false or fictitious name, and without any ground for such action, is liable on conviction on indictment to imprisonment for 2 years.

387. ACKNOWLEDGING OR CONSENTING TO JUDGMENT, DEED OR RECOGNIZANCE ON ANOTHER'S NAME WITHOUT CONSENT

A person who acknowledges or consents to—

(a) the judgment or confession of a cause of action;

(b) any deed to be enrolled;

(c) any recognizance or bail, whether or not it is filed,

in the name of another person without the consent of that other person, is liable on conviction on indictment to imprisonment for 4 years.

388. DECEIVING COURT OR JUDICIAL OFFICER BY IMPERSONATION, FALSE DOCUMENT, SEAL OR SIGNATURE

A person who, with intent to defeat, obstruct, or pervert the course of justice or to defraud or injure any other person, endeavours to deceive any Court or judicial officer by personation, or by any false instrument, document, seal or signature, is liable on conviction on indictment to imprisonment for 5 years.

389. FALSE INTERPRETATION

A person who, being an interpreter, whether sworn or not—

(a) wilfully and falsely interprets the evidence of any witness;

(b) wilfully makes—

(i) any false statement or translation of any fact or witness' evidence, or

(ii) statement to the Court, judge or magistrate, or in any Court inquiry or proceeding, or in any other matter or on any other occasion,

while performing the duty of an interpreter, or interpreting the evidence of any witness, or in any translation of a document by him or her as an interpreter is liable, on conviction on indictment to imprisonment for 5 years or summary conviction to a fine of $5,000.

390. INTERPRETER LIABLE FOR PERJURY

An interpreter who has been sworn is also liable to prosecution and punishment for perjury.

391. MAKING FALSE SENTENCE UNDER OATH

(1) A person commits the offence of perjury if, in any written or verbal statement made or verified by him or her upon oath before a Court or public officer, he or she states anything which he or she knows to be false, or which he or she has no reason to believe to be true, with intent to defeat, obstruct or pervert the course of justice or the execution of the law, or with intent to defraud or injure the person.

(2) A person may commit the offence of perjury if he or she swears that he or she believes a thing which he or she does not in fact believe.

(3) It is no defence that the person was not a competent or compellable witness or was not competent, or compelled, to make the statement.

(4) "**Oath**" includes any form of declaration or affirmation permitted or prescribed by law to be taken as or in lieu of an oath.

392. AIDING AND ABETTING PERJURY

A person who commits or aids and abets perjury is liable on conviction on indictment to imprisonment for 10 years, or on summary conviction to imprisonment for 2 years.

393. PERJURY ON CAPITAL CRIME

A person who commits or aids and abets perjury with intent to cause the conviction of any other person for any crime punishable with death, is liable on conviction on indictment to imprisonment for 20 years.

394. PERJURY ON TRIAL FOR CRIME NOT CAPITAL

A person who commits or aids and abets perjury with intent to cause the conviction of any other person for a crime not punishable with death, is liable on conviction on indictment to 14 years imprisonment or for any greater term to which the person would otherwise be liable, on conviction of that crime.

395. PERJURY TO DEFRAUD BY PERSONATION

A person who commits or aids and abets perjury in furtherance of any purpose or conspiracy to defraud by personation is liable on conviction on indictment to imprisonment for 10 years.

Escape and Related Offences

396. ESCAPING, OR PERMITTING RESCUE OR RESCUING

A person who endeavours to resist or prevent the execution of the law—

(a) by escaping from lawful custody for crime;

(b) by aiding or permitting any other person to escape from lawful custody for a crime;

(c) by permitting himself or herself to be rescued from lawful custody for a crime;

(d) by rescuing any other person from lawful custody for crime,

is liable on conviction on indictment if such crime is punishable with death or with imprisonment for more than 7 years, to imprisonment for 15 years or if such crime is punishable with imprisonment for not more than 7 years, to imprisonment for 10 years, or, if such crime is a summary offence to imprisonment for 7 years or to a fine of $2,000 on summary conviction.

397. RESCUE FOR CAUSE NOT CRIME. RESCUING THING IN LEGAL CUSTODY

A person who endeavours to resist or prevent the execution of the law—

(a) by rescuing any other person from lawful custody for any cause other than crime;

(b) by rescuing, any goods or things from the public officer or peace officer having possession, custody, or care of such goods or thing under or by virtue of any lawful warrant or process,

is liable on conviction on indictment to imprisonment for 5 years.

398. PREVENTING EXECUTION OF DEATH SENTENCE

A person who endeavours by force to prevent the execution of the person sentenced to death is liable to imprisonment for life.

399. REFUSING OR NEGLECTING TO AID IN ARREST OR TO PREVENT CRIME RESCUE OR ESCAPE

A person who is lawfully commanded by any public officer or other person to give assistance for the prevention of crime, or for arresting any other person, or for preventing the rescue or escape of any other person, refuses or neglects to give such assistance according to his or her ability is liable on conviction on indictment to imprisonment for 2 years, or on summary conviction to imprisonment for 6 months.

400. RESISTING LAWFUL ARREST FOR CRIME

A person who endeavours to resist or prevent the execution of the law by resisting the lawful arrest of himself or herself or any other person for a crime, is liable on conviction on indictment, if such crime is punishable with death or with imprisonment for more than 7 years, to imprisonment for 7 years, or if such crime is punishable with imprisonment for not more than 7 years, to imprisonment for 5 years, or if such crime is a summary offence to imprisonment for 2 years.

401. RESISTING OR PREVENTING ARREST FOR CAUSE NOT CRIME

A person who endeavours to resist or prevent the execution of the law by resisting the lawful arrest of himself or herself or of any other person for any cause other than a crime is liable on conviction on indictment to imprisonment for 2 years.

402. HARBOURING OR AIDING CRIMINAL

A person who knowing or having reason to believe that another person has committed or has been convicted of any crime, aids, conceals, or harbours that person, with the intention of enabling him or her to avoid lawful arrest or the execution of his or her sentence, or to escape punishment, is liable—

(a) if the crime is punishable with death or with imprisonment for 14 years or more, to imprisonment for 7 years, on conviction on indictment;

(b) if the crime is an indictable offence other than that referred to in paragraph (a), to imprisonment for 5 years, on conviction on indictment;

(c) if the crime is a summary offence, to a fine of $1,000 on summary conviction unless the Court is of opinion that in the circumstances there should be no conviction or punishment owing to the trivial nature of the offence or other sufficient reason.

Bribing Public Officials

403. DEFINITIONS AND SPECIAL PROVISIONS

(1) For the purposes of sections 404 to 425—

"**civil office**" means any public office;

"**judicial officer**" means the person executing judicial functions as a public officer;

"**public office**" means the office of any public officer;

"**public officer**" means the person holding any of the following offices, or performing the duties thereof, whether as a deputy or otherwise, namely—

(a) any civil office, in respect of which the power to appoint or remove the person vests in Her Majesty, or in the Governor General, or in any public commission or board;

(b) any office to which a person is nominated or appointed under the Constitution or other enactment or by public election;

(c) any civil office, in respect of which the power to appoint or remove the person vests in the person holding a public office;

(d) any office of arbitrator or umpire in any proceeding or matter submitted to arbitration by order or with the sanction of any Court;

(e) any justice of the peace;

"**valuable consideration**" includes any money, money's worth, or valuable thing, and any office or dignity, and any forbearance to demand money, or money's worth, or any valuable thing and the personal advantage of whatever kind.

(2) A person acting as a minister of religion or ecclesiastical officer, of whatever denomination, is a public officer in so far as he or she performs functions with respect to the notification of intended marriage, or the solemnization of marriage, or the making or keeping of any register or certificate of marriage, birth, baptism, death, or burial, but not in any other respect.

(3) It is immaterial, for the purposes of this section, whether a person is or is not entitled to any salary or other remuneration in respect of the duties of his or her office.

Breach of Trust and Other Frauds

404. BREACH OF TRUST BY PUBLIC OFFICER

A public officer, who in the discharge of the duties of his or her office, commits any fraud or breach of trust affecting the public, whether such fraud or breach of trust would have been criminal or not if committed against a private person, is liable on conviction on indictment to imprisonment for 10 years, or on summary conviction to imprisonment for 2 years.

405. FAILURE OR REFUSAL TO DELIVER MONEY OR OTHER PROPERTY

A person employed in the service of the government of this State or any city, town, or village in this State, and entrusted by virtue of such employment with the keeping, receipt, custody, management or control of chattel, money, valuable security, book of account or document, or other property, who refuses or fails to deliver up any

such thing or property to any one authorised to demand it, is liable on conviction on indictment to imprisonment for 7 years.

406. FAILURE BY PUBLIC OFFICER TO PAY OR ACCOUNT FOR OR PRODUCE MONEY OR PROPERTY

(1) A public officer who is under a duty by reason of his or her employment, to pay or account for any monies or valuable security or to produce or deliver up any documents or other things, or who fails to do so in compliance with a demand to do so in accordance with his or her duty made to him or her by any other officer or person authorised in that behalf is liable on summary conviction to imprisonment for 3 months, and his or her conviction is without prejudice to his or her liability in any civil proceedings or for any other offence punishable under this Code.

(2) A public officer sentenced to imprisonment under subsection (1) shall be discharged upon his or her satisfying the Court before which he or she was sentenced, or any other Court of similar jurisdiction that he or she has since his or her conviction performed the duty in respect of which he or she was sentenced to imprisonment.

407. FALSE ATTESTATION OR CERTIFICATE BY PUBLIC OFFICER

A person who, being bound or authorised as a public officer to attest or certify, by writing or otherwise, any document or matter, or that an event has or has not happened, who certifies such document or matter which he or she knows is false in any material particular, or attests or certifies that such event has or has not happened, without knowing or having reason to believe that the event did or did not in fact happen or has not happened, according to his or her attestation or certificate, is liable on conviction on indictment to imprisonment for 2 years.

408. FALSIFYING, ETC., DOCUMENT BY PUBLIC OFFICER

A public officer who intentionally or recklessly destroys, damages, falsifies, or conceals any document which is in his or her possession, custody, or control, or to which he or she has access by virtue of his

or her office, is liable on conviction on indictment to imprisonment for 2 years.

409. FURNISHING FALSE STATEMENT OR RETURN OF MONEY OR PROPERTY

(1) A public officer charged with the receipt, custody, or management of any part of public revenue or property of the State or of any city, town or village of the State, who intentionally or recklessly furnishes any false statement or account of any money or property received by him or her or entrusted to his or her care, or of any balance of any money or property in his or her possession or under his or her control, is liable on conviction on indictment to imprisonment for 2 years.

(2) Nothing in this section shall exempt any person from liability to greater or other punishment under any other provision of this Code or of any other enactment, but the person shall not be punished twice for the same act.

Bribery and Corruption

410. CORRUPTION OF OR BY VOTER, OR JUROR

(1) A person commits the offence of corrupting a juror or voter in respect of the duties of his or her office or in respect of his or her vote if he or she attempts directly or indirectly to influence the conduct of such juror, or voter in respect of the duties of his or her office or in respect of his or her vote by the gift, promise, or prospect of any valuable consideration to be received by such juror, or voter, or by another person, from any other person.

(2) A juror, or voter commits the offence of corruption in respect of the duties of his or her office or in respect of his or her vote, if he or she directly or indirectly agrees or offers to permit his or her conduct as such juror, or voter to be influenced by the gift, promise, or prospect of any valuable consideration to be received by him or her, or by another person, from any other person.

(3) It is immaterial for the purposes of subsection (1) or (2) that the person in respect of whose conduct the attempt, agreement, or

offer is made is not at the time of the making of such attempt, agreement, or offer, a juror, or voter, if the attempt, agreement or offer is made in the expectation that he or she will or may become such juror, or voter.

(4) It is immaterial, for the purposes of subsection (2) or (3), whether the act to be done by a person in consideration or in pursuance of any gift, promise, prospect, agreement, or offer is in any manner criminal or wrongful, otherwise than by reason of the provisions of those subsections.

411. PRESUMPTION OF CORRUPTION OF OR BY JUROR OR VOTER

(1) Where after a person has done any act as a public officer, juror, or voter, he or she accepts, or agrees or offers to accept, for himself or herself or for any other person, any valuable consideration on account of such act, he or she is presumed, until the contrary is shown, to have committed the offence of corruption, in respect of such act.

(2) Where after a juror, or voter has done an act as such of juror, or voter, any other person agrees or offers to give, or procure for, him or her or for any other person any valuable consideration on account of such act, the person so agreeing or offering is presumed until the contrary is shown, to have committed the offence of having, before the doing of such act, corrupted such juror, or voter in respect of such act.

412. ACCEPTING AGREEMENT OR OFFERING TO ACCEPT BRIBE AS TO JUROR OR VOTER

A person who accepts, or agrees or offers to accept, any valuable consideration for having unduly influenced, or for agreeing or being able so to influence, any person in the discharge of his or her duties as a juror or voter is liable on conviction on indictment to imprisonment for 7 years.

413. CORRUPTING OR ATTEMPT TO CORRUPT JUROR OR VOTER

A person, who corrupts or attempts to corrupt any other person in the discharge of any duties as a juror or voter, is liable on conviction on indictment to imprisonment for 10 years.

414. CORRUPT AGREEMENT OR OFFER BY JUDICIAL OFFICER OR JUROR

A judicial officer or juror who, otherwise than in the due execution of his or her duties as a judicial officer or juror, makes or offers to make any agreement or offer by any agreement with any person as to the judgment or verdict which he or she will or will not give as a judicial officer or juror in any pending or future proceeding is liable on conviction on indictment to imprisonment for 10 years.

415. CORRUPT SELECTING OF JUROR

A person who, with the intention of procuring any undue advantage or disadvantage to, any party to any judicial proceeding, procures himself or herself or any other person to be summoned, empanelled, or sworn as a juror in such proceeding, or endeavours to prevent any other person from being summoned, empanelled, or sworn as a juror in such proceeding, is liable on conviction on indictment to imprisonment for 7 years.

416. CORRUPTION BY JUROR OR VOTER

A juror or voter who commits the offence of corruption, with respect to the discharge of the duties of his or her office, is liable on conviction on indictment to imprisonment for 10 years.

Extortion by Public Officials or Jurors

417. EXTORTION BY PUBLIC OFFICIALS OR JURORS

A public officer or juror commits extortion who, under cover of his or her office, demands or obtains from the person, whether for public purposes or for himself or herself or any other person, any money or valuable consideration which he or she knows he or she is not lawfully authorised to demand or obtain, or at a time which he or she knows he or she is not lawfully authorised to demand.

418. PENALTY FOR EXTORTION BY PUBLIC OFFICER OR JUROR

A public officer or juror who is guilty of extortion in respect of the discharge of the duties of his or her office, is liable on conviction on indictment to imprisonment for 7 years.

419. VIOLENCE TO DETER OFFICIAL OR FOR RECOURSE TO PUBLIC OFFICER

The person who uses any violence with intent to deter any other person from acting in any official capacity, or from having recourse to any public officer, or on account of his or her having so acted or had recourse to any public officer, is liable on conviction on indictment to imprisonment for 7 years.

420. VIOLENCE OR DECEIT TO HINDER OR OBSTRUCT PUBLIC OFFICER

A person who assaults, molests, obstructs or resists, or aids and abets or incites any other person to assault, molest, obstruct or resist any public officer or the person acting in the aid of such officer, while the officer is acting or proceeding to act in the execution of any public office or duty, or in the execution of any warrant or legal process, is liable on conviction on indictment to imprisonment for 7 years or on summary conviction to imprisonment for 2 years.

421. OPPRESSION BY PUBLIC OFFICER OR JUROR

(1) A public officer or juror who commits the offence of wilful oppression in respect of the discharge of the duties of his or her office, is liable on conviction on indictment to imprisonment for 5 years.

(2) A public officer or juror commits the offence of wilful oppression in respect of the discharge of the duties of his or her office if he or she intentionally commits any excess or abuse of his or her authority, to the injury of the public or of any person.

422. PRETENDING TO BE PUBLIC OFFICER OR JUROR

A person who pretends to be or acts as a public officer or juror, when he or she is not lawfully authorised to act as such officer or juror, is

liable on conviction on indictment to imprisonment for 5 years, unless he or she shows either—

(a) that he or she pretended to be or acted as such officer or juror under a mistake of law or of fact;

(b) in the case of a person acting as a public officer, that he or she so acted in good faith for the public benefit.

423. REFUSAL TO SERVE IN PUBLIC OFFICE, IF NO PUNISHMENT OTHERWISE

A person who, without lawful excuse, refuses to serve in any public office which he or she is legally bound to serve, and no penalty or punishment is provided for such refusal by this Code or any enactment, is liable on conviction on indictment to imprisonment for 2 years.

424. SELLING OR TRAFFICKING IN OFFICES

(1) A person who is a party to or aids and abets—

(a) the unlawful sale or purchase of any public office;

(b) the making of any unlawful and corrupt bargain or transaction with respect to an appointment to a public office or with respect to the gains of a public office,

is liable on conviction on indictment to imprisonment for 5 years.

(2) The provisions of subsection (1) shall apply to every civil public office the sale and purchase of which is not authorised by any enactment or by any orders or regulations lawfully made with respect to such office by a person having authority to make such orders or regulations.

(3) For the purposes of this section, "**corrupt bargain or transaction**" includes any agreement, which is not made with an authorisation in accordance with subsection (2)—

(a) for the giving or receipt by any person of any valuable consideration for nominating or appointing a person to an office;

(b) for procuring, soliciting, or recommending the nomination or appointment of a person to an office;

(c) for resigning or procuring the resignation of an officer;

(d) for any promise, offer or attempt to do such act as is mentioned in this section,

and includes any agreement, not made with such authorisation, for paying to any person, or permitting any person to retain or receive, the whole or any part of the salary, fees, or other remuneration or benefits of an office.

(4) No person is liable to punishment under this section in respect of any sale, purchase bargain, or transaction which is made with the approval of the Governor General, or, if the sale, purchase, bargain, or transaction is made by the person with authority from, or on behalf of, the Governor General.

425. FALSE STATEMENTS OR OATHS FOR OBTAINING OR ACTING IN OFFICE

A person who, in order that he or she may obtain or be qualified to act in any public office, makes, signs, publishes, or uses any declaration, statement, or oath required by law in such case, or any certificate or testimonial as to his or her conduct or as to any other matter which is material for the purposes of his or her obtaining of such office, or for his or her qualification to act in such office, if he or she does so knowing that such declaration, statement, oath, certificate, or testimonial is false in any material particular, is liable on conviction on indictment to imprisonment for 5 years.

PART 5
SUMMARY OFFENCES

Offences Relating to Summary Assaults

426. ASSAULT ON SUMMARY CONVICTIONS

A person who unlawfully assaults any other person is liable on summary conviction to a fine of $1,000, or to imprisonment for one year.

427. ASSAULT BY DISGUISED PERSON

A person who, being masked or otherwise disguised unlawfully assaults any other person is liable on summary conviction to a fine of $2,000 or to imprisonment for 2 years.

Possession of Offensive Weapons

428. CARRYING CUTLASS, SWORD OR MACHETE OTHERWISE THAN IN A SHEATH

A person who without reasonable excuse, proof of which lies on him or her, carries with him or her in any public place in any city, town or village any cutlass, sword, machete or bayonet, unless it is carried in a sheath or other covering, is liable on summary conviction to a fine of $1,000 or to imprisonment for one year.

Minor False Claims

429. FALSE CLAIMS GENERALLY

A person who with intent to defraud or deceive by any means or in any way or manner makes any false claim to money or other property whatsoever or to any interest in such money or property, is liable on summary conviction to a fine of $1,000.

430. PUNISHMENT FOR FALSE CLAIMS

A person who does any of the following acts is liable on summary conviction to a fine of $1,000 or to imprisonment for one year—

(a) makes, gives or uses any certificate or testimonial of health, sickness, character, qualification, or competency, knowing that such certificate or testimonial is false in any material particular;

(b) defrauds or deceives any other person by means of any false weight or measure or by any false use of any weight or measure;

(c) transfers to any other person, or accepts from any other person, any ticket or pass for travelling in any vessel or on any railway or conveyance, knowing that such ticket or pass is not transferable;

(d) knowingly makes any false return or statement of any matter in respect of which he or she is required to make a return or statement for the purpose of any tax, rate or assessment of such tax or rate.

431. OTHER FALSE CLAIMS

A person who defrauds or deceives any other person by any false claim is liable on conviction on indictment to imprisonment for 5 years, and if the fraud is committed in respect of a notified plant or notified plant product, to imprisonment for 6 months.

Minor Forgery Offences

432. MUTILATING CURRENCY NOTE

A person who without lawful authority or excuse (the proof of which lies on him or her) mutilates, cuts, tears or perforates with holes any currency note whether by writing, printing, drawing or stamping thereon, or by attaching or affixing anything in the nature or form of an advertisement is liable on summary conviction to a fine of $1,000.

433. POSSESSION OF 5 OR MORE FALSE FOREIGN NOTES

(1) It is an offence for any person without lawful authority or excuse (the proof of which lies on him or her) to have in his or her custody or possession any false or counterfeit note which resembles or is apparently intended to resemble or pass for, any note of any foreign State, or country, or any kind of note not being a legal note, but which resembles or is apparently intended to resemble or pass for, any such note, or any other note of less value than the note of any foreign State or country.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine of $1,000 for each false and counterfeit note found in his or her custody or possession, and

in addition, the magistrate shall order the forfeiture and destruction of such false or counterfeit note.

Unlawful Possession

434. UNLAWFUL POSSESSION OF CATTLE OR PART THEREOF

Where any cattle, or the carcass, head, skin, or any part of it is found in the possession or on the premises of any person, and that person does not satisfy the Court that he or she lawfully came by such cattle, carcass, head, skin, or other part of it, or that he or she had no knowledge of it, he or she is liable on summary conviction to a fine of $1,000.

435. UNLAWFUL POSSESSION OF FENCE, ETC.

Where the whole or any part of any fence, or iron or wooden post, pale, rail, wire, stile or gate is found in the possession or on the premises of any person, and that person does not satisfy the Court that he or she lawfully came by it or that he or she had no knowledge of it, he or she is liable on summary conviction to a fine of $1,000, and on each subsequent conviction of the same offence, to imprisonment for one year.

436. UNLAWFUL POSSESSION OF PLANT OR PLANT PRODUCT

Where the whole or part of any plant or plant product is found in the possession or on the premises of any person, and that person does not satisfy the Court that he or she lawfully came by, or that he or she had no knowledge of it, he or she is liable on summary conviction to a fine of $1,000, and on each subsequent conviction of the same offence, to imprisonment for one year.

437. PERSON TAKING POSSESSION OF LOST THING TO DELIVER IT TO OWNER OR TO LAWFUL AUTHORITY

(1) A person who takes possession of anything which appears to be of some value, and to have been lost by another person, shall, within 48 hours or so soon as may be reasonably practicable, after taking possession of it, deliver it to its owner, if known, or

a magistrate or police officer or any other person authorised by law to receive such thing.

(2) A person who contravenes subsection (1) of this section is liable on summary conviction to imprisonment for 3 months.

(3) Nothing in this section relieves any person of any liability to punishment for the offence of theft and handling if his or her actions amount to any such offence.

(4) It is the duty of the police to restore the lost property to its owner, if known.

(5) Unless otherwise provided by regulations made by the Cabinet, if no application is made by the real owner for the recovery of the property within the 3 months after its delivery to the police, the property may be sold by the police and the proceeds of the sale shall be paid into the Treasury for the public uses of the State.

(6) Unless otherwise provided by regulations made by the Cabinet, the finder of lost property who deals with it in accordance with the provisions of this section, is entitled to a reward not exceeding $^{1}/_{8}$ part of the assessed value of such property or of the proceeds of the sale of such property.

438. UNLAWFUL POSSESSION OF PROPERTY OF PERSONS IN VESSELS IN DISTRESS OR WRECKED

Where anything belonging to any officer, crew or passenger of any vessel in distress, wrecked, stranded or cast on shore, is found to be knowingly in the possession or on the premises of any person, and if that person does not satisfy the Court that he or she lawfully came by such thing, he or she is liable on summary conviction to a fine of $1,000.

439. OFFERING OR EXPOSING FOR SALE PROPERTY FROM VESSELS WRECKED OR IN DISTRESS

(1) Where any person offers or exposes for sale anything which has been unlawfully taken, or is reasonably suspected so to have been taken, from any vessel in distress, wrecked, stranded or cast on shore, in every such case any person to whom the thing is offered for sale, or any officer of customs or police officer,

may lawfully seize the thing and shall with all convenient speed convey it or give notice of such seizure to a justice of the peace or a magistrate.

(2) Where any person who has offered or exposed any such thing for sale is summoned to appear before the Court and does not appear, or if he or she appears, does not satisfy the Court that he or she lawfully came by such thing, the Court shall order that the thing be delivered forthwith to or for the use of its rightful owner upon payment by him or her of such reasonable reward as the Court may determine to the person who seized the thing.

(3) The offender is liable on summary conviction to a fine of $1,000, and on each subsequent conviction of any such offence, to imprisonment for one year.

440. UNLAWFUL POSSESSION OF PROPERTY STOLEN ELSEWHERE

A person who, having obtained elsewhere than in this State any property by any act, which, if done in this State, would amount to stealing, brings such property into or has such property in this State, is liable on summary conviction to imprisonment for 6 months.

441. UNLAWFUL POSSESSION OF PROPERTY SUSPECTED TO HAVE BEEN STOLEN

(1) A person who has in his or her possession or conveys in any manner anything which is reasonably suspected to have been stolen or unlawfully obtained, and who does not give an account to the satisfaction of the Court, as to how he or she came by it is liable on summary conviction to imprisonment for 2 years.

(2) Where a person charged with an offence under subsection (1) refuses or is unable to satisfy the Court that his or her possession of the thing is lawful it shall be deemed to be *prima facie* evidence of his or her guilt and the Court may convict him or her accordingly.

(3) Where a person charged with an offence under section (1) declares—

(a) that he or she received the thing from another person; or

(b) that he or she was employed as a carrier, agent, or servant, or to convey the thing for some other person,

the Court may cause every such person, and also if necessary, every former or pretended purchaser, or the person from whom the person charged came by the thing to be brought before the Court and examine witnesses upon oath concerning the thing.

(4) Where it appears to the Court that any person who had possession of any thing, has reasonable cause to believe the thing has been stolen or unlawfully obtained, the person is deemed to have had possession of the thing at the time when, and place where, the thing was found and seized, and is liable on summary conviction to imprisonment for one year.

(5) The possession of a carrier or agent, is deemed to be the possession of the person who employed the carrier or agent, to convey such thing, and that person is liable on summary conviction to imprisonment for 18 months.

(6) If the value of the thing exceeds $2,000 the magistrate may deal with the charge as indictable and the accused is liable on conviction on indictment to imprisonment for 5 years.

Cattle Stealing

442. STEALING ANIMAL NOT CATTLE

A person who steals any animal not being cattle, which is of some value and which is in actual confinement is liable on summary conviction to imprisonment for one year.

443. STEALING CATTLE OR PART THEREOF

(1) A person who steals any cattle, carcass, skin or any part of any cattle is liable on summary conviction to imprisonment for one year.

(2) The Court may, on a second and subsequent conviction of the person under subsection (1), sentence him or her to imprisonment for 3 years.

(3) A police officer may seize and detain any vehicle used for the conveyance of any cattle, carcass, skin or any part of it which he or she has reasonable cause to suspect has been stolen or unlawfully obtained.

(4) Where a person has been convicted of an offence under subsection (1) or of the offence of dishonest receiving or unlawful possession with respect to any cattle, carcass, skin or part of it the magistrate may order any vehicle detained under subsection (3) which he or she finds to have been used to convey such cattle, carcass or part of it, to be sold by public auction conducted by a police officer and the proceeds paid into the Treasury.

Making Demands with Threats

444. MEANING OF THREAT

"**Threat**" when used with reference to demand, does not include a threat of criminal assault or harm to the person threatened.

445. DEMAND WITH THREATS INTENDING TO STEAL

A person who, with threats, demands from any other person, either for himself or herself or for any other person, anything capable of being stolen with intent to steal it, is liable on summary conviction to imprisonment for 6 months.

446. DEMAND WITH THREAT OF MAKING COMPLAINT FOR SUMMARY OFFENCE

A person who demands a sum of money or other reward from the person by threatening, directly or indirectly, to make a complaint against that person or some other person, before a magistrate for any summary offence when there exist no grounds for such complaint, or as an inducement to forbear to make such complaint, is liable on summary conviction to a fine of $1,000.

Stealing under $500

447. STEALING THING NOT EXCEEDING $500 IN VALUE

A person who steals anything not exceeding $500 in value and the stealing is not accompanied by house-breaking or burglary, or does not amount to robbery, is liable on summary conviction to imprisonment for 6 months.

Property Offences by Fire

448. BONFIRE OR FIREWORKS IN PUBLIC PLACE

A person who—

(a) in any public place makes any bonfire, or sets fire to or throws when lighted any fireworks;

(b) in any city or town without lawful and necessary reason, the proof of which lies on the accused, discharges, throws or sets fire to, any fireworks in any house, building, yard, or place, or allows any such act to be done,

is liable on summary conviction to a fine of $1,000.

449. BURNING LAND

(1) For purposes of preventing loss, damage, and injury to property, any person who intends to set fire, or to cause fire to be set, to any tree, bush, brushwood, rubbish, guinea or other grass, trash, or cane piece, shall first apply to the nearest justice of the peace for permission, and shall prove, to the satisfaction of such justice, that he or she has given notice to all the neighbours possessing or in charge of property which might be damaged or destroyed by such fire, if carelessly or improperly used.

(2) The justice of the peace upon proof of such notice and upon proof that proper precautions have been taken to prevent any damage or destruction to the property of such neighbours shall grant permission in writing to the applicant to burn such tree, bush, brushwood, rubbish, guinea or other grass, trash or cane-piece.

(3) A permission granted under subsection (2) is valid for 7 days only from the date it is granted.

450. BURNING LAND WITHIN 2 MILES OF TOWN OR SETTLEMENT WITHOUT NOTICE OR PERMISSION

A person who—

(a) without notice given and permission first obtained under section 449, at any time sets fire or causes fire to be set to any tree, bush, brushwood, rubbish, guinea, or other grass, trash or cane piece, for the purpose of clearing it or for any other purpose whereby any damage or injury is caused to the property of another person;

(b) at any time, within two miles of any city or town or village or settlement, sets fire or causes fire to be set without having given notice and first obtained permission under section 449, and whether or not the fire causes damage or injury to the property of another person;

is liable on summary conviction to a fine of $1,000.

451. ENTERING PLANTATION WITH LIGHT, WITHOUT CONSENT, TO HUNT OR FOR OTHER PURPOSES

A person who enters upon any plantation or estate with any lighted torch, flambeau, or other thing, for the purpose of hunting crabs or any bird or beast, or for any other purpose, without the consent of the owner or occupier of such plantation or estate, is liable on summary conviction to a fine of $1,000.

452. FIRES IN CITY, TOWN OR VICINITY

Any person who—

(a) in any part of any city or town or any place immediately adjacent thereto, lights, or causes to be lighted, any fire;

(b) carries any lighted torch, candle, or other lighted thing, or any fire, through such area or place referred to in paragraph (a) unless secured in a lantern or some other safe thing in which it may be conveyed;

(c) makes, or causes to be made any fire in the yard or other part of any house or premises, except the kitchen, whereby such city or town, or place immediately adjacent thereto or any house or premises in the same or in the immediate vicinity or of such city, town, house or premises or adjacent thereto, may be endangered,

is liable on summary conviction to a fine of $1,000.

453. INTERFERING WITH PUBLIC LAMP

A person who wantonly extinguishes the light of, or destroys or damages or interferes with any lamp or other light in any public way or public place is liable on summary conviction to a fine of $1,000.

454. GIVING, SELLING, OR OFFERING FOR SALE POISONOUS GRAIN OR SEED EXCEPT FOR AGRICULTURE

(1) A person who—

(a) sells, or offers or exposes for sale, or gives away, or causes or procures the person to sell or offer for sale or give away, or knowingly is a party to the sale or offering or exposing for sale or giving away of any grain or seed which has been rendered poisonous except for *bona fide* use in agriculture; or

(b) knowingly puts or places, or causes or procures the person to put or place or knowingly is a party to the putting or placing, in or upon any land or building any poison, or any fluid or edible matter (not being sown seed or grain) which has been rendered poisonous,

is liable, on summary conviction, to a fine of $1,000.

(2) In any proceedings in respect of an offence under subsection (1)(b) it is a defence that the poison was placed by the accused for the purpose of destroying rats, mice, or other small vermin, and that he or she took all reasonable precautions to prevent access to it of dogs, cats, fowls, or other domestic animals.

455. DETENTION OF ANIMAL OR VEHICLE. VETERINARY TREATMENT

(1) Where a person having charge of a vehicle or an animal is arrested by a police officer for an offence under this Code, it is lawful for the police officer to take charge of such vehicle or animal, and to deposit it in some place of safe custody until the termination of the proceedings or until the Court directs that the vehicle or animal be delivered to the person charged or to its owner.

(2) Where the person charged is convicted, any reasonable costs including veterinary treatment where such treatment is required, incurred in respect of the detention of the animal are recoverable from the owner as a civil debt, or if the Court so orders by such process, including imprisonment in default of payment, according to the scale of imprisonment in default of payment of a penalty or fine as the Court may direct.

(3) Where the owner himself or herself is convicted, such reasonable costs incurred in respect of the detention and veterinary treatment of the animal, shall be treated as part of the costs of the case.

Damage to Public or Private Property

456. DAMAGE TO FENCE, POST, RAIL, WIRE, GATE OR THE LIKE

A person who intentionally or recklessly destroys or damages any fence or part of any fence or any iron or wooden post, pale, rail or wire used as a fence, or any tile or gate or any part of it, is liable on summary conviction to a fine of $1,000.

457. DAMAGE TO CULTIVATED PLANT IN GARDEN, BUILDING OR ELSEWHERE

A person who intentionally or recklessly causes damage to any cultivated plant growing in any public or private garden, building, or any other public or private place is liable on summary conviction to a fine not exceeding $1,000.

458. DAMAGE TO TREE IN PARK, GARDEN OR ELSEWHERE

A person who intentionally or recklessly causes damage to any tree growing in any public or private park, garden, or pleasure ground, or to any tree growing in any other place, is liable on summary conviction to a fine not exceeding $1,000, or to imprisonment for a period not exceeding one year.

459. DAMAGE TO PLANT PRODUCT

A person who intentionally or recklessly causes damage to any plant product, whether in any building, vessel, yard, stock, or in any other place, is liable on summary conviction to imprisonment for 6 months.

460. DAMAGE TO PUBLIC WAY, WATER OR WORK

A person who intentionally or recklessly causes damage to any public way or work, to any navigable water, or any public well, spring, or reservoir, is liable on summary conviction to a fine not exceeding $1,000, or to imprisonment for one year.

461. DAMAGE TO STATUE, MONUMENT OR WORK OF ART

A person who intentionally or recklessly causes damage to anything kept for the purpose of art, literature, science, or curiosity, in any public or private museum, gallery, or collection, or to any statue or monument in any place is liable on summary conviction to imprisonment for one year.

462. DAMAGE TO TELECOMMUNICATION

A person who intentionally or recklessly causes damage to, or obstructs the working of any pole, wire, apparatus used for the purposes of any telecommunication, is liable on summary conviction to imprisonment for one year.

463. DAMAGE TO TOLL-BAR

A person who intentionally or recklessly destroys, removes, or causes material damage to any toll-bar or barrier lawfully maintained for the

purposes of the collection of any public or private toll, is liable on summary conviction to imprisonment for 2 years.

464. DAMAGE OF NO PECUNIARY VALUE

A person who intentionally or recklessly in any way damages, spoils, or destroys anything belonging to or in the possession of any other person or to which any other person has the right of possession, in spite of the fact that such thing is not of any pecuniary or saleable value, or of any value whatsoever except to the person to whom it belongs, or who has possession or the right of possession of it, is liable on summary conviction to a fine of $500, although no pecuniary damage to any such thing may have been committed by the offender.

465. DAMAGE TO LAND, ANIMAL OR THING, NOT SPECIALLY PROVIDED FOR

A person who intentionally or recklessly causes damage to any land, or to any animal or thing, in any case not specially provided for in this Part, is liable on summary conviction to a fine not exceeding $1,000 or to imprisonment for a term not exceeding one year.

Trespass

466. CONVICTION FOR TRESPASS ON CHARGE OF STEALING OR OTHER DISHONEST APPROPRIATION

(1) Whenever a person is charged with stealing or other dishonest appropriation of property, the Court or jury may acquit him or her and instead, convict him or her of unlawful trespass.

(2) A person convicted under subsection (1) is liable, in the case of a Court of summary jurisdiction to a fine of $1,000, and in the case of the High Court to imprisonment for 12 months or to a fine at the discretion of the Court.

467. DETENTION OF GOODS OR DOCUMENTS TO PROPERTY NOT OVER $500 VALUE

(1) On a complaint made by any person claiming to be entitled to any property or possession of any goods or chattels which are detained by any other person, the value of which does not exceed $500, or which is not a document of title or any or instrument relating to such property the value of which exceeds $500, it is lawful for a magistrate to inquire into the title to the property or to the right of possession of the goods or chattels.

(2) If upon a demand for such goods or chattels made by the complainant it appears to the magistrate—

(a) that such goods or chattels have been detained without just cause by the person against whom the complaint has been made; or

(b) that the person detaining such goods or chattels has a lien on, or a right to detain, the goods or chattels by way of security for the payment of money, or the performance of any act, by the owner,

the magistrate may order such goods or chattels to be delivered to the owner or to the person entitled to the possession of such goods or chattels either absolutely or upon tender of such amount as may appear to the magistrate to be due from the owner or the person entitled to the possession of such goods or chattels, or upon the performance, or upon the tender and refusal of the performance, of the act for the performance, of which such goods or chattels may have been detained as security, or if such act cannot be performed, then upon tender of compensation for non-performance.

(3) A person who refuses or neglects to deliver up such goods or chattels in compliance with such order shall pay as compensation to the aggrieved person the full value of such goods or chattels.

(4) No order shall bar the person from recovering the goods or chattels so delivered by legal action from the person to whose possession such goods or chattels come by virtue of such order, provided the action is commenced within 6 months after the order has been made.

468. DETENTION OR DISPOSAL OF GOODS BY EMPLOYEES

An artificer, a workman, journeyman, apprentice, employee, labourer, or other person who unlawfully disposes of or retains in his or her possession, without the consent of the person by whom he or she may be hired, retained or employed, any goods or chattels, committed to his or her care or charge, is liable on summary conviction to a fine of $1,000 and to pay as compensation to the aggrieved person the value of the goods or chattels which have been so disposed of or have been damaged.

469. TAKING OR ATTEMPTING TO TAKE CATTLE TO RIDE, DRIVE OR OTHERWISE USE WITHOUT CONSENT

A person who intentionally and unlawfully catches, takes, or drives, or attempts to catch, take or drive away any cattle from or out of any pasture, enclosure, stable or other place—

(a) for the purpose of riding any such animal, or of using it in the carrying of any load or burden or in the drawing of any cart or carriage ;

(b) for the purpose of setting it loose or of driving it about; or

(c) for any other unlawful and mischievous purpose,

without the consent of the owner or of the person entrusted with the charge of such animal, and without having any probable claim of title, is liable on summary conviction to a fine of $1,000.

470. TAKING ON PERSON OR LOAD BY DRIVER OR CONDUCTOR OF VEHICLE WITHOUT CONSENT

A person who, being the driver or conductor of any vehicle, without the consent of the owner or the agent of the owner—

(a) takes up or allows the person to ride on it; or

(b) permits to be conveyed on it any load,

upon the complaint of the owner or the agent of the owner, is liable on summary conviction to a fine of $1,000.

471. USING OR INTERFERING WITH ANIMAL, BOAT, VEHICLE, ETC. WITHOUT AUTHORITY

A person who without lawful authority or excuse, the proof of which lies on him or her, uses or interferes with, or in any other way, commits any wrong or trespass in respect of, to, or upon any animal, boat, vehicle or other thing whatsoever, is liable on summary conviction to a fine of $500 although no damage may have been caused by such offence.

472. POSTING BILLS, DEFACING BUILDINGS WITHOUT CONSENT, ETC,

A person who without the consent of the owner or occupier—

(a) affixes any posting-bill or other paper to or on any building, wall, fence, pillar, post, or pale;

(b) writes upon, soils, defaces, or marks any such building, wall, fence, pillar, post, or pale with chalk or paint, or in any other way or with any other material,

is liable on summary conviction to a penalty of $1,000.

473. SOLICITING ALMS IN PREMISES

A person who, without lawful authority or excuse, the proof of which lies on him or her, enters in any premises, or intrudes in any premises when he or she has been lawfully ordered to depart, and uses any solicitation, means or device to induce the bestowal of alms upon him or her, is liable on summary conviction to a fine of $1,000.

474. THROWING THINGS FROM PREMISES INTO OTHER PREMISES

A person who throws, or being the owner or occupier of any house or building permits to be thrown, from any part of such house or other building, any rubbish, water, matter or thing whatsoever into, in or on the premises of another person, is liable on summary conviction to a fine of $1,000.

475. TRESPASSING AND SQUATTING

In sections 476 and 477 relating to the prevention of trespassing and squatting, unless the context otherwise requires, the words—

(a) "**authorised officer**" includes a school principal, teacher, doctor, nurse, administrator, or supervisor of public health facility or crown lands officer;

(b) "**land**" includes building or other erection;

(c) "**proprietor**" and "**occupier**" respectively include any tenant or, lessee, and the attorney or agent of any proprietor or occupier.

476. ANNOYING INSULTING OR THREATENING ENTRY

(1) A person who—

(a) unlawfully enters in an insulting, annoying, or threatening manner, upon any land belonging to or in the possession of any other person;

(b) unlawfully enters upon any such land, after having been forbidden so to do;

(c) unlawfully enters and remains on any land after having been required to depart;

(d) having lawfully entered upon any such land, misconducts himself or herself by behaving in an insulting, annoying or threatening manner; or

(e) having lawfully entered any such land, remains on the land after having been lawfully required to depart,

upon the complaint of the proprietor or occupier of such land, is liable on summary conviction to a fine of $1,000.

(2) A person who without lawful authority or excuse enters upon—

(a) Crown lands; or

(b) a school land or building;

(c) a health centre, clinic, hospital or other public building; or

(d) a part of a public building to which members of the public are not allowed,

commits an offence and on the complaint of an authorised officer is liable on summary conviction to a fine not exceeding $1,000.

477. SUMMONS TO SQUATTER

(1) If any person enters upon or uses or occupies any land, belonging to or in the possession of another person, without leave of the proprietor or occupier or without lawful authority for so doing, the magistrate of the district in which such land is situate, on the complaint of the proprietor or occupier, may summon before him or her the person using or occupying such land to show cause why an order should not be made for his or her removal from the land.

(2) If, on the hearing of the complaint, it is proved, to the satisfaction of the magistrate, that the defendant has entered upon and used or occupied such land without leave or lawful authority, the magistrate may make an order for his or her removal, by force if necessary, from the land, and also the removal of any structure, animal or thing whatsoever which he or she may have placed or have on the land.

(3) The magistrate may in addition, if he or she thinks fit, impose on the person a fine of $500, and may order that the whole or any portion of such fine, if paid or recovered be paid to the proprietor or occupier of the land.

(4) The Court may make an order for compensation for buildings, growing crops, or other things not exceeding $5,000 to be paid to a person ordered to give up possession, unless the proprietor allows the removal of any such structure, animal or other thing in which case the Court shall fix a reasonable time for the removal.

(5) The Court may give such directions in the matter as it considers just and necessary.

(6) The provisions of this section apply in the case of a person remaining on any land even after lawful entry where his or her right to do so has been determined by law, or by notice to quit the land or otherwise.

(7) Nothing in this section shall exclude the right of any person to take civil proceedings in respect of any trespass, squatting, entry upon, use, or occupation of any land, provided that if an order made under this section is carried out or obeyed, no civil proceedings shall be maintainable in respect of the same matter or cause of action.

478. TRESPASSING ON PLANTATION

(1) A person who, without lawful excuse or authority, the proof of which lies on him or her, trespasses on any plantation, may be arrested by the proprietor or his or her agents or servants or by any peace officer, and is liable on summary conviction to imprisonment for one month.

(2) In this section—

"**plantation**" includes any portion of land appropriated but not exclusively appropriated to the cultivation of any notified plant and includes any buildings on it, which are used for or in connection with the plantation;

"**proprietor**" includes the tenant or person in actual possession of and the manager or other person having chief authority on or charge of any plantation or land upon which notified plants are grown, or the agent or attorney of any such person.

479. RIGHT OF WAY ALONG CUSTOMARY PATH TO VILLAGE OR SETTLEMENT UNAFFECTED

(1) Nothing in this Code affects the right of any person to pass in an orderly and quiet manner through and along the customary path leading from any public way to any village or settlement adjacent to such public way.

(2) Subsection (1) does not affect the title of any person in any such path.

Nuisance

480. NOTICE TO ABATE NUISANCE DUE TO ANIMAL, PLANT OR THING

(1) Where any animal, or thing, in any place either of itself or by reason of the place where, or manner in which, it is kept, is a source of nuisance to the person, that person may, by notice in writing to the owner of such animal, or thing, or to the owner of the premises on which such animal or thing is kept, require that such nuisance be abated, either by the removal of such animal, or thing or otherwise.

(2) Where any plant overhangs any premises, the owner of such premises, may, by notice in writing to the owner of the premises on which such plant is, require him or her to cut down such plant, or part thereof.

(3) In this section—

"**owner of animal**" includes the person in possession or in charge of the animal;

"**owner of premises**" includes—

(a) a person in actual occupation, or possession of any premises, or the representative of the person; or

(b) where there is no such person, the usufructuary or proprietor of any premises, or the representative of such usufructuary or proprietor.

481. PROCEEDINGS AND ORDER AND PENALTY

(1) If any notice given under section 480 is not complied with, within 5 days after it has been given, an aggrieved person may lodge a complaint before a magistrate, who shall investigate the complaint and make such order as he or she sees fit.

(2) Where a person named in such order, fails to comply with the order within the time specified in the order, the person commits an offence and is liable on summary conviction to a fine of $500 for every week that the offence continues.

482. NUISANCE FROM NOXIOUS OR OFFENSIVE BUSINESS OR MATTER

(1) A person who, without lawful authority or excuse, the proof of which lies on him or her, commits any of the following nuisances, namely —

(a) so carries on any noxious, offensive, or noisy business at any place, or causes or permits any noxious or offensive matter to be collected or to remain at any place—

(i) as to impair or endanger the health of the public residing or using the neighbourhood of such place,

(ii) as to cause material damage to the lands, crops, animals, or goods of such public,

(iii) as to cause material interruption to such public in their lawful business or occupations,

(iv) as to materially affect the value of their property;

(b) so makes, keeps, or uses any explosive matter or any collection of water, or any other dangerous or destructive thing, or any building, excavation, open pit, or other structure, work, or place, or permits it to be at large, as to cause danger of harm or damage to the persons or property of the public,

is liable on summary conviction to imprisonment for 12 months or to a fine not exceeding $1,000.

(2) No such nuisance is excused on the ground that it causes some convenience or advantage.

(3) For the purposes of this section "**business**" includes not only any trade, manufacture, work, business, or occupation carried on for gain, but also any continued or frequent repetition of any act or series of acts of any kind.

483. THROWING STONE OR OTHER MISSILE

A person who—

(a) throws or discharges any stone or other missile so as to cause annoyance, damage, or danger to any person in any place;

(b) throws or discharges any stone or missile in any public place, is liable on summary conviction to a fine of $1,000.

484. FOULING PUBLIC WATER

(1) A person who—

(a) contaminates or fouls the water of any public well, tank, spring, or reservoir;

(b) causes any obstruction to the public use of any navigable water, well, spring, or reservoir, so as to deprive the public of the benefit thereof,

is liable on summary conviction to a fine of $1,000 or to imprisonment for 2 years, and where the offence continues or is repeated, to a fine of $5,000 or imprisonment for 4 years.

(2) No such nuisance is excused on the ground that it causes some convenience or advantage.

485. NON-CONSTRUCTION, MAINTENANCE OR OBSTRUCTION, OF PUBLIC WAY

(1) A person who without lawful authority or excuse, the proof of which lies on him or her, commits any of the following nuisances, namely—

(a) being under a legal duty to provide for the construction, maintenance, or repair of any public way, fails to perform such duty;

(b) causes any obstruction to the public use of any public way so as to deprive the public of the benefit thereof,

is liable on summary conviction to a fine of $1,000, or to imprisonment for one year, and where the offence continues or is repeated to a fine of $2,000 or imprisonment for 2 years.

(2) A person is not liable for obstructing the public use of any public way by reason only of his or her being a party to any meeting or assembly in, or on, or near any public way unless the purpose of such assembly is or includes the obstruction of the public by force or threats or show of force.

486. ANIMAL TREATING, CLEANING, FEEDING, ETC, CAR WASHING AND REPAIRING IN PUBLIC PLACES

(1) A person who—

(a) cleans, dresses, exercises, trains, or breaks any animal in any public way or public place;

(b) in any public way or public place, to the annoyance of any person, feeds, fodders, farries, shoes, or bleeds any animal, except in the case of accident;

(c) without lawful authority, the proof of which lies on him or her in any city, town, or village offers or exposes for show, hire, or sale any animal, except in a market-place or other convenient place lawfully designated for that purpose;

(d) in any street, road or open space to which the public have access in any city, town or village or within one mile of the boundaries thereof—

(i) carries out a business of repairing to vehicles, or

(ii) habitually occupies himself or herself with repairing, assembling or dismantling any vehicles or any parts of a vehicle,

is liable on summary conviction to a fine of $500.

(2) For the purposes of subsection (1) (d) "open space" means land open to the public but does not include any land specially set aside by notice displayed on it by any City, Town or Village Council or the proper authority for the purpose of washing, repairing, assembling or dismantling vehicles.

487. PROHIBITION OF ARTICLES AND ADVERTISEMENTS ON AND DEFACEMENT OF CERTAIN STRUCTURES, ETC.

(1) Where any structure or other land, door, gate, window, tree, pole or post is—

(a) in a public place; or

(b) in or fronts a public place,

a person who is not the owner, occupier or person in charge thereof shall not—

(i) exhibit or cause to be exhibited thereon any article or advertisement, or

(ii) carry out or cause to be carried out any defacement thereof by writing or other marks including graffiti,

unless he or she is authorised so to do by such owner, occupier or person in charge or by or under any enactment.

(2) Without prejudice to the liability of any other person under subsection (1), where there is a contravention of that subsection—

(a) in the case of an advertisement relating to a meeting or other event, the person who is promoting or arranging the meeting or event; and

(b) in the case of any other advertisement, the person on whose behalf the advertisement is exhibited,

shall be deemed also to have contravened that subsection.

(3) A local authority may, upon such terms and conditions as may be agreed upon by it and the owner, occupier or person in charge, in the case of an article, advertisement or defacement in its area in relation to which there is a contravention of subsection (1)—

(a) by its employees or agents, remove the said article or advertisement or, as the case may be, remove or otherwise remedy the said defacement; and

(b) for those purposes, by its employees or agents enter on the structure or other land concerned or the structure or other land on which is situated the door, gate, window, tree, pole or post concerned.

(4) In a prosecution for an offence under this section, it shall not be necessary for the prosecution to show and it shall be assumed until the contrary is shown by the defendant, that the defendant was not the owner, occupier or person in charge of the structure or other land, door, gate, window, tree, pole or post and was not authorised as referred to in subsection (1).

(5) A person who contravenes subsection (1), or who obstructs or impedes a local authority or its employees or agents acting in the exercise of the functions conferred on a local authority by

subsection (3), commits an offence and is liable on summary conviction to a fine of $1,000.

(6) A Court may, if it is satisfied that—

(a) the article or advertisement concerned was not exhibited; or

(b) the defacement concerned was not carried out, by or with the consent of the person mentioned in subsection (1), direct that the whole part of the expenditure reasonably incurred in the removal or cleanup of the article or advertisement or defacement, shall be met by the person convicted.

(7) This section does not apply to an advertisement—

(i) exempted under any enactment or advertising a public meeting, or

(ii) relating to an election under any enactment.

(8) A Court convicting a person under this section may, in addition to the penalty under subsection (5), order the person to perform community service involving the cleaning up of defaced structures.

(9) In this section "**occupier**", in relation to a door, gate, window or tree, means the occupier of the structure or other land on which the door, gate, window or tree, as the case may be, is situated and, in relation to a pole or post, means the owner of the pole or post.

488. MATERIALS, NOT ENCLOSED BUILDING MATERIALS OR RUBBISH, IN PUBLIC PLACE

A person who, in any public way or public place, throws or lays any coals, stones, slates, shells, lime, bricks, timber, building iron or other materials, other than building materials or rubbish which are occasioned by any building works and which are so placed or enclosed as to prevent any danger or injury to any inhabitant or passer by, is liable on summary conviction to a fine of $500.

489. OFFENSIVE, ANNOYING OR INJURIOUS DEPOSIT IN TOWN

(1) A person who, in any city, town or village deposits in any place any offensive matter, to the injury or annoyance of any person in the city, town or village, is liable on summary conviction to a fine of $1,000.

(2) The provisions of this section are without prejudice to the provisions of any enactment relating to such matters and, where there is an inconsistency between the provisions of this section and that enactment, the provisions of that enactment shall prevail.

490. OFFENSIVE MATTER RUNNING INTO STREET OR PUBLIC PLACE

A person who causes or permits the emission of any offensive matter from any slaughter-house, butcher's shop, stall, or dunghill, into any street or public place, is liable on summary conviction to a fine of $1,000.

491. RUBBISH OR OTHER OFFENSIVE MATTER PUT IN PUBLIC PLACE

(1) A person who throws or lays any dirt, litter, ashes, or night soil, or any carrion, fish, offal, rubbish or matter or thing of any other kind, on any public way or public place, is liable on summary conviction to a fine of $1,000.

(2) The provisions of this section are without prejudice to the provisions of any enactment relating to such matters and, where there is an inconsistency between the provisions of this section and that enactment, the provisions of that enactment shall prevail.

492. SHADE OR OTHER PROJECTION ON FOOTWAY

A person who places any blind, shade, covering, awning, or other projection over or along any footway in any city or town, which is not more than 6 feet 6 inches, in height at least in every part of it, is liable on summary conviction to a fine of $1,000.

493. THINGS FOR SALE PROJECTING INTO OR OVER FOOTWAY IN CITY OR TOWN

A person who, places, hangs up, or exposes for sale in any city or town any goods, wares, merchandise, matter, or thing whatsoever, so that the same project or projects into or over any footway, or beyond the line of any house, shop or building at which the same is or are so exposed so as to obstruct or inconvenience the passage of any person over or along any footway, is liable on summary conviction to a fine of $1,000.

494. OCCUPIER TO CLEAN FOOTWAY AND WATERCOURSE ADJOINING HIS OR HER PREMISES IN CITY OR TOWN OR VICINITY

(1) The occupier of any house or other tenement situate in any city or town or in any place immediately adjacent thereto, who does not keep sufficiently swept and cleaned all footways and watercourses belonging and adjoining to the premises occupied by him or her is liable on summary conviction to a fine of $1,000.

(2) Where any such house or other tenement is unoccupied, its owner is deemed for purposes of subsection (1) to be the occupier of such house or tenement and liable to the same penalty.

495. NUISANCE TO PUBLIC WORK

(1) A person who without lawful authority or excuse, the proof of which lies on him or her, commits any of the following nuisances, namely—

(a) being under a legal duty to provide for the construction, maintenance, or repair of any public works, fails to perform such duty;

(b) causes any obstruction to the public use of any public works, so as to deprive the public of the benefit of it,

is liable on summary conviction to imprisonment for one year or to a fine not exceeding $1,000.

(2) No such nuisance is excused on the ground that it causes some convenience or advantage.

(3) A person is not liable for obstructing the public use of any public works by reason only of his or her being a party to any meeting or assembly in, or upon, or near any public works, unless the purposes of such assembly are or include the obstruction of the public by force or threats or show of force.

496. SELLING, PREPARING OR OFFERING FOR SALE UNWHOLESOME FOOD OR DRINK

(1) A person who sells or prepares or offers for sale, as being fit for consumption as food or drink, anything which he or she knows or has reason to believe to be, from putrefaction, adulteration , or other cause in such condition, as to be likely to be noxious to health is liable on summary conviction to imprisonment for 2 years.

(2) A person who—

(a) sells, or offers or exposes for sale, any unwholesome meat, poultry, fish, provisions or drink of any kind; or

(b) keeps any unwholesome meat, poultry, fish, provisions or drink of any kind in any market, store, shop, dwelling-house, building, or place,

is liable on summary conviction to a fine of $1,000, or to imprisonment for 2 years.

(3) It is lawful for any officer of a city, town or village or police officer, on seeing any unwholesome meat, poultry, fish, provisions, or drink, of any kind, to seize or cause it to be seized forthwith and brought before a magistrate, who shall cause it to be destroyed forthwith at the expense of the person selling, or exposing or offering it for sale, or keeping it.

(4) In any proceedings under this section, the proof that the article was not sold, offered or exposed for sale or kept contrary to law, lies on the person charged.

Burial

497. BURIAL LIABILITY. FAILURE TO BURY CORPSE

(1) The person who is under a duty to cause the dead body of any person to be buried, and is able to do so, fails to perform such duty, is liable on summary conviction to a fine of $1,000.

(2) For purposes of subsection (1), such a duty is incumbent on the husband, wife, father, mother (whether the deceased was legitimate or illegitimate) or heir, tutor or curator of the deceased, or any guardian of a deceased child, or any householder on whose premises the body lies in default of any other person whose duty it is to bury or defray the burial expenses of the deceased.

(3) Where the deceased is an illegitimate child below the age of 18 years, the Court may also make an order against the reputed father of the deceased requiring him to bury the deceased if it is satisfied that the evidence proves that he is the reputed father, unless the defendant satisfies the Court that a Court of competent jurisdiction has adjudged that he is not the reputed father of the deceased.

(4) No order shall be made against any defendant whom the Court considers is, without any fault of his or her, too poor to defray the expenses of the burial, or if the Court is of opinion that the burial expenses should not be defrayed by the defendant in the circumstances.

(5) A person who is convicted under this section may in lieu of, or in addition to any other penalty or punishment to which he or she may be liable, be adjudged by the Court to pay to the complainant, or to a relieving officer or to such other person as the Court may direct, the cost of burial of any such dead body.

(6) Any sum so adjudged may be recovered by such process, including imprisonment in default of payment, according to the scale of imprisonment in default of payment of a fine as the Court may direct.

(7) Nothing in this section shall affect the civil liability of any person in respect of any burial expenses, except that a person who has satisfied any burial expenses for which he or she is

liable shall not again be proceeded against in respect of the same claim.

498. HINDERING BURIAL OF CORPSE

A person who unlawfully hinders the burial of the dead body of any person is liable on summary conviction to a fine of $2,000 or to imprisonment for 2 years.

499. MOCK BURIAL

(1) A person who buries or attempts to bury or is concerned in burying in any cemetery or place any coffin or receptacle which purports to contain the dead, and in which there is no corpse, is liable on summary conviction to a fine of $1,000.

(2) Subsection (1) does not apply to a mock burial which is part of a drama or other public performance or spectacle.

500. DISINTERRING, DISSECTING OR TAMPERING WITH CORPSE

A person who without lawful authority in that behalf, disinters, dissects, or tampers with the dead body of any person, is liable on summary conviction to a fine of $2,000 or to imprisonment for 2 years.

Indecency etc

501. INDECENT GESTURE, ACT OR NUISANCE

(1) A person who, in any public place, or in view of any public place—

(a) uses any indecent or obscene gesture; or

(b) commits an indecent act or nuisance whatsoever,

is liable on summary conviction to a fine of $1,000.

(2) A person who publicly and wilfully commits any lewd and obscene act is liable on summary conviction to imprisonment for 2 years.

502. NAKED OR INDECENTLY CLOTHED IN PUBLIC

A person who in any public place, or in any other place open to public view—

(a) is naked or not sufficiently or decently clothed;

(b) having the custody of any child above the age of 5 years permits such child to be naked;

(c) being the guardian of any child above the age of 5 years allows such child to be insufficiently or indecently clothed,

is liable on summary conviction to a fine of $1,000.

503. INDECENT EXPOSURE IN PUBLIC

A person who wilfully and indecently exposes his or her genital organs—

(a) in any public place or within view of the public; or

(b) in any place with intent to insult any other person,

is liable on summary conviction to a fine of $1,000.

504. INDECENT BOOKS, PICTURES, SHOWS, ETC., IN PUBLIC

(1) A person who knowingly and without lawful justification or excuse—

(a) exposes to view in any public place, any obscene picture, photograph, video recording, drawing, or model or any other object tending to corrupt morals; or

(b) exhibits any indecent show or performance in any public place,

is liable on summary conviction to imprisonment for 6 months.

(2) It is a defence to a charge of any of the offences in this section to prove that it was for the public benefit that the act complained of should be done.

(3) Whether the doing of any such act is or is not for the public benefit is a question of fact.

(4) For the purposes of this section—

"**photograph**" includes data stored on computer disc or by other electronic means which is capable of conversion into a photograph;

"**video recording**" means any recording on any medium from which a moving image may by any means be produced and includes the accompanying sound track.

505. OBSCENE OR PROFANE WRITING ON WALLS OR THE LIKE OPEN TO PUBLIC VIEW

A person who writes or draws any profane, indecent or obscene word, figure, or representation—

(a) upon any wall, door, window, shutter, pale or other place open to public view; or

(b) upon any paper or other material, and exposes the paper or other material to public view,

is liable on summary conviction to a fine of $1,000.

506. SENDING OR DELIVERING OBSCENE WRITING OR PRINT

A person who sends or delivers to any other person any obscene writing, print, engraving, picture, or other representation is liable on summary conviction to a fine of $1,000.

507. SINGING OBSCENELY OR PROFANELY IN PUBLIC PLACE

A person who in any public place or to the hearing of the public sings any profane, indecent or obscene song or ballad is liable on summary conviction to a fine of $1,000.

508. SWEARING OR USING ABUSIVE OR INDECENT LANGUAGE IN PUBLIC PLACE

A person who in any public place, or to the hearing of the public—

(a) swears; or

(b) uses any abusive, indecent or obscene language,

is liable on summary conviction to a fine of $1,000.

Obstructing and Abusing Magistrate

509. MOLESTING MAGISTRATE OR JUSTICE OR PERSON EMPLOYED BY SUCH

A person who—

(a) obstructs, prevents, or in any way disturbs or molests any magistrate or justice of the peace, or any person employed by him or her, in the execution of his or her duties under this Code or under any other enactment; or

(b) uses any threatening, abusive, or insulting language or sends any threatening message or letter, to any magistrate or justice of the peace, in respect of his or her duties,

on being convicted before any magistrate, not being the magistrate so obstructed, prevented, disturbed, molested, threatened, or insulted, is liable on conviction on indictment to a fine of $5,000 or to imprisonment for 5 years or on summary conviction to a fine of $1,000 or to imprisonment for one year.

Compounding Summary Offence/ False Report to Police

510. COMPLAINANT COMPOUNDING, DELAYING OR WITHDRAWING SUMMARY CHARGE WITHOUT LEAVE

A person who makes any complaint for any summary offence alleged to have been committed by some other person and afterwards, directly or indirectly receives, without the permission of the Court by which the complaint was to be heard and determined, any sum of money or other reward for compounding, delaying, or withdrawing the complaint, is liable on summary conviction to a fine of $1,000 or to imprisonment for 2 years.

511. WASTING OF POLICE TIME

A person who—

(a) makes a report to the Police about the alleged commission of a crime which he or she has reasonable cause to believe is false; or

(b) knowingly makes to the Police a false report tending to show that a crime has been committed or to give rise to apprehension for the safety of any person or property or tending to show that he or she has information material to any police inquiry,

commits an offence and is liable on summary conviction to a fine of $1,000 or to imprisonment for one year.

Offence Against Public Peace

512. ACCOSTING OR FOLLOWING PERSONS

A person who, in any public place, without lawful authority or excuse, the proof of which lies on him or her, accosts, accompanies, or follows about, any other person, in a manner likely to constitute harassment or cause alarm or distress to that other person, is liable on summary conviction—

(a) for the first offence, to a fine of $1,000 or in default of payment to imprisonment for one year;

(b) for the second and subsequent offences to imprisonment for 2 years.

513. ARREST OF MENTALLY DISTURBED PERSONS

(1) It is lawful for any police officer to arrest without warrant, any mentally disturbed person whom he or she finds in any place where the police officer has reason to believe that the mentally disturbed person poses a danger to himself or herself or members of the public.

(2) A person arrested under subsection (1) shall be detained at an institution for the treatment of mentally disturbed persons under the care of a medical practitioner, who may release the person when, in the opinion of the medical practitioner, that person no longer poses a danger to himself or herself or members of the public.

514. FOLLOWING ETC., VEHICLE WITHOUT DUE CONSENT

A person who, follows, runs beside, or holds on to, or rides on any part of any vehicle (whether carrying passengers or not) unless he or she proves that he or she had lawful permission so to do, is liable on summary conviction to a fine of $1,000.

515. FALSE ADVERTISEMENT OF BIRTH, MARRIAGE, DIVORCE OR DEATH

A person who, with intent to insult or annoy any other person, knowingly publishes or causes to be published in any newspaper any false notice or advertisement of any birth, marriage, divorce or death, is liable on summary conviction to a fine of $1,000.

516. FALSE SIGNATURE TO PETITION, PROSPECTUS, TESTIMONIAL

A person who signs the name of another person to any petition, prospectus, or testimonial for which he or she knows he or she has no authority to do so is liable on summary conviction to imprisonment for 3 years.

517. DISTURBING PEACE BY FIGHTING

A person who, by fighting disturbs the public peace, is liable on summary conviction to a fine of $1,000.

518. FIGHTING IN PUBLIC PLACE

A person who—

(a) unlawfully fights with another person in any public place; or

(b) aids and abets an unlawful fight in any public place,

is liable on summary conviction to imprisonment for 3 months, in addition to any other punishment to which he or she may otherwise be liable.

519. LOITERING OR THE LIKE IN OR ABOUT SHOP AND NOT LEAVING QUIETLY ON REQUEST

A person who loiters, carouses, or does any such like act in or about any shop, public place or public premises, and does not quietly leave or move away when asked to do so by any police officer or by the owner of such shop or his or her agent or by the person in charge of the public place or public premises, is liable on summary conviction to a fine of $1,000.

520. HABITUAL LOITERER

A person who, having been thrice convicted under this Code for loitering, is, within one year from the first conviction, found loitering in any shop, public place or public premises is liable to imprisonment for 2 years.

521. MASK WEARING IN PUBLIC

(1) A person who, in any public way or public place, wears any mask, is liable on summary conviction to a fine of $500.

(2) A person who, in any public way or public place, wears any mask with intent to commit a crime, is liable on summary conviction to imprisonment for one year.

(3) Subsection (1) does not apply to a person wearing a mask in a public place—

(a) during carnival, a drama or other public performance or spectacle;

(b) for medical reasons.

522. DRUNK AND DISORDERLY IN PUBLIC

A person who, in any public place—

(a) is drunk and behaves in a riotous or disorderly manner;

(b) is drunk while in charge in any public way of any motor vehicle, carriage, cart, or other vehicle whatsoever, or of any horse, cattle, or other animal requiring control; or

(c) is drunk when in possession of a loaded firearm,

commits an offence and is liable on summary conviction to a fine of $1,000.

523. ARREST OF DRUNKEN PERSON IN PUBLIC PLACE, ETC.

(1) It is lawful for any police officer to take into custody, without a warrant, any person whom he or she finds drunk in any public way or public place, or on the premises of any other person, to the annoyance or disturbance of any person or of any inmate of the house or premises of the person.

(2) A person who is so found drunk is liable on summary conviction to a fine of $1,000.

524. HABITUAL DRUNKENNESS

A person who, having been thrice convicted under any enactment for being drunk, is, within one year from the first conviction, found drunk in any public place or public premises, is liable to imprisonment for 6 months as an habitual drunkard.

525. PERMITTING DRUNKENNESS, ETC., OR BAD CHARACTERS IN PLACE OF PUBLIC RESORT

(1) The owner or occupier, or an employee of the owner or occupier of any house, shop, room, or other place of public resort where provisions, liquors, or refreshments of any kind are sold or consumed who—

(a) permits drunkenness, gambling or any other disorderly conduct in any such premises;

(b) permits known prostitutes, or convicted criminals, rogues and vagabonds, or incorrigible rogues, to meet together or remain in any such premises,

is liable on summary conviction to a fine of $1,000.

(2) Where a defendant is charged with permitting drunkenness in contravention of this section, and it is proved that a person was found drunk on his or her premises, it shall lie on the defendant to prove that he or she or his or her employee took all reasonable steps to prevent drunkenness on the premises.

526. DRUNK OR DISORDERLY IN LIQUOR SHOP OR PLACE OF PUBLIC RESORT AND NOT LEAVING ON REQUEST

(1) A person who is drunk, riotous, quarrelsome or disorderly in any shop, house, premises, or place licensed for the sale of intoxicating liquors by retail, or kept for public refreshment, resort, and entertainment, and refuses or fails to leave such shop, house, premises, or place when requested to do so by the owner, manager or occupier or his or her agent or employee, or by any police officer, is liable on summary conviction to a fine of $1,000.

(2) It is the duty of every police officer when required on the demand of such owner, manager. occupier, agent, or employee, to assist in expelling from any such shop, house, premises or place, any such drunken, riotous, quarrelsome or disorderly person.

527. DEFINITION OF "DRUNK"

For purposes of sections 522, 523, 524, 525 and 526, "**drunk**" includes a state produced by narcotics or drugs.

528. DISORDER OR CAUSING OBSTRUCTION OR ANNOYANCE IN PUBLIC PLACE

(1) A person who—

(a) in any public way or public place, behaves in any riotous, indecent, disorderly or insulting manner as to cause obstruction or annoyance to any passer-by or person in such public way or place; or

(b) behaves in a riotous, indecent, disorderly or insulting manner in any Court or police station, or in any place of public entertainment,

is liable on summary conviction to a fine of $1,000.

(2) The owner, manager, or occupier of a place of public entertainment, or his or her agent or employee or other person authorised by him or her, or any police officer, may expel from such place the person who is drunk, riotous, quarrelsome, or disorderly or insulting, or who by loud remarks, or otherwise wantonly interrupts or interferes in any way with the

performers, or with the peaceful conduct of the entertainment, without the refund of any entrance fee or other consideration and without prejudice to any proceedings or penalty to which the person may be otherwise liable in respect of such conduct or behaviour.

(3) It is the duty of every police officer to expel or assist in expelling the person from the place of public entertainment.

529. DISORDER IN PUBLIC VIEW OR HEARING

A person who in any place open to public view or within public hearing behaves in a riotous, quarrelsome, or disorderly manner is liable on summary conviction to a fine of $1,000.

530. DOOR KNOCKING, BELL PULLING, OR THE LIKE

A person who wilfully and without lawful excuse, disturbs any inhabitant by pulling or ringing any door bell, or by knocking at any door, or any other part of any house or place, is liable on summary conviction to a fine of $1,000.

531. UNSEEMLY NOISE IN PUBLIC

A person who in any public place wilfully or wantonly makes or causes to be made any loud or unseemly noise whatsoever, is liable on summary conviction to a fine of $1,000.

532. INSULT IN PUBLIC LIKELY TO PROVOKE ASSAULT

A person who in any public place insults any other person in his or her presence in such a manner as is likely to provoke a person to commit an assault, is liable on summary conviction to imprisonment for 3 months.

533. INSULTING GESTURE

A person who, in any place makes any insulting gesture to or at any other person is liable on summary conviction to a fine of $1,000.

534. INSULTING, ABUSIVE, OR PROFANE LANGUAGE

A person who, in any place utters any abusive, insulting, obscene, or profane language, to any other person, is liable on summary conviction to a fine of $1,000.

535. LOUD ANNOYING LANGUAGE IN PUBLIC

A person who, in any public place, by violent shouting or loud and boisterous language, annoys any other person is liable on summary conviction to a fine of $1,000.

536. PERSONALITIES, JEERING, MOCKING

A person who, in any place, jeers at, or mocks, or makes personal remarks to or concerning any other person with intent to insult or annoy that person, is liable on summary conviction to a fine of $1,000.

537. CALLING A PERSON NAMES

The person who, in any place calls another person by name other than his or her own with intent to insult or annoy that other person, is liable on summary conviction to a fine of $1,000.

538. INTERFERENCE WITH ASSEMBLY

A person who unlawfully—

(a) obstructs the assembly of persons for any lawful purpose;

(b) disturbs any such assembly;

(c) disperses or attempts to disperse any such assembly,

is liable on summary conviction to a fine of $1,000, or to imprisonment for 2 years.

Public Festivals and Sporting events

539. UNLAWFUL ENTRY INTO A BAND

(1) At any public festival a person who—

(a) is not a member of a band; or

(b) is not an authorised person,

shall not enter the band without the permission of an authorised person while the band is in a band assembly area or on a designated route.

(2) Any person who—

(a) unlawfully enters a band in contravention of subsection (1) after having been forbidden to do so by an authorised person;

(b) uses threatening or abusive words or engages in threatening or disorderly behaviour likely to cause harassment or alarm or distress to any member of the band for the purpose of securing entry into the band for himself or herself or for any other person; or

(c) fails or refuses to leave the band after he or she has been directed to do so by an authorised person,

commits an offence, and is liable on summary conviction to a fine of $1,000 or to imprisonment for one year or to both.

(3) For the purposes of this section—

"**approved identification mark**" means any badge, label or mark issued by the promoters or organisers of a public festival or approved by the promoters or organisers for the purpose of preventing unlawful entry into a band;

"**authorised person**" means—

(a) a member of the Police Force; or

(b) any person authorised by the promoters or organisers of a public festival;

"**band**" means an organised group of persons assembled together in a band assembly area or proceeding together along a designated route in furtherance of the group's participation in a public festival, whether or not in costume;

"**band assembly area**" means any area designated by the promoter or organiser of a public festival as an assembly area for bands taking part in the festival;

"**designated route**" means the route determined by the promoter or organiser of a public festival as the route to be followed by persons participating in the festival.

540. OFFENCES RELATING TO DESIGNATED SPORTING EVENTS

(1) A person who, at a designated sporting event, throws, without lawful authority or reasonable excuse, a missile of a kind that is capable of causing injury—

(a) at or towards any area in which spectators or other persons are or may be present; or

(b) at or towards the playing area or any area adjacent to the playing area to which spectators are not generally admitted,

commits an offence and is liable on summary conviction to a fine of $5,000 or to imprisonment for 2 years or both.

(2) A person who at a designated sporting event, without lawful authority or reasonable excuse, (proof of which lies on him or her), goes on to—

(a) the playing area; or

(b) any area adjacent to the playing area to which spectators are not generally admitted,

commits an offence and is liable on summary conviction to a fine of $5,000 or to imprisonment for 2 years or both.

(3)

(a) A person who, in contravention of a prohibition by the organisers of a designated sporting event, has in his or her possession a bottle or other article made of glass—

(i) while entering or trying to enter the premises where the event is being held, or

(ii) during the event while being a spectator,

commits an offence and is liable on summary conviction to a fine of $5,000 or to imprisonment for 2 years or both.

(b) Where any police officer has reasonable cause to suspect that a person has concealed in his or her possession a bottle or other article made of glass in contravention of

paragraph (a), he or she may search that person and take whatever action is necessary in accordance with this Code.

(4)

(a) A person shall not, without the authority of the organisers of a designated sporting event, sell, offer to sell, or expose for sale, a ticket for that event—

(i) in the course of trade or business, or

(ii) in any public or other place.

(b) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $2,000 or to imprisonment for a term of 6 months.

(5) The Minister responsible for sport may by order designate a sporting event, or a sporting event of a particular description, for the purposes of this section.

(6)

(a) Where a person is convicted of an offence under this section, the Court may make an order prohibiting that person from entering any premises for the purpose of attending one or more designated sporting events.

(b) The Court shall make an order under paragraph (a) if it is satisfied that there are reasonable grounds to believe that making the order will help to prevent violence or disorder at or in connection with designated sporting events.

(7)

(a) In this section "**designated sporting event**" means a sporting event, or a sporting event of a particular description, designated by order under subsection (5).

(b) References in this section to things done at a designated sporting event include anything done at the ground where the sporting event is scheduled to take place at a particular time—

(i) within the period beginning 4 hours before the time at which the event is advertised to start and ending 2 hours after the end of the event, or

(ii) where the event is advertised to start at a particular time on a particular day but does not take place on that day, within the period beginning 4 hours before and ending 2 hours after the advertised starting time of the event.

Threats of Violence

541. CARRYING ARMS UNLAWFULLY TO CAUSE TERROR

If 2 or more persons together in any public place openly carry, without lawful cause, any deadly or dangerous instruments, with intent to cause terror to any member of the public, each of them is liable on summary conviction to imprisonment for one year.

542. INTENT TO CAUSE TERROR WHEREBY HARM OR LIKELIHOOD THEREOF CAUSED

(1) A person who—

(a) in any public place; or

(b) being unlawfully in any place other than a public place,

wantonly does any act with intent to cause terror to any person and if as a result causes harm to any other person, or if his or her act is of such a nature as to be likely to cause harm to any person by terror, is liable on summary conviction to imprisonment for one year.

(2) For the purposes of this section, harm is deemed to have been caused by the act of a person, although the harm is the mere inward effect of the terror caused by the act.

543. THREATENING WORDS OR GESTURES

A person who—

(a) utters to or at any other person any threatening words or gestures or behaviour; or

(b) in any public way or public place, utters any threatening words to or concerning any other person,

is liable on summary conviction to a fine of $1,000.

544. THREAT OF DEATH BY WRITING

A person who by writing, threatens—

(a) another person with death or grievous harm;

(b) the commission of arson or any indictable offence under Part 1,

except as is mentioned in section 1141, is liable on summary conviction to imprisonment for 2 years.

545. THREAT OF HARM WITH INTENT TO PUT IN FEAR

A person who threatens any other person with unlawful harm, with intent to put that person in fear of unlawful harm, is liable on summary conviction to imprisonment for one year.

546. INTERFERENCE WITH TOOLS, ETC., TO COERCE.

A person who, for the purpose of compelling any other person—

(a) to conduct himself or herself in a particular manner with respect to his or her business or employment; or

(b) to do any act, or to abstain from doing any lawful act of any kind,

injures, removes, or conceals any tools, materials, or other things used by him or her in his or her business or employment, or uses any violence to him or her or to any other person, is liable on summary conviction to a fine of $1,000 or to imprisonment for one year.

Unlawful Assembly

547. ASSEMBLING IN PUBLIC PLACE FOR UNLAWFUL PURPOSE AND NOT DISPERSING ON REQUEST

A person who assembles with other persons in any public way or public place or in any open space or ground in the immediate neighbourhood of such public way or public place—

(a) for any idle, lewd, vicious, or disorderly purpose; or

(b) for a purpose other than in the regular performance or pursuit of any lawful occupation or purpose,

so as to cause the annoyance or obstruction of any passer-by or other user of such public way or public place or of any person residing in the neighbourhood thereof, and does not disperse or move away when required to do so by any police officer, or person residing in or near such public way or public place, or by any passer-by or other user of such public way or public place, is liable on summary conviction to a fine of $1,000.

548. DISTURBANCE AT HABITUAL MEETING PLACE

(1) Where, in any premises, or other place in which persons habitually assemble or meet for any purpose and their conduct on any occasion is such as to disturb the inhabitants of the neighbourhood, the owner, occupier, or person in charge of such premises or place and every person present and taking part in such meeting or assembly is liable on summary conviction to a fine of $1,000.

(2) If in any proceeding under this section, it is proved to the satisfaction of the Court that the defendant was present at such meeting, or assembly, the onus of proving that he or she did not act in contravention of this section lies on him or her.

(3) A person who complains of disturbance generally in respect of any such premises or other place may apply for a summons to be issued to the owner, occupier, or person in charge of any such premises or place to show cause why the Court should not make such order in respect of the complaint as it considers proper.

(4) The Court, after investigation of the complaint, may make an order requiring any person to enter into recognizance, or such order as it considers proper requiring the person to put an end to or prevent the recurrence of the disturbance complained of, and any person who fails to obey such order, is liable on summary conviction to a fine of $1,000.

Noise Abetment

549. SOUNDING OR PLAYING INSTRUMENT NEAR HOUSE AFTER REQUEST TO STOP, OR LEAVE

A person who, in any public way or place, sounds or plays upon any musical instrument near any house after being required to desist or depart by any peace officer, or by a person residing in or near such public place, is liable on summary conviction to a fine of $1,000.

550. LOUDSPEAKERS, ETC. MUSICAL INSTRUMENTS

(1) A person who, without reasonable excuse, proof of which lies on him or her—

(a) in any public place;

(b) in or in connection with any business, or other place to which the public is admitted;

(c) in any premises; or

(d) in any vehicle,

by operating or allowing to be operated any musical instrument, speaker or amplifier causes, or allows to be made any loud and continuous sound or noise, is liable on summary conviction to a fine of $1,000 or to imprisonment for 6 months.

(2) A person who, without reasonable excuse, proof of which lies on him or her by setting off or causing to be set off any alarm, or other similar device, makes or causes to be made any loud and continuous noise to the annoyance of the person living in or within the neighbourhood commits an offence and is liable on summary conviction to a fine of $1,000.

(3) The provisions of subsection (2) shall not apply to any ambulance, fire engine, police vehicle used in the execution of a public duty.

(4) For purposes of subsections (1) and (2), it shall be lawful for a police officer to enter into such place or vehicle and to seize and carry away any musical instruments, appliances or equipment or alarm or other similar device and these shall be forfeited.

(5) No proceedings shall be taken against any person for any offence under this section in respect of premises used as a public dance hall where the prior permission of the Commissioner of Police for the use of any such instrument described in this section has been obtained but no such permission shall be granted in respect of any dance hall between the hours from 2:00 a.m. and noon of the same day.

(6) The Commissioner of Police may designate such police officers not below the rank of Sergeant as he or she may think fit in the districts for the purpose of granting permits under this section.

551. RESTRICTION OF OPERATION OF LOUDSPEAKERS

(1) No person shall operate a loudspeaker in any street or at any public or political meeting unless he or she has been issued a permit under section 553 to do so.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction, to a fine not exceeding $1,000 or to imprisonment not exceeding one year or to both.

(3) Subsection (1) shall not apply to the operation of a loudspeaker—

(a) used for police, fire brigade or ambulance purposes or by local authorities within their areas;

(b) used for communicating with persons on a vessel for the purposes of directing the movement of that or any other vessel;

(c) if the loudspeaker forms part of a public telephone system;

(d) if the loudspeaker—

(i) is in or fixed to a vehicle, and

(ii) is operated solely for the entertainment of, or for communicating with, the driver of, or a passenger on the vehicle or, where the loudspeaker is or forms part of the horn or similar warning instrument of the vehicle, solely for giving warning to other traffic or road users, and

(iii) is so operated as not to give reasonable cause for annoyance to persons in the vicinity;

(e) used by a travelling showman, for the purposes of a pleasure fair;

(f) use in case of an emergency.

(4) Subsection (1)(b) shall not apply to the operation of any loudspeaker between the hours of 9:00 a.m. and 10:00 p.m. on the same day if the loudspeaker is—

(a) fixed to a vehicle which is used for the conveyance of a perishable commodity for human consumption; and

(b) operated solely for informing members of the public (otherwise than by means of words) that the commodity is on sale from the vehicle; and

(c) so operated as not to give reasonable cause for annoyance to persons in the vicinity.

(5) The person who operates a loudspeaker in contravention of subsection (4) is liable on summary conviction to a fine not exceeding $1,000 or to imprisonment not exceeding 3 months or to both.

552. NOTICE TO BE GIVEN

(1) No person shall operate or permit to be operated any loudspeaker for the purpose of—

(a) advertising any entertainment, trade, business; or

(b) making announcement and the holding of any public or political meeting, during any period, not being an electioneering period,

unless he or she first gives notice to the principal police station in the District.

(2) The notice shall be given—

(a) in the case of advertising any entertainment, trade or business, within 24 hours in advance of the intended advertisement, and shall state the nature of the intended advertisement;

(b) in the case of the announcement and holding of a public or political meeting not during an electioneering period, within 24 hours in advance of the holding thereof and

with respect to a public meeting shall state the nature of such meeting.

553. COMMISSIONER OF POLICE TO ISSUE PERMIT

(1) The Commissioner of Police shall issue a permit in the form set out in Schedule 1 and on such conditions as to route as he or she may deem fit, for advertising any entertainment, trade or business or the announcement of any public or political meeting by loudspeaker.

(2) Any such advertisement or announcement shall take place between the hours of noon and 1:00 p.m. or 4:00 p.m. and 6:00 p.m. on the day permitted.

(3) Despite subsection (1) no permit is required for the announcement of a political meeting during an electioneering period.

(4) A person who fails to comply with the conditions of any permit issued under subsection (1) or contravenes subsection (2) is liable on summary conviction to a fine not exceeding $1,000 or to imprisonment not exceeding one year or to both.

554. HOURS OF HOLDING PUBLIC AND POLITICAL MEETINGS

(1) The operation of any loudspeaker at any public or political meeting or rally—

(a) if it is not during an electioneering period, shall be permitted only between the hours of 7:00 p.m. and 11:00 p.m.; or

(b) if it is during an electioneering period, shall be permitted only between 7:00 p.m. and 12:00 p.m.

(2) A person who contravenes this section is liable on summary conviction to a fine not exceeding $1,000 or to imprisonment not exceeding one year or to both.

555. MODULATION OF LOUDSPEAKERS

No person shall operate a loudspeaker except in accordance with the regulations providing for the modulation of loudspeakers.

556. REGULATIONS

Cabinet may make regulations for the purpose of giving effect to the provisions of sections 551 to 555 of this Part.

557. EXEMPTION

(1) The provisions of section 551 shall not apply to any body, organisation, person, or persons specified in Schedule 2 to this Code as well as any committee, representative or representatives of that body, or organisation whose members consist of or include all members of the body or organisation.

(2) Cabinet may by order amend, vary or alter the Schedule in any respect.

558. PROCEEDINGS FOR AN OFFENCE

Proceedings for an offence under sections 551 to 554 may be taken before any magistrate although the offence is committed outside the jurisdiction of his or her District or partly within the jurisdiction of his or her district and partly within the jurisdiction of another district.

559. DEFINITIONS

For the purposes of sections 552 to 554—

"**election**" means an election of a member or members to serve in the House of Assembly, the Council of the City of Castries, or local authority;

"**electioneering period**" means

(a) in the case of the election of a member or members to serve in the House of Assembly, the period between the issue of the writ and polling day;

(b) in the case of the election of a member or members to serve on the Council of the City of Castries or a local authority 15 days before the date set for the taking of a poll;

"**electoral district**" means an electoral district as defined by an order of the Governor-General under the Elections Act;

"**loudspeaker**" includes a megaphone and other device for amplifying sound;

"**meeting**" means any assembly or gathering of persons held for the purpose of the transaction of matters of public interest or for the discussion of such matters or for the purpose of the expression of views upon such matters;

"**permit**" means a permit granted under section 553;

"**political meeting**" means a meeting held for the purpose of furthering or criticising the aims, objects, actions, or policies or programme of any political party or for the purpose of supporting the intended candidature of any individual;

"**polling day**" means the day fixed for holding the poll at an election;

"**public meeting**" includes any meeting in a public place and any meeting which the public or any section thereof is permitted to attend, whether on payment or otherwise;

"**public place**" includes any public way, building, place or conveyance, to which for the time being the public are entitled to have access whether on payment or otherwise;

"**street**" includes any highway, boulevard, market place, park, square, Court, bridge, footway, and any other road which is lawfully used by the public;

"**writ**" means the writ for an election.

Vagrancy

560. VAGRANT OR IDLE OR DISORDERLY PERSON

(1) A person who—

(a) wanders around, or places himself or herself in any public way or public place, to solicit alms, or causes, procures, or encourages any child to do so;

(b) enters, or is seen, or is found on or within any land or premises whether enclosed or not, without the leave of the owner, occupier, or person in charge thereof, and does not

give a good account of himself or herself, or satisfy the Court that he or she has a right to be on the land or premises;

(c) is an inmate of a disorderly house, brothel, or house of ill-repute, or house for the resort of prostitutes, or a keeper of a disorderly house, or house for the resort of prostitutes;

(d) is in the habit of frequenting such houses or places and does not give a satisfactory account of himself or herself;

(e) being able by labour or other lawful means to maintain himself or herself, or his wife or child, or her child, where such wife or child is without other means of support, refuses or neglects so to do;

(f) not having any visible means of maintaining himself or herself, lives without employment;

(g) being a common prostitute or night walker, wanders in public streets or highways, lanes or places of public meeting or gathering of people or other public place and does not give a satisfactory account of herself;

(h) having no profession or calling by which to maintain himself or herself for the most part supports himself or herself by crime,

is a vagrant or idle or disorderly person, and is liable on summary conviction to imprisonment for one month.

(2) A Court may convict the offender to an extra mural order in accordance with this Code.

561. ANNOYANCE IN A PUBLIC PLACE

(1) A person who on any street, highway or public place including a beach, without lawful authority or excuse, the proof of which lies on him or her, molests, harasses, threatens any other person or follows him or her about for the purpose of—

(a) soliciting alms or employment;

(b) satisfying idle curiosity; or

(c) causing annoyance to the person,

is liable on summary conviction to a fine not exceeding $1,000 or to imprisonment not exceeding one year.

(2) A sworn statement made by a person about to leave the State, before a magistrate or justice of the peace, taken in the presence of the person accused under such circumstances that he or she had a full opportunity of asking questions either by himself or herself or by counsel of the person who made the statement , and the statement signed by such person, may, if the person who made the statement has left the State, be given in evidence against the person accused on any charge under subsection (1).

(3) It is the duty of the magistrate or justice of the peace before whom any such statement is made, before tendering it for the signature of the person making it, to read it over to the person in the presence of the accused, and to explain the statement to the accused, and upon the statement being signed by the person making it, to certify that the requirements of this section have been complied with.

(4) A statement produced in Court and purporting to be certified under this section shall be *prima facie* evidence for the purposes of this section of the facts stated in the statement; but the Court may require the attendance of any person present when such statement was taken, for the purpose of examination with respect to the statement.

562. NOT MAINTAINING RELATIVE IN WANT

(1) A person who refuses or neglects to discharge any obligation imposed upon him or her by Articles 135 to 142 and Article 145 of the Civil Code, when he or she is able by labour or other lawful means to discharge such obligation is deemed a vagrant or idle or disorderly person within the meaning of section 560 and punishable accordingly.

(2) A person is in want if he or she is without means of support.

(3) The Court may in addition to, or in lieu of, any other punishment order the person convicted under subsection (1) to repay any sum which may have been expended from any public or charitable funds as a result of his or her neglect or refusal to discharge his or her obligations and also pay in such manner as the Court may think fit a reasonable sum of money per week, to be applied for the maintenance and benefit of the person entitled to receive such maintenance or benefit.

(4) The Court may, at any time after it has made the order, upon cause being shown vary or discharge the order in so far as may be necessary to give effect to those provisions of the Civil Code of Saint Lucia referred to in subsection (1) of this section.

(5) All proceedings under this section shall be instituted in a district court, whether or not the sum of money involved exceeds $500, and the procedure for enforcement applied by the district court in the exercise of its jurisdiction with respect to summary offences shall be applicable.

563. ROGUE AND VAGABOND

A person who—

(a) solicits or endeavours to solicit alms or charitable contributions for himself or herself or any other person, under any false or fraudulent pretence;

(b) is convicted on more than one occasion of being a vagrant or idle or disorderly person;

(c) is convicted on more than one occasion of an offence;

(d) is convicted on more than one occasion of loitering about or importuning any passer-by for the purposes of prostitution;

(e) exposes in any public place or within view of any public place any defamatory or insulting writing or object;

(f) is found in or about any market, wharf, or jetty, or in or about any vessel, for any unlawful purpose;

(g) is found in any verandah, gallery, outhouse, passage, gateway, dwelling-house, warehouse, store, stable, or other building, in any yard, garden or other enclosed place or land, for any unlawful purpose;

(h) while being arrested as a vagrant or idle or disorderly person, violently resists the police officer or any other person arresting him or her, and is subsequently convicted of the offence for which he or she was being arrested;

(i) has in his or her custody or possession any pick lock, key, crowbar, jack, bit, or other implement, with intent unlawfully to break into any building;

(j) is armed with or has upon him or her any gun, pistol, or other firearm, or cutlass, sword, knife, razor, bludgeon, or other deadly or dangerous weapon or instrument, with intent to commit any unlawful act;

(k) has in his or her custody or possession any such implement or weapon or instrument referred to in paragraphs (i) and (j) and does not give a satisfactory account of himself or herself,

is deemed a rogue and vagabond and is liable on summary conviction to imprisonment for 6 months.

564. INCORRIGIBLE ROGUE

A person who—

(a) commits an offence under this Code for which he or she is liable to be dealt with as a rogue and vagabond, the person having been previously convicted as such;

(b) while being arrested as a rogue and vagabond, violently resists the police officer or any other person arresting him or her, and is subsequently convicted of the offence for which he or she was arrested,

is an incorrigible rogue, and is liable on summary conviction to imprisonment for one year.

565. WARRANT FOR ARREST OF VAGRANT, ROGUE AND VAGABOND OR INCORRIGIBLE ROGUE

A magistrate, on complaint upon oath that any person reasonably suspected to be vagrant or idle or disorderly person, or a rogue and vagabond, or an incorrigible rogue is, or is reasonably suspected to be harboured or concealed in any building or place, may, by warrant under his or her hand, authorise any police officer to enter at any time such building or place and to arrest and bring the person before him or her, to be dealt with according to law.

Public Worship Offences

566. IRREVERENCE NEAR PLACE OF WORSHIP DURING SERVICE, OR CEMETERY DURING BURIAL

A person who—

(a) behaves irreverently near any church, chapel, or other building for religious worship during divine service;

(b) behaves irreverently or indecently in or near any public burial ground during the burial of a dead body,

is liable on summary conviction to a fine of $1,000 or to imprisonment for one year.

567. DISTURBING PERSON IN PLACE OF WORSHIP

A person who—

(a) disturbs or molests any other person in any place of divine worship, whether during divine service or at any other time;

(b) behaves in a riotous, indecent, disorderly, or insulting manner in any place of divine worship, whether during divine service or at any other time,

is liable on summary conviction to a fine of $1,000 or to imprisonment for one year.

568. DISTURBING MINISTER, ETC, AT CELEBRATION IN PUBLIC

A person who disturbs or molests any minister of religion while celebrating any religious rite or office in any public way or public place, or any other person aiding, assisting, or attending at the celebration of such rite or office, is liable on summary conviction to a fine of $1,000 or to imprisonment for one year.

General

569. ANNOYANCE NOT DEFINED

A person who commits any wanton or mischievous act causing annoyance not otherwise defined in this Code is liable on summary conviction to a fine of $1,000.

CHAPTER 3
PROCEDURE

PART 1
ARREST AND BAIL

Arrest

570. ARREST WITHOUT WARRANT

(1) The powers of summary arrest conferred by subsections (2) to (8) shall apply to indictable and summary offences or offences for which a person (not previously convicted) may by virtue of any enactment be sentenced to imprisonment for 5 years, and to attempts to commit any such offence.

(2) A police officer may arrest without warrant anyone who is or whom he or she, with reasonable cause, suspects to be, in the act of committing or about to commit, an offence.

(3) Where a police officer with reasonable cause, suspects that an offence has been committed, he or she may arrest without warrant anyone whom he or she, with reasonable cause, suspects committed the offence.

(4) A person may arrest without a warrant any other person who is, or whom he or she, with reasonable cause suspects to be in the act of committing or about to commit an offence.

(5) Where an arrestable offence has been committed, any person may arrest without a warrant anyone who is, or whom he or she with reasonable cause, suspects committed the offence.

(6) A police officer may arrest without warrant any person who is positively charged by another person with having committed an offence if the person making the charge is willing to accompany the police officer to a police station to enter into a recognizance to prosecute such charge.

(7) For the purposes of arresting a person under any power conferred by this section, a police officer may enter (if need be, by force) and search any place where that person is or where the police officer with reasonable cause, suspects him or her to be.

(8) This section shall not affect the operation of any enactment restricting the institution of proceedings for an offence, nor prejudice any power of arrest conferred by any enactment apart from this section.

571. USE OF FORCE IN MAKING ARREST, ETC.

A person may use such force as is reasonable in the circumstances in the prevention of crime, or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large.

572. ARREST WITHOUT WARRANT BY ANY PERSON

A person may arrest without a warrant any other person whom he or she may see engaged in committing an affray and deliver him or her over to the custody of a police officer to be dealt with according to law.

573. PERSON COMMITTING INDICTABLE OFFENCE

(1) A person who is found committing an indictable offence may be arrested by any other person without warrant, if the person making the arrest has reasonable grounds to believe that the offender may escape punishment, or may complete the commission of the offence, if he or she is not so arrested.

(2) Any person may, without warrant, arrest the person if such an offence has actually been committed, or if he or she is being pursued by a mob for committing such an offence.

574. PERSON FOUND COMMITTING OFFENCE AGAINST PROPERTY

A person who is found committing any offence against property may be arrested and taken into custody, without warrant, by any police officer, or may be arrested by the owner of the property with respect to which the offence is committed, or by his or her employee or any other person authorised by him or her, and may in the latter case be detained for any period, not exceeding 24 hours, until he or she can be delivered into the custody of a police officer, to be dealt with according to law.

575. PERSON FOUND IN POSSESSION OF PROPERTY

A person who finds any other person in possession of property which he or she, has reasonable cause to suspect has been obtained by the commission of an offence, may arrest the person without warrant, and take possession of the property.

576. PERSON OFFERING PROPERTY FOR SALE, ETC.

A person to whom property is offered for sale, pawned, or delivered has reasonable cause to suspect that an offence has been or is about to be committed with respect to such property, may, without warrant, arrest such person and take possession of the property.

Arrest under Warrant

577. WARRANT TO ARREST

Where there is power to arrest a person without warrant, or where it is believed that a suspected offender is evading service of summons, or is likely to flee the country, a warrant for his or her arrest may be issued.

578. FORM AND REQUISITES OF WARRANT

(1) A warrant for the arrest of any person issued under this Code , or unless the contrary is expressly provided, under any other enactment, shall bear the date of the day on which it is issued and shall be signed by the judge or magistrate by whom it is issued.

(2) No such warrant shall be signed in blank.

(3) No such warrant shall be issued without a complaint or other statement upon oath.

(4) Every such warrant may be directed either to a police officer by name, or to any police officer or generally to all police officers.

(5) Every such warrant may be executed by a police officer named in the warrant, or by any one of the police officers to whom is directed.

(6) Every such warrant shall—

(a) state briefly the offence or matter for which it is issued;

(b) state the name or otherwise describe the person to be arrested;

(c) order the police officer, or police officers, to whom it is directed to arrest the person, and bring him or her before the judge, or before a magistrate, as the case may be, to answer to the offence or matter contained in the information or statement, and to be further dealt with according to law.

(7) It shall not be necessary to make a warrant returnable at any particular time, and it shall remain in force until it is executed.

579. COPY TO BE KEPT BY ISSUER

(1) A copy of every warrant shall be kept by the judge or magistrate by whom it is issued.

(2) It is lawful for the Commissioner of Police to cause copies of warrants to be made and to certify such copies and every copy duly certified shall, for all purposes, be as valid as the original warrant.

580. ISSUE AND EXECUTION ON SUNDAY AND PUBLIC HOLIDAY

A warrant of arrest may be issued and executed on any day of the week including a Sunday or public holiday.

581. POWER TO BREAK AND ENTER IN EXECUTION OF WARRANT

(1) A police officer authorised to execute any warrant may, for the purposes of executing it, either with or without assistance from any other person or persons, break open and enter any house, building, or enclosed place, if he or she cannot otherwise enter the house, building, or enclosed place

(2) Before acting in accordance to subsection (1), the police officer must, as far as practicable, inform the occupier that he or she is in possession of a warrant, or that a warrant has been issued for his or her arrest or that of a person suspected to be on the premises.

582. POSSESSION OF WARRANT BY POLICE OFFICER

(1) Subject to the provisions of this section, it is not necessary for the police officer executing a warrant to have it in his or her possession; but if he or she has it, he or she must, on request, show it to the person arrested or to be arrested.

(2) A police officer executing any warrant, must, before making the arrest, inform the person to be arrested that there is a warrant for his or her arrest, but he or she may refrain from giving such information on the ground that it is likely to occasion the escape, resistance or rescue of the person.

583. WHEN JUSTICE OF THE PEACE MAY ISSUE WARRANT

(1) Where, due to the absence in a magisterial district of a magistrate or for any other cause, it is not practicable to make immediate application to a magistrate for the issue of a warrant for the arrest of an offender, and the ends of justice are likely to be defeated by the delay in making such application to a magistrate, a justice of the peace may take the necessary information, and, if he or she is of the opinion that a case for so

doing is made out, shall issue such warrant in the same manner as the magistrate.

(2) All subsequent proceedings in the case shall be taken before a magistrate.

Detention and Bringing up of Person Arrested

584. BRINGING PERSON ARRESTED BEFORE COURT

(1) A person arrested for any cause, whether with or without warrant, shall be brought before the Court or the judge, or a magistrate, as the case may be, as soon as is practicable but not later than 72 hours of his or her arrest.

(2) If a person arrested is to be questioned, he or she shall be informed—

(a) that the person has the right to remain silent, without such silence being a consideration in the determination of guilt or innocence; and

(b) of their rights under section 589; and

(c) that the person has a right to be questioned in the presence of a lawyer unless the person voluntarily waives the right to counsel;

(d) of their right to have legal assistance of their choosing or to have legal assistance assigned to them if the arrest is for an offence under section 86 or 87.

585. PROCEEDINGS WHEN PERSON ARRESTING NOT POLICE OFFICER

A person who arrests a person under this Part shall, if he or she is not a police officer, deliver the person so arrested to a police officer, in order for the person to be brought as soon as reasonably may be before a magistrate, to be dealt with according to law, or he or she shall himself or herself bring the person before a magistrate as soon as reasonably may be to be dealt with according to law.

586. PERSONS ARRESTED WITHOUT WARRANT TO BE TAKEN TO POLICE STATION

Where any person is taken into custody without a warrant, except when detained for the purpose merely of ascertaining his or her name, he or she shall be taken to the nearest police station, and there delivered to the police officer in charge of the station, in order that he or she may be secured until he or she can be brought before the magistrate, unless in the meantime he or she is released according to law.

Physical Restraints or Searching

587. PHYSICAL RESTRAINTS

It is lawful for a police officer or correctional officer to put on a person arrested, whether with or without a warrant, physical restraints, whether by hand cuffs, leg-restraints or other means—

(a) whenever such person is being moved from a place of confinement to Court or from Court to a place of confinement;

(b) whenever such person is being moved from one place of confinement to another, if there exists a reasonable apprehension of violence or of attempts to escape or by order of the Court.

588. SEARCHING PERSON ARRESTED

(1) Whenever any person is arrested by a police officer, or any other person, under any of the provisions of this Code, the officer or person making the arrest may search the person and place in safe custody all articles other than necessary wearing apparel found on him or her.

(2) Whenever it is necessary to cause a female to be searched, the search shall be made by another female with strict regard to decency.

Interview with Legal Practitioner

589. INTIMATION TO AND INTERVIEW WITH LEGAL PRACTITIONER

A person who is arrested, shall, immediately upon arrest be entitled, if he or she desires, to have intimation sent to any legal practitioner, and to have a private interview, subject to any necessary surveillance, with the legal practitioner prior to being brought before the Court.

590. SAVINGS AS TO ARREST OR DETENTION UNDER OTHER LAWS

Nothing shall take away or diminish any authority under any enactment to arrest, detain, or put any restraint on the person.

Bail

591. DEFINITIONS

(1) In this Part—

"**surrender to custody**" means—

(a) in relation to a person released on bail, surrendering himself or herself into the custody of the Court or of the police officer according to the requirements of the bail, at the time and place appointed for him or her to do so;

(b) in relation to an enactment, which refers to the person bailed appearing before the Court, the surrendering of that person before the Court;

"**vary**" in relation to bail means imposing further conditions after bail is granted, or varying or rescinding the conditions.

(2) Where an enactment, that relates to bail in criminal proceedings refers to the person being bailed appearing before a Court, it is to be construed, unless the context otherwise requires, as referring to his or her surrendering himself or herself into the custody of the Court.

592. RIGHT TO BAIL

(1) Except as otherwise provided in this Part or any other enactment, a defendant shall be entitled to bail.

(2) Where bail is granted, the conditions of bail shall be reasonable.

593. CIRCUMSTANCES IN WHICH BAIL MAY BE DENIED

(1) Where a defendant is accused or convicted of an offence that is punishable with imprisonment, the Court may refuse an application for bail if—

(a) the Court is satisfied that there are grounds for believing that the defendant, if released on bail, whether subject to conditions or not would—

(i) fail to surrender to custody,

(ii) commit an offence, or

(iii) interfere with witnesses;

(b) the Court is satisfied that the defendant should be kept in custody—

(i) for his or her own protection,

(ii) for the protection of the community, or

(iii) if he or she is a child or young person, for his or her own welfare;

(c) the defendant is in custody in pursuance of the sentence of a Court ;

(d) the Court is satisfied that it has not been practicable to obtain sufficient information for the purpose of taking the decisions required by this section for want of time since the institution of the proceedings against the defendant;

(e) having been released on bail in or in connection with the proceedings for the offence, the defendant has been arrested pursuant to section 606;

(f) the defendant's case is adjourned for inquiries or a report and it appears to the Court that it would be impracticable to complete the inquiries or make the report without keeping the defendant in custody;

(g) the defendant is charged with an offence alleged to have been committed while he or she was released on bail; or

(h) the defendant has been convicted of a similar offence previously.

(2) In the exercise of its discretion under subsection (1), the Court shall have regard to any relevant factor including the following—

(a) the nature and seriousness of the offence or default, and the probable method of dealing with the defendant for it;

(b) the character, antecedents, associations and community ties of the defendant;

(c) the defendant's record as regards the fulfilment of his or her obligations under previous grants of bail; and

(d) the strength of the evidence of his or her having committed the offence or having defaulted except where the defendant's case is adjourned for inquires or a report.

(3) Where the defendant is accused or convicted of an offence that is not punishable with imprisonment, the Court may refuse an application for bail if—

(a) the defendant has absconded as provided in section 606 and the Court believes that in view of that failure, the defendant, if released on bail, would fail to surrender to custody;

(b) it is believed the defendant should be kept in custody for his or her own protection or if he or she is a child or young person, for his or her own welfare;

(c) the defendant is in custody in pursuance of a sentence of a Court; or

(d) the defendant, having been released on bail in or in connection with the proceedings for the offence has been arrested pursuant to section 606.

(4) Subject to subsection (5), a person—

(a) who is charged with murder, treason, rape or any offence under the Firearms Act, or the Drugs (Prevention of Misuse) Act, punishable on indictment by imprisonment of not less than 5 years;

(b) who has been convicted and sentenced to death or imprisonment in respect of any offences referred to in paragraph (a) and who has given notice of intention to appeal against his or her conviction,

shall not be granted bail.

(5) Where the appeal in respect of a person referred to in subsection (4)(b) is not heard within a period of 6 months from the date of his or her conviction he or she may apply to the Court of Appeal for bail pending the determination of his or her appeal.

(6) For the purposes of this section—

(a) the question whether an offence is one punishable with imprisonment shall be determined without regard to any enactment prohibiting or restricting the imprisonment of young offenders or first offenders;

(b) references to previous grants of bail include references to bail granted before the coming into force of this Code;

(c) references to a defendant being kept in custody or being in custody include, where the defendant is a child or young person, references to his or her being kept in custody at a Government Industrial School in pursuance of an order under section 9 of the Children and Young Persons Act;

(d) "**default**" in relation to the defendant, means the default for which he or she is so to be dealt with in breach of a probation order.

594. POLICE BAIL

Where a person is taken into custody for an offence without a warrant, if it is not practicable to bring him or her before a magistrate without undue delay but in any event not later than 72 hours after he or she has been taken into custody, a police officer not below the rank of inspector or a police officer in charge of the police station to which the person is brought, shall inquire into the case, and—

(a) if the offence is not one punishable with imprisonment, shall grant the person bail;

(b) if the offence is one punishable with imprisonment, may, unless the offence appears to be a serious one, grant the person bail,

with or without sureties on the condition that he or she shall appear before a magistrate at such time and place as the police officer appoints.

595. DETENTION OF SUSPECTS DURING POLICE INVESTIGATIONS

(1) Despite any provisions of this Part, a police officer not below the rank of inspector may make or cause to be made an *ex parte* application to a magistrate to have the person arrested for any offence specified in subsection (2), detained in police custody for a further period not exceeding 72 hours where the investigation of the offence is incomplete and where the police officer—

(a) has to secure or preserve evidence relating to the offence;

(b) has reasonable grounds to believe that the person arrested will interfere with or tamper with the evidence in respect of the offence or interfere with or cause physical injury to other persons;

(c) has reasonable grounds to believe that the person arrested will alert other persons suspected of having committed or being involved in the commission of the offence who are yet to be arrested;

(d) has reasonable grounds to believe that the person arrested will hinder the recovery of any property obtained as a result of the offence.

(2) The offences to which subsection (1) relates include—

(a) murder, rape, robbery, arson, and any drug-trafficking offence under the Drugs (Prevention of Misuse) Act punishable on indictment by imprisonment of not less than 5 years, any offence under the Firearms Act;

(b) any other indictable offence which the Attorney General may from time to time by notice in the Gazette specify.

(3) Subject to subsection (1), where further detention is authorised the person arrested—

(a) shall be informed of the reason for his or her further detention; and

(b) the reason shall be noted in his or her custody record.

596. RECORD OF DECISION AS TO BAIL

(1) Subject to subsection (2), where—

(a) a Court or police officer grants bail to a defendant;

(b) a Court withholds bail from a defendant;

(c) a Court, officer of the Court or police officer appoints a time or place or a Court, officer of the Court or police officer appoints a different time or place for a person granted bail to surrender to custody;

(d) a Court varies any conditions of bail or imposes conditions in respect of bail,

the Court, officer of the Court or police officer shall make a record of the decision in the prescribed manner, containing the prescribed particulars and, if requested to do so by the defendant, shall give him or her a copy of the record of the decision as soon as practicable after the record is made.

(2) Where bail is granted by endorsing a warrant of arrest for bail, the police officer who releases on bail the person arrested, shall make the record required under subsection (1), instead of the judge or magistrate who issued the warrant.

(3) In this section "**prescribed**" means in relation to the decision of a Court or an officer of a Court, prescribed by rules made under this Code or in relation to a decision of a police officer, prescribed by the direction of the Commissioner of Police.

597. REASONS FOR DENYING OR REFUSING BAIL

(1) The magistrate shall, in order to enable the defendant or the police, as the case may be, to make an application respecting bail to the High Court, give reasons for—

(a) withholding bail;

(b) imposing or varying conditions relating to the granting of bail;

(c) granting bail over an objection to bail by the prosecution where the defendant is charged with an offence punishable by a term of imprisonment of 5 years or more.

(2) A magistrate who is by subsection (1) required to give reasons for his or her decision, shall include a note of those reasons in the record of the decision and shall give a copy of that note to the police and the defendant in relation to whom the decision was taken.

598. RIGHT TO APPLY TO THE HIGH COURT FOR BAIL

Where a magistrate withholds bail from a defendant who is not represented by counsel, the magistrate shall—

(a) if he or she is committing the defendant for trial to the High Court;

(b) in any other case,

inform him or her that he or she may apply to the High Court to be granted bail.

599. SUBSEQUENT HEARINGS FOR BAIL

Where a Court decides not to grant bail to a defendant—

(a) the defendant may support an application with any argument as to fact or law that he or she wishes, whether or not he or she has advanced that argument previously;

(b) the Court at subsequent hearings need not hear any arguments as to fact or law that it has heard previously; and

(c) the Court shall at each subsequent hearing consider whether the defendant should be granted bail if he or she is in custody.

600. POWERS OF THE HIGH COURT IN RELATION TO BAIL

(1) Despite any power of the High Court to admit or direct the admission of persons to bail—

(a) the High Court may grant bail where a person has been committed in custody to the High Court for trial or

sentence or has appealed to the High Court against conviction or sentence; or

(b) the High Court may grant bail or vary the conditions of bail where the magistrate withholds bail or imposes conditions in granting bail.

(2) Where the High Court grants bail to a defendant under subsection (1), it may direct him or her to appear at a time and place which the magistrate could have directed and the recognizance of any surety shall be conditioned accordingly.

(3) Where the High Court refuses bail to a defendant under subsection (1), and the defendant is not then in custody, the Court shall issue a warrant for the arrest of the defendant, and the defendant shall be brought before a magistrate who shall remand him or her in custody.

601. GENERAL PROVISIONS RELATING TO BAIL

(1) A person granted bail shall surrender to custody.

(2) A defendant may be required to give security for his or her surrender to custody or the security may be given on his or her behalf if it appears that he or she is unlikely to remain in Saint Lucia until the time appointed for him or her to surrender to custody.

(3) A Court may require the person applying for bail to—

(a) provide as a condition for bail before his or her release, a surety to secure his or her surrender to custody;

(b) surrender his or her passport to the Court;

(c) inform the Court if he or she intends to leave the jurisdiction;

(d) report to any police station at specified times;

(e) remain within any specified area or district of Saint Lucia.

(4) A defendant may be ordered by a Court to comply with any requirement that in the opinion of the Court is necessary to secure that the defendant—

(a) surrenders to custody;

(b) does not commit an offence while on bail;

(c) does not interfere with witnesses or otherwise obstruct the course of justice whether in relation to himself or herself or any other person; or

(d) makes himself or herself available for the purpose of enabling inquiries or a report of any medical examination to be made to assist the Court in dealing with him or her for the offence.

(5) If a parent or guardian of a child or young person consents to be a surety for the child or young person for the purposes of this subsection, the parent or guardian may be required to ensure that the child or young person complies with any requirement imposed on him or her by virtue of subsection (4), but—

(a) no requirement shall be imposed on the parent or the guardian of a young person by virtue of this subsection where it appears that the young person will attain the age of 18 before the time to be appointed for him or her to surrender to custody; and

(b) the parent or guardian shall not be required to secure compliance with any requirement to which his or her consent does not extend and shall not, in respect of those requirements to which his or her consent does not extend, be bound in a sum greater than $500.

(6) Where a Court has granted bail in criminal proceedings, it may on application—

(a) by or on behalf of the person to whom it was granted; or

(b) by the prosecutor or a police officer,

vary the conditions of bail or impose conditions in respect of bail that it has granted unconditionally.

602. RESTRICTIONS ON CONDITIONS OF BAIL

Subject to subsection (2), where the defendant is granted bail, the conditions mentioned in section 601 shall not be imposed on him or her—

(a) on an application for bail; or

(b) on an application to vary the conditions of bail,

unless the Court considers that it is necessary to do so for the purpose of preventing the occurrence of any of the events specified in section 601 or to enable inquiries or a report to be made into the defendant's physical or mental condition.

603. BAIL WITH SURETIES

(1) This section applies where a person is granted bail on condition that he or she provides a surety.

(2) In considering the suitability of a proposed surety, the Court shall have regard, among other things, to—

(a) the surety's financial resources;

(b) the surety's character and any previous convictions of the surety; and

(c) the surety's proximity, whether in point of kinship, place of residence or otherwise to the defendant.

(3) Where a Court grants bail to a defendant but is unable to release him or her because no surety or no suitable surety is available, the Court shall fix the amount in which the surety is to be bound and subsections (4), (5) and (6) shall apply for the purpose of enabling the recognizance of the surety to be entered into subsequently.

(4) A recognizance of a surety referred to in subsection (3) may be entered into before such persons or descriptions of persons as the Court may specify or if it makes no such order, before any of the following persons—

(a) where the decision was taken by a magistrate, before the magistrate or a police officer who is either of the rank of inspector or above or who is in charge of a police station; or

(b) where the decision is taken by the High Court, before the Registrar.

(5) Where a surety seeks to enter into his or her recognizance before the person in accordance with subsection (4) but that person declines to take the surety's recognizance because that person is not satisfied of the surety's suitability, the surety may apply to—

(a) the Court that fixed the amount of the recognizance in which the surety was to be bound; or

(b) a magistrate for the district in which he or she resides, for that Court or magistrate to take his or her recognizance and that Court or magistrate shall, if satisfied of the surety's suitability, take his or her recognizance.

(6) Where, in pursuance of subsection (4) or (5), a recognizance is entered into, otherwise than before the Court that fixed the amount of the recognizance, the same consequences shall follow as if it had been entered into before that Court.

604. FORFEITURE OF SECURITY

(1) Where a person has given security in pursuance of section 601 (2), and the Court is satisfied that he or she failed to surrender to custody, then unless it appears that he or she had reasonable cause for his or her failure or there are other mitigating circumstances, the Court may order the forfeiture of the security.

(2) Where the Court orders the forfeiture of a security under subsection (1), the Court may declare that the forfeiture extends to such amount less than the full value of the security as it thinks fit to order.

(3) An order made under subsection (1) shall, unless previously revoked, take effect at the end of 21 days beginning with the day on which it is made.

(4) The Court which ordered the forfeiture of a security under subsection (1) may, if satisfied on an application made by the defendant or a surety that—

(a) the defendant did after all have reasonable cause for his or her failure to surrender to custody; or

(b) there are other mitigating circumstances, which should be considered;

remit the forfeiture or declare that the forfeiture extends to such amount less than the full value of the security as it thinks fit to order.

(5) An application made under subsection (4) may be made before or after the order for forfeiture has taken effect, but shall not be entertained unless the Court is satisfied that the prosecution was given reasonable notice of the applicant's intention to make it.

(6) A security that has been ordered to be forfeited by the Court under subsection (1) shall, to the extent of the forfeiture—

(a) if it consists of money, be accounted for and paid in the same manner as a fine imposed by the Court would be;

(b) if it does not consist of money, be enforced by the District Court in the manner specified in the order.

(7) Where an order is made under subsection (4) after an order for forfeiture of the security in question has taken effect, any money forfeited shall be paid over to the person who gave the security.

605. INDEMNIFYING OR AGREEING TO INDEMNIFY SURETIES

(1) Where a person—

(a) indemnifies another or agrees to indemnify another; or

(b) accepts a fee from another or agrees to accept a fee from another,

against any liability which that other person may incur as a surety to secure the surrender to custody of a defendant, he or she and that other person commits an offence.

(2) An offence under subsection (1) is committed whether—

(a) the agreement is made before or after the person to be indemnified becomes a surety;

(b) the person becomes a surety or not; or

(c) the agreement contemplates compensation in money or money's worth.

(3) Where a magistrate convicts a person of an offence under subsection (1), the magistrate may, commit that person in custody or on bail to the High Court for sentence if he or she thinks—

(a) that the circumstances of the offence are such that greater punishment should be inflicted for that offence than he or she has power to inflict; or

(b) in a case where the Court commits that person to the High Court for the offence, that it would be appropriate for him or her to be dealt with for the offence under subsection (1) by the Court before which he or she is tried for the offence.

(4) A person who commits an offence under subsection (1) is liable—

(a) on summary conviction, to imprisonment for one year or to a fine of $1,000 or to both; or

(b) on conviction on indictment or if sentenced by the High Court on committal for sentence under subsection (3), to imprisonment for 2 years or to a fine of $5,000 or to both.

(5) No proceedings for an offence under subsection (1) shall be instituted except by or with the consent of the Director of Public Prosecutions.

606. ABSCONDING

(1) A person who has been released on bail commits an offence—

(a) if he or she fails without reasonable cause to surrender to custody; or

(b) if he or she, having reasonable cause for not surrendering to custody, fails to surrender to custody at the appointed time as is reasonably practicable.

(2) It shall be for the accused to prove that he or she had reasonable cause for his or her failure to surrender to custody.

(3) A failure to give to a person granted bail a copy of the decision shall not constitute a reasonable cause for his or her failure to surrender to custody.

(4) An offence under subsection (1) is punishable either on summary conviction or as if it were a criminal contempt of Court.

(5) Where a magistrate convicts a person of an offence under subsection (1), the magistrate may, if he or she thinks—

(a) that the circumstances of the offence are such that greater punishment should be inflicted for that offence than he or she has power to inflict; or

(b) in a case where the Court commits that person to the High Court for trial for another offence, that it would be appropriate for him or her to be dealt with for the offence under subsection (1) by the Court before which he or she is tried for the offence, commit him or her in custody or on bail to the High Court for sentence.

(6) A person who is convicted summarily of an offence under subsection (1) and—

(a) is not committed to the High Court for sentence is liable to imprisonment for one year or to a fine of $1,000;

(b) is committed to the High Court for sentence or is dealt with for contempt is liable to imprisonment for a term of 2 years or to a fine of $5,000 or to both.

(7) In any proceedings for an offence under subsection (1), a document purporting to be a copy of the part of the prescribed record that relates to the time and place appointed for the person specified in the record to surrender to custody and duly certified to be a true copy of that part of the record shall be evidence of the time and place appointed for that person to surrender to custody.

(8) For the purposes of subsection (7)—

(a) the "**prescribed record**" means the record of the decision of the Court, proper officer of the Court or police officer made pursuant to section 596;

(b) the copy of the prescribed record is "**duly certified**" once it is so certified by the proper officer of the Court or as the case may be, by the police officer who took the decision or a police officer designated for the purpose by the officer in charge of the police station from which the person to whom the record relates was released.

607. ARREST FOR ABSCONDING ETC.

(1) Where a person who has been released on bail and is under a duty to surrender to custody of a Court fails to surrender to

custody at the time and place appointed for him or her to do so, the Court may issue a warrant for his or her arrest.

(2) Where a person who has been released on bail absents himself or herself from the Court at any time after he or she has surrendered to the custody of the Court and before the Court is ready to begin or to resume the hearing of the proceedings, the Court may issue a warrant for his or her arrest, but no warrant shall be issued under this subsection if that person is absent in accordance with leave given to him or her by the Court.

(3) A person who has been released on bail and is under a duty to surrender into the custody of the Court may be arrested without warrant by a police officer—

(a) if the police officer has reasonable grounds for believing that person is not likely to surrender to custody;

(b) if the police officer has reasonable grounds for believing that person is likely to break any of the conditions of his or her bail or has reasonable grounds for suspecting that person has broken any of those conditions; or

(c) in a case where that person was released on bail with a surety, if a surety notifies the police in writing that the person is unlikely to surrender to custody and that for that reason the surety wishes to be relieved of his or her obligations as a surety;

(d) if new evidence justifying a further arrest has come to light since his or her release.

(4) Where in pursuance of subsection (3)—

(a) a person is arrested, that person shall be brought as soon as practicable and in any event within 72 hours after his or her arrest, before a magistrate for the district in which he or she is arrested; or

(b) a person is arrested, within 72 hours of the time appointed for him or her to surrender to custody, he or she shall be brought without delay before the Court at which he or she is to surrender to custody.

(5) In reckoning any period of 24 hours for the purposes of subsection (4), no account shall be taken of public holidays and Sundays.

(6) The magistrate before whom a person is brought under subsection (4) may, subject to subsection (7), if of the opinion that the person is not likely to surrender to custody or has broken or is likely to break any condition of his or her bail may, subject to subsection (7)—

(a) remand him or her in custody;

(b) commit him or her to custody; or

(c) grant him or her bail subject to the same or to different conditions, otherwise may grant him or her bail subject to the same conditions if any, as were originally imposed.

(7) Where the person brought before the magistrate is a child or young person and the magistrate does not grant him or her bail, subsection (6) shall have effect subject to the provisions of section 21 of the Children and Young Persons Act.

608. PROSECUTION RIGHT OF APPEAL

(1) In proceedings before a District Court in which a person who is charged with an offence punishable by a term of imprisonment of 5 years or more is granted bail there shall be a right of appeal by the prosecution to a judge against the decision of the district court to grant bail, provided the objection to the granting of bail is made by the prosecution before the district court grants such bail.

(2) Where the prosecution wishes to exercise the right of appeal under subsection (1)—

(a) oral notice of appeal shall be given to the District Court at the conclusion of the proceedings in which such bail has been granted and before the release from custody of the person concerned; and

(b) written notice of appeal shall thereafter be served on the District Court and the person concerned within 12 hours of the conclusion of such proceedings.

(3) Upon receipt from the prosecution of oral notice of appeal from its decision to grant bail the district court shall remand in custody the person concerned, pending the hearing of such appeal.

(4) The hearing of an appeal under subsection (1) against a decision of the district court to grant bail shall be commenced within 5 days, excluding holidays and weekends, from the date on which oral notice of appeal is given.

(5) A hearing of any appeal by the prosecution under this section shall be by way of rehearing.

609. BAIL AFTER COMMITTAL FOR TRIAL

(1) Where an accused person who is entitled to be admitted to bail, or to whom the magistrate has power to grant bail, and who in his or her opinion, ought to be bailed, is committed to the correctional facility only because he or she does not, at the time of his or her committal for trial, procure sufficient sureties to take his or her bail, the magistrate shall certify on the back of the warrant of commitment or on a separate paper his or her consent to the accused being bailed, and shall state the amount of bail which ought to be required.

(2) A magistrate attending or being at the correctional facility where the accused person is confined shall, upon the production of such certificate, admit him or her to bail accordingly, and shall order him or her to be discharged by a warrant of deliverance.

(3) The magistrate holding the preliminary inquiry shall, if required, at any time before the trial, by or on behalf of the accused, make and sign one or more duplicate copies of the certificate.

(4) Upon the production of any such duplicate to any justice of the peace, he or she may take the recognizance of one or more sureties which he or she shall transmit to the magistrate of the district in which the accused was committed.

(5) When the recognizances of all the sureties required have been received, the committing magistrate shall issue his or her warrant of deliverance to the correctional officer, requiring him or her to take the recognizance of the accused and to discharge him or her, unless he or she is detained for some other cause.

610. BAIL DURING REMAND

Whenever a preliminary inquiry is for any reason adjourned or interrupted, the magistrate holding it may instead of remanding the accused person to a correctional facility, admit him or her to bail on the condition that he or she shall appear at the time to which the inquiry is adjourned, or at an earlier date if so required.

611. CUSTODY DURING REMAND

(1) An accused person who is not admitted to bail shall be committed for safe custody to the correctional facility.

(2) Where a magistrate postpones the preliminary inquiry and remands the accused for more than 3 days, such remand shall be by warrant.

(3) If such remand is for a period not exceeding 3 days, the magistrate may, if he or she thinks fit, give a verbal order to the police officer who has the accused in custody, or to any other police officer, to continue to keep the accused in his or her custody, or to take him or her to the correctional facility, and bring him or her before the magistrate at the time appointed for continuing the inquiry.

(4) No person may be remanded for a continuous period exceeding 60 days without his or her matter being brought to trial.

612. CORRECTIONAL OFFICER TO PRODUCE ACCUSED DURING REMAND PERIOD

(1) A magistrate may, where an accused is under remand and before the expiration of the period for which he or she has been remanded, order the accused to be brought before him or her, and the correctional officer or person in whose custody he or she is kept shall obey the order.

(2) If the accused is on bail, the magistrate may summon him or her to appear at an earlier day than that to which he or she was remanded.

(3) If such summons is not obeyed, a warrant may be issued to enforce his or her attendance, and may be executed like any other warrant.

613. ADJOURNMENT BEFORE PLEA

The Court, in order to allow time for inquiry, or for any other necessary cause, and without calling on the accused to plead to any charge against him or her, may, from time to time, adjourn the case for such reasonable time as may in the circumstances be necessary, not exceeding in all a period of 7 days, or on special cause shown, 14 days, from the date of arrest of the accused, and may release him or her on bail or commit him or her to the correctional facility, with or without bail to an amount fixed by the Court.

Remand in General

614. REMAND IN ABSENCE OF ACCUSED UNABLE TO APPEAR

A Court, on being satisfied that a person accused of any offence who has been remanded is, by reason of illness or accident, unable at the expiration of the period for which he or she was remanded to appear personally before the Court, may order that he or she is remanded for such further period as the Court may deem reasonable.

615. REMAND BY PROPER OFFICER WHEN COURT UNABLE TO SIT

When the Court is unable to sit the proper officer of the Court may remand the accused for such period as he or she may direct or consider necessary.

Warrants of Commitment in General

616. EXECUTION OF WARRANT OF COMMITMENT

(1) If any person is committed to a correctional facility, the police officer to whom the warrant of commitment is directed, shall convey him or her to the correctional facility and shall there deliver him or her, together with the warrant, to the correctional officer, who shall give the police officer a receipt for the accused, which shall set forth the condition in which such accused person was when he or she was delivered into the custody of the correctional officer.

(2) It is not necessary to address any warrant of committal under this or any other section of this Code to any particular correctional officer, but upon delivery of any warrant to a correctional officer by the person charged with the execution of it, the correctional officer shall receive and detain the person named in the warrant, or detain him or her if he or she is already in his or her custody, for such period and for such purpose as the warrant directs.

(3) In the case of adjournment or remand, the correctional officer shall bring the person or cause him or her to be brought before the magistrate at the time and place fixed by the warrant for that purpose.

PART 2
SEARCH AND SEIZURE

617. JUSTICE OF THE PEACE TO ISSUE SEARCH WARRANT

Where due to the absence in a magisterial district of a magistrate or for any other cause, it is not practicable to make immediate application to a magistrate for the issue of a search warrant and the ends of justice are likely to be defeated by the delay in making such application to a magistrate, any justice of the peace shall take the necessary complaint information, and if he or she is of the opinion that a case for doing so, has been made issue the search warrant in the same manner as a magistrate would do, but all subsequent proceedings in the case shall be taken before a magistrate.

618. SEARCH BY DIRECTION AND IN PRESENCE OF A MAGISTRATE

A magistrate may direct a search to be made in his or her presence of any place in respect of which he or she is competent to issue a search warrant.

619. DUTY TO ALLOW SEARCH

(1) Whenever any place liable by virtue of a warrant to search or inspection is closed, any person residing in, or in charge of such place shall, on demand of the officer or person executing the warrant, and on production of the warrant, allow him or her free access into such place and afford reasonable facilities for the search.

(2) If access into such place cannot be so obtained, the officer or person executing the warrant may proceed in the manner provided under section 581.

(3) Where the person in or about such place is reasonably suspected of concealing on his or her person any article for which a search may be made, the person may be searched.

(4) If the person is a female, the provisions of section 588 shall apply.

Search for Persons

620. SEARCH FOR AND REMOVAL OF PERSONS WRONGFULLY CONFINED

(1) Where a magistrate has reason to believe that any person is confined in circumstances that amounts to an offence, he or she may issue a search warrant, and the person to whom such warrant is directed may search for the person so confined.

(2) The search shall be made in accordance with the terms of the warrant and the person, if found, shall immediately be brought before the magistrate, who shall make any order as in the circumstances of the case seems proper.

621. SEARCH FOR MALE OR FEMALE SUSPECTED TO BE DETAINED FOR IMMORAL PURPOSES

(1) If it appears to a magistrate, on complaint or information laid before him or her upon oath by any parent, guardian, or relative of any male or female, or by any other person who, in the opinion of the magistrate, is *bona fide* acting in the interest of any male or female, that there is reasonable cause to suspect

that such male or female is unlawfully detained for immoral purposes by the person in any place within the jurisdiction of the magistrate, the magistrate may issue a warrant authorising the person named in the warrant to search for, and when found, to take to and detain in a place of safety, such male or female, until he or she can be brought before him or her or any other magistrate.

(2) The magistrate before whom the male or female is brought may cause him or her to be delivered up to his or her parents or guardian, or to be otherwise dealt with as the circumstances may permit and require.

(3) The magistrate issuing the warrant may, by the same or other warrant, cause the person accused of so unlawfully detaining such male or female to be arrested and brought before him or her or any other magistrate for proceedings to be taken against the person as appropriate.

(4) A male or female is unlawfully detained for immoral purposes if he or she is so detained for the purpose of the person or another person unlawfully having sexual intercourse or sexual connection with the male or female, for performing any indecent act of whatever nature, and—

(a) he or she is under 12 years of age;

(b) if he or she is of or above 12 years and under 16 years of age, is so detained against his or her will, or against the will of his or her father and mother or of any other person having the lawful care or charge of him or her;

(c) if he or she is of or above 16 years of age, is so detained against his or her will.

(5) A person who is authorised by warrant under this section to search for any male or female so detained may enter, if need be by force, any house, building or other place specified in the warrant, and may remove the male or female from the house, building or place.

(6) A warrant issued under this section shall be addressed to and executed by the Commissioner of Police or any other police officer who shall be accompanied by the parent, guardian, or relative of such male or female or the person laying the charge, if the person so desires, unless the magistrate otherwise directs.

Search for and Seizure of Property

622. ISSUE OF WARRANT TO SEARCH FOR AND SEIZE AND REMOVE PROPERTY

Where a magistrate is satisfied upon oath that there is reasonable ground for believing that there is, in any building, ship, carriage, box, receptacle or place—

(a) anything upon or in respect of, which any offence has been or is suspected to have been committed, for which, according to any law, the offender may be arrested without warrant;

(b) anything which there is reasonable ground for believing will afford evidence as to the commission of any such offence;

(c) anything which there is reasonable ground for believing is intended to be used for the purpose of committing any offence against the person, for which, according to any law, the offender may be arrested without warrant,

he or she may at any time issue a warrant under his or her hand, authorising a police officer named in the warrant to search such building, ship, carriage, box, receptacle, or place for any such thing, and to seize and bring any such thing before the magistrate who issued the warrant or any other magistrate, to be dealt with by him or her according to law.

623. SEIZURE OF THINGS NOT SPECIFIED

(1) A person who executes a warrant may seize, in addition to the things mentioned in the warrant, any thing that the person believes on reasonable grounds—

(a) has been obtained by the commission of an offence against the Code or any other enactment;

(b) has been used in the commission of an offence against the Code or any other enactment; or

(c) will afford evidence in respect of an offence against the Code or any other enactment.

(2) A police officer who is lawfully present in a place pursuant to a warrant or otherwise in the execution of duties may, without a warrant, seize any thing that the officer believes on reasonable grounds—

(a) has been obtained by the commission of an offence against the Code or any other enactment;

(b) has been used in the commission of an offence against the Code or any other enactment; or

(c) will afford evidence in respect of an offence against this or any other enactment.

624. INFORMATION FOR SEARCH WARRANT

(1) A magistrate who is satisfied by information on oath that there are reasonable grounds for believing that there is in a building, ship, carriage, box, receptacle or place—

(a) anything on or in respect of which any offence has been or is suspected to have been committed;

(b) anything that there are reasonable grounds to believe will afford evidence with respect to the commission of an offence, or will reveal the whereabouts of a person who is believed to have committed an offence; or

(c) anything that there are reasonable grounds to believe is intended to be used for the purpose of committing any offence against any person for which a person may be arrested without warrant;

(d) any offence-related property,

may at any time issue a warrant authorizing a police officer who is named in the warrant—

(i) to search the building, receptacle or place for any such thing and to seize it, and

(ii) bring the thing seized before the justice or some other magistrate to be dealt with by him or her according to law.

(2) A person authorized under this section to search computer system in a building or place for data may—

(a) use or cause to be used any computer system at the building or place in order to search any data contained in or available to the computer system;

(b) reproduce or cause to be reproduced any data in the form of a print-out or other intelligible output;

(c) seize the print-out or other output for examination or copying; and

(d) use or cause to be used any copying equipment at the place to make copies of the data.

(3) A person who is in possession or control of any building or place in respect of which a search is carried out under this section shall, on presentation of the warrant, permit the person carrying out the search—

(a) to use or cause to be used any computer system at the building or place in order to search any data contained in or available to the computer system for data that the person is authorized by this section to search for;

(b) to obtain a hard copy of the data and to seize it; and

(c) to use or cause to be used any copying equipment at the place to make copies of the data.

(4) A magistrate may issue a warrant in writing authorizing a police officer to, subject to this section, use any device or investigative technique or procedure or do any thing described in the warrant that would, if not authorized, constitute an unreasonable search or seizure in respect of a person or a person's property if—

(a) the magistrate is satisfied by information on oath in writing that there are reasonable grounds to believe that an offence has been or will be committed and that information concerning the offence will be obtained through the use of the technique, procedure or device or the doing of the thing;

(b) the magistrate is satisfied that it is in the best interests of the administration of justice to issue the warrant; and

(c) there is no other provision in this Code or any other enactment that would provide for a warrant, authorization or order permitting the technique, procedure or device to be used or the thing to be done.

(5) Nothing in subsection (4) shall be construed as to permit interference with the bodily integrity of any person.

(6) A warrant issued under subsection (4) shall contain such terms and conditions as the magistrate considers advisable to ensure that any search or seizure authorized by the warrant is reasonable in the circumstances.

(7) A warrant issued under subsection (4) that authorizes a police officer to observe, by means of a television camera or other similar electronic device, any person who is engaged in activity in circumstances in which the person has a reasonable expectation of privacy shall contain such terms and conditions as the judge considers advisable to ensure that the privacy of the person or of any other person is respected as much as possible.

(8) A warrant issued under subsection (4) that authorizes a police officer to enter and search a place covertly shall require, as part of the terms and conditions referred to in subsection (6) that notice of the entry and search be given within any time after the execution of the warrant that the magistrate considers reasonable in the circumstances.

(9) Where the magistrate who issues a warrant under subsection (4) or any other magistrate having jurisdiction to issue such a warrant is, on the basis of an affidavit submitted in support of an application to vary the period within which the notice referred to in subsection (8) is to be given, is satisfied that the interests of justice warrant the granting of the application, the magistrate may grant an extension, or a subsequent extension, of the period, but no extension may exceed 3 years.

(10) Where a police officer believes that it would be impracticable to appear personally before a magistrate to make an application for a warrant under this section, a warrant may be issued under this section on an information submitted by telephone or other means of telecommunication and, for that purpose, subsection (1) applies, with such modifications as the circumstances require, to the warrant.

625. TIME FOR EXECUTION OF SEARCH WARRANT

A search warrant may be issued and executed on any day including Sunday, or public holiday and at any hour.

626. DETENTION AND DISPOSAL OF PROPERTY SEIZED UNDER SEARCH WARRANT

(1) When any such thing is seized and brought before the magistrate pursuant to section 622, he or she may detain it, taking reasonable care to preserve it till the conclusion of the investigation, or trial of the case.

(2) If any appeal is made, or, if the person is committed for trial, the magistrate may order that the thing be further detained for the purpose of the appeal or of evidence at the trial.

(3) Except otherwise provided in sections 627 to 629 where no appeal is made, or, no person is committed, the magistrate shall direct such thing to be restored to the person from whom it was taken unless he or she is authorised or required by law to dispose if it otherwise.

627. DISPOSAL IN CASE OF COUNTERFEIT NOTE OR OTHER THING

If, under any warrant, there is brought before any magistrate any counterfeit note or any other thing, the possession of which with knowledge of its nature and without lawful excuse is an offence according to any law, every such note or thing shall be delivered to the Accountant General or to any person authorised by him or her to receive it as soon as it has been produced in evidence, or as soon as it appears that it will not be required to be so produced.

628. DISPOSAL OF FORGED BANK-NOTE, ETC, TAKEN UNDER SUCH WARRANT

If, under any warrant, there is brought before any magistrate any forged bank-note, bank note paper, instrument or any other instrument or any other thing, the possession of which, in the absence of lawful excuse, is an offence according to any law, the Court, if a person is committed for trial, or the magistrate, if there is no commitment for trial, may cause the instrument or thing to be defaced or destroyed.

629. POWER TO SEIZE COUNTERFEIT NOTES

(1) If a person finds or discovers, in any place, or in the custody or possession of another person who has no lawful authority or excuse—

(a) a false or counterfeit note resembling, or apparently intended to resemble or pass for, any of the notes of the State or any foreign State or country;

(b) a instrument, tool, or device whatsoever adapted and intended for counterfeiting of such note,

it is lawful for the person who so finds or discovers any of the things mentioned in this subsection, to seize and bring it forthwith before a magistrate.

(2) Where it is proved, on the oath of a credible witness, before any magistrate that there is reasonable cause to suspect that any person—

(a) has been involved in counterfeiting the note referred to in subsection (1);

(b) has in his or her custody or possession—

(i) any such false or counterfeit note,

(ii) any instrument, tool or device whatsoever adapted and intended for making or counterfeiting of any such note,

(iii) any other machine used or intended to be used for making or counterfeiting any such note,

it is lawful for a magistrate by warrant under his or her hand, to cause any place belonging to or occupied by, or under the control of, the suspected person to be searched, either in the day or in the night, and if any false or counterfeit note, or any instrument, tool, or device, or any machine, is or are found in any place so searched, to cause them to be seized and brought forthwith before a magistrate.

(3) Where any item referred to in subsection (1) is seized and brought before a magistrate, the magistrate shall, if necessary, cause it to be secured for the purpose of being produced in evidence against any person who may be prosecuted for any offence relating to note.

(4) Any such item after it has been produced in evidence, or if it is not required to be produced in evidence, shall forthwith be delivered to the Accountant General or to any person authorised by him or her to receive it.

630. WARRANT TO ENTER AND SEIZE AND TO ARREST IN CASE OF SUSPECTED BROTHEL, ETC.

(1) It is lawful for a magistrate, on the information upon oath of a credible person to authorise, by warrant under his or her hand, any police officer to enter any building, place, or premises suspected to be used as a brothel, and to take into custody all persons, and to seize monies or securities for money found in such building, place or premises.

(2) All such monies and securities for money shall be paid into the Treasury for the use of the State.

(3) Nothing contained in this section shall prevent any proceedings against the owner, occupier, keeper or any other person in any way engaged in the management of any brothel.

631. SEARCH, ETC., ON POLICE REPORT

The search, arrest and seizure in the case of any brothel, may also lawfully be carried out under an order made in writing by a magistrate upon a report in writing made to him or her by the Commissioner of Police or a police officer.

632. SEIZURE OF GOODS SUSPECTED LIABLE TO FORFEITURE

(1) A police officer shall stop and take possession of all goods subject or liable, or reasonably suspected to be subject or liable to forfeiture, under any enactment relating to customs or excise, or goods smuggled, or reasonably suspected to be smuggled, and shall deliver them to any revenue officer, or if any such goods are reasonably suspected to have been stolen or unlawfully obtained, the police officer may convey them to a police station.

(2) The police officer shall in every such case seize and detain any vessel, package, cart, animal or other thing whatsoever, in

which the goods are contained or by which they are carried or conveyed and arrest the person from whom they are taken.

(3) Where goods are detained under subsection (2) the police officer shall give notice to the Comptroller of Customs or the Commissioner of Police of the goods so detained, together with the particulars of the goods.

(4) Immediately after the trial of the offender, all such goods shall be placed under the custody of the Comptroller of Customs for any proceedings to be taken as may be deemed expedient.

(5) A police officer who neglects to convey such goods, or to give such notice shall on summary conviction be liable to a fine not exceeding $500 and in default of payment to imprisonment for 2 months.

633. POWERS AND PROTECTION IN CASE OF SEARCH FOR EXPLOSIVE OR DANGEROUS THING

(1) If the thing to be searched for is gunpowder or any other explosive or dangerous or noxious substance or thing, the person making the search shall have the same powers and privileges as are given by any enactment to the person lawfully authorised to search for any such thing.

(2) Any such thing shall be disposed of in the manner provided by the relevant enactment or where no such provision is made, in such manner as the magistrate may order.

634. REPORT BY POLICE TO COURT AS TO PROPERTY TAKEN FROM ACCUSED

If upon the arrest of any person charged with any offence, property is taken from him or her, the Police shall make a report to the Court of the fact that the property has been taken from that person and of the particulars of the property.

635. ORDER TO SEIZE PROPERTY IN CASE OF SUSPECTED CRIME

(1) A judge or a magistrate may order the seizure of any property which there is reason to believe has been obtained by, or is the proceeds of any crime, or into which the proceeds of any crime

have been converted, and may direct that the property is kept or sold, and that the property or its proceeds, if sold, is held as he or she directs, until any other person establishes to his or her satisfaction a right to the property.

(2) Where no such right is claimed by any person within 6 months from the seizure, the property, or its proceeds, shall vest in the Accountant General for use of the State, and shall be disposed of accordingly.

636. SEIZURE AND DISPOSAL OF THINGS SUSPECTED TO BE PROVIDED OR PREPARED FOR COMMITTING CRIME

A judge or a magistrate may order the seizure of any instrument, material or thing which there is reason to believe is produced or prepared, or is being prepared, with a view to the commission of a crime, and may direct that such instrument, material or thing be held and dealt with in the same manner as property seized under section 635.

637. SEARCH WARRANT

An order made under section 635 to 636 may be enforced by a search warrant.

638. ENTERING VESSEL TO DETECT OR PREVENT CRIME

(1) A police officer who has reasonable cause to suspect that any indictable offence has been or is about to be committed in or on board any vessel, which is in any bay, creek, inlet, or river, or within 12 miles of the shore of this State, may enter at all times, both by night and day, upon such vessel, and may take all necessary measures to prevent or detect any indictable offence which he or she reasonably suspects has been or is about to be committed, and may arrest all persons reasonably suspected to be involved in the commission of the offence, and may take charge of all property reasonably suspected to have been stolen.

(2) A police officer may, upon the request of the person in charge of the vessel, enter upon the vessel, and act, with respect to all cases of summary offences, in the same manner as a police

officer might act when he or she enters upon any house or other property at the request of its occupier.

639. SEARCH OF VESSEL OR CONVEYANCE FOR GOODS SUSPECTED TO BE LIABLE TO FORFEITURE, OR SMUGGLED

(1) A police officer, or any person acting with him or her and in his or her aid or assistance, may, upon reasonable suspicion that goods contained therein are liable to forfeiture or are smuggled, stop and search—

(a) a vessel within 20 miles of the shore of this State; and also

(b) a cart, carriage, or other conveyance,

with the object of ascertaining whether the vessel, cart, or carriage or other conveyance contains or carries any goods subject or liable to forfeiture, or which are smuggled.

(2) A person in charge of any such vessel, cart, or carriage, or other conveyance who refuses to stop when required to do so by a police officer or such other person authorised in that behalf, shall on summary conviction, be liable to a fine not exceeding $1,000, and, in default of payment, to imprisonment for one year.

(3) Where no such goods are found, the police officer or such other person who has so stopped and searched such vessel, cart, or carriage, or other conveyance, whether on sea or land, shall not on that account be liable to any prosecution or legal action.

640. COURT TO ORDER DELIVERY OF PROPERTY TO PERSON APPARENTLY ENTITLED

Subject to the provisions of sections 641 to 644 or any other enactment, when the person is convicted of a crime, any property found in his or her possession, or in the possession of any other person for him or her, may be ordered by the Court to be delivered to the person who appears to the Court to be entitled to the property.

641. ORDER FOR DELIVERY IN CASE OF PAWNED PROPERTY

(1) When any person is convicted of having stolen or dishonestly obtained any property, and it appears to the Court that the property has been pawned to a pawnbroker or other person, the Court may order the delivery of the property to the person who appears to the Court to be the owner, either on payment or without payment to the pawnbroker or other person of the amount of the loan or any part of it as the Court may consider just having regard to all the circumstances of the case.

(2) If the person in whose favour an order is made under subsection (1), pays the money involved to the pawnbroker or other person and obtains the property, he or she shall not afterwards question the validity of the pawn and to that extent, the order shall have no other effect than the change of possession in respect of the goods and shall not in any way affect any right of action existing or acquired in respect of the goods before or after the crime was committed.

(3) Nothing in this section shall prevent the Court from ordering the return to any person charged with a crime, or to any person named by the Court, of any property found in the possession of the person so charged, or in the possession of any other person for him or her, or of any portion of such property, if in the opinion of the Court the interest of justice will best be served by the return of such property or a portion of it to the person so charged.

642. ORDER ON CONVICTION FOR RESTORATION OF PROPERTY TO OR FOR OWNER

(1) When a person is prosecuted on a charge for an offence of which the unlawful acquisition of the property by him or her is an element, and he or she is convicted of the offence, the Court may order that the property be restored to the owner or his or her representative.

(2) Any such order has the effect of a judgment and is binding on the offender and any person claiming through him or her as determining the ownership of the property, but as regards any other person the order has the effect only of changing the

possession of the property and does not affect any right of property or right of action.

(3) In any such case, the Court may order that the personal property which is found in the possession of the offender and which appears to the Court to have been derived directly or indirectly, from unlawful acquisition of property, shall be delivered to any person who appears to the Court to be entitled to the property so unlawfully acquired.

(4) This section does not apply to a valuable security, if it appears that the security has been paid or discharged in good faith by the person liable for the payment thereof, or, in the case of a negotiable instrument, that it has been taken or received by transfer or delivery in good faith by some person for a valuable consideration and without any reasonable cause to suspect that it has been unlawfully acquired.

643. POWER TO ORDER PAYMENT OUT OF MONEY TAKEN FROM ACCUSED

When an accused person has been convicted of stealing or unlawfully obtaining any property, and it appears to the Court from the evidence that he or she sold such property or part of it to any person who had no knowledge that it was stolen or unlawfully obtained, the Court may, where money has been taken from the accused on his or her arrest, on the application of the purchaser and on restitution of the property to its owner, order that out of the money taken from the accused, if it belongs to him or her, that a sum not more than the proceeds of the sale be paid to such purchaser.

644. POWER TO ORDER RESTITUTION OF PROPERTY ALTHOUGH NO CONVICTION

The Court may also, if it sees fit, award restitution of the property taken from the prosecutor, or any witness for the prosecution, or other person, as a result of the commission of such offence, although the person charged is not convicted, if the jury declares, as it may do, or where the offender is tried without a jury, if it is proved to the satisfaction of the Court by whom he or she is tried that such property belongs to the prosecutor or witness or the other person, and that he or she was unlawfully deprived of it through such offence.

645. PROVISIONS AS TO RESTITUTION ADDITIONAL TO OTHER ENACTMENTS

The provisions of this Code governing the restitution of property shall be in addition to and not in derogation of the provisions of any enactment governing such restitution.

646. ORDER DENYING ACCESS TO INFORMATION USED TO OBTAIN ANY WARRANT

(1) A judge or magistrate may, on application made at the time of issuing a warrant under this Code or any other enactment or at any time thereafter, make an order prohibiting access to and the disclosure of any information relating to the warrant on the ground that—

(a) the ends of justice would be subverted by the disclosure for one of the reasons referred to in subsection (2) or the information might be used for an improper purpose; and

(b) the ground referred to in paragraph (a) outweighs in importance the access to the information.

(2) For the purposes of paragraph (1)(a), an order may be made under subsection (1) on the ground that the ends of justice would be subverted by the disclosure—

(a) if disclosure of the information would-

(i) compromise the identity of a confidential informant,

(ii) compromise the nature and extent of an ongoing investigation,

(iii) endanger a person engaged in particular intelligence-gathering techniques and thereby prejudice future investigations in which similar techniques would be used, or

(iv) prejudice the interests of an innocent person; and

(b) for any other sufficient reason.

(3) Where an order is made under subsection (1), all documents relating to the application shall, subject to any terms and conditions that the judge or magistrate considers desirable in the circumstances, including, without limiting the generality of the foregoing, any term or condition concerning the duration of

the prohibition, partial disclosure of a document, deletion of any information or the occurrence of a condition, be placed in a packet and sealed by the judge or magistrate immediately on determination of the application, and that packet shall be kept in the custody of the Court in a place to which the public has no access or in any other place that the judge or magistrate may authorize and shall not be dealt with except in accordance with the terms and conditions specified in the order or as varied under subsection (4).

(4) An application to terminate the order or vary any of its terms and conditions may be made to the judge or magistrate who made the order or a judge of the Court before which any proceedings arising out of the investigation in relation to which the warrant was obtained may be held.

PART 3
GENERAL POWERS OF THE DIRECTOR OF PUBLIC PROSECUTIONS AND POLICE

Powers of the Director of Public Prosecutions

647. DIRECTOR OF PUBLIC PROSECUTIONS DEALING WITH INDICTABLE CASE SUMMARILY

The circumstances in which the consent of the Director of Public Prosecutions must be obtained for the trial of an indictable offence summarily are dealt with in sections 774 and 775.

648. POWER TO REMIT CASE TO MAGISTRATE

The power of the Director of Public Prosecutions on consideration of the preliminary inquiry to remit a case to the magistrate to be further dealt with by the magistrate is contained in sections 774 and 775.

649. DIRECTOR OF PUBLIC PROSECUTIONS TO DIRECT COMMITTAL FOR TRIAL IF ACCUSED DISCHARGED

The powers of the Director of Public Prosecutions on the discharge of an accused person by the magistrate to direct a committal for trial and

to give the necessary directions in respect thereto, are contained in section 808.

650. DIRECTOR OF PUBLIC PROSECUTIONS TO RELEASE ACCUSED ON NON-PREFERMENT OF INDICTMENT

When an accused person is committed for trial or sentence and is in custody under such committal, and the Director of Public Prosecutions, upon consideration of the written statements or depositions taken in the case, declines to prefer an indictment against the accused, the Director of Public Prosecutions, at any time after such committal, may direct the release of the accused from custody, and he or she shall be released accordingly.

651. DIRECTOR OF PUBLIC PROSECUTIONS TO STAY PROCEEDINGS

(1) The Director of Public Prosecutions may, at any time after an indictment has been preferred against the person for an indictable offence and before judgment is given, direct the Registrar to make, in the Crown Book, an entry that the proceedings are stayed by his or her direction, and, on such entry being made, all such proceedings shall be stayed accordingly.

(2) The Director of Public Prosecutions may delegate his or her power to stay proceedings to any counsel nominated by him or her.

652. SUBSTITUTION OF INDICTMENT BY DIRECTOR OF PUBLIC PROSECUTIONS

The Director of Public Prosecutions may at any time before the accused is given in charge to the jury, withdraw any indictment and prefer or present a fresh indictment before the Court against the accused.

Police Prosecutions

653. CONDUCT OF POLICE PROSECUTIONS

(1) A Superintendent of Police may conduct the prosecution of any police charge in any district.

(2) Where a police officer lays an information or a complaint—

(a) the officer, or senior officer, in charge of an out-district station; or

(b) any police officer in Castries or in any out-district station not below the rank of corporal,

may conduct the prosecution.

(3) If, for any reason, the person appointed to conduct the prosecution before any Court is absent or unable to act, or where no person has been appointed, the magistrate of the district in which the Court is held may appoint or allow a fit and proper person to prosecute such cases as are tried before the Court.

PART 4
SUMMARY PROCEEDINGS

SUB-PART A
Trial of Summary Offences

654. DEFINITION OF "COURT"

In this Sub-Part unless the context otherwise requires "**Court**" means a district court in the exercise of its jurisdiction in respect of summary offences.

Jurisdiction of District Courts

655. JURISDICTION GENERALLY

For the purpose of conferring jurisdiction on a Court, every summary offence shall be deemed to have occurred either in the district in which the offence actually was committed or occurred or in any district in which the offender or person complained against may be residing or found.

656. JURISDICTION IN RECEIVING OR UNLAWFUL POSSESSION

(1) The receiver of property obtained or appropriated contrary to law is liable to be proceeded against and convicted and punished in any magisterial district within this State in which he or she has any such property in his or her possession, or in the magisterial district in which he or she actually received the property.

(2) Subsection (1) equally applies in cases of unlawful possession.

657. BONA FIDE QUESTION OF TITLE TO LAND

If, on the hearing of any complaint, the magistrate is of the opinion that a *bona fide* question of title to land, or to any interest in land or accruing from land, is raised between the parties, he or she shall dismiss such complaint, and may make such order with respect to costs as he or she thinks fit.

658. SAVING

Nothing in this Code shall be construed to abolish or limit the jurisdiction of a magistrate or justice of the peace in respect of offences created by any other enactment and not specified in this Code.

Practice and Procedure

659. APPLICATION OF OTHER PROCEDURE PROVISIONS TO COMPLAINTS

(1) The provisions of Sub Part C relating to indictments, shall, so far as they are appropriate, apply to complaints preferred against offenders upon their trial before magistrates, in order to secure their conviction summarily, whether for an indictable offence, or not, if there is no express provision otherwise applicable to such complaint.

(2) The provisions of this Code and any other enactment, regulating any criminal proceedings in cases or matters not summary, shall apply when necessary or if required, to all summary proceedings, where there is no express provisions in this Code or any other enactment applicable to such proceedings, except where it appears from the context that such provisions are not applicable to summary proceedings.

660. TRANSFER CASE TO DISTRICT COURT HAVING JURISDICTION

(1) If, upon the hearing of any complaint, it appears that the cause of complaint arose outside the jurisdiction of the court before which such compliant is brought, the magistrate may, on being satisfied that the court has no jurisdiction, direct the case to be transferred to the court having jurisdiction where the cause of complaint arose.

(2) Where the defendant is in custody and the magistrate thinks it expedient that the defendant should continue to be in custody or, if he or she is not in custody, that he or she should be placed in custody, the magistrate shall direct that the defendant be taken by a police officer before the magistrate having jurisdiction where the cause of complaint arose.

(3) The magistrate shall issue a warrant for that purpose to the police officer, and deliver to him or her the complaint and recognizances, if any taken by him or her, to be delivered to the magistrate before whom the defendant is to be brought, and the complaint and recognizances, if any, shall be treated to all

intents and purposes as if they had been taken by that magistrate.

(4) Where the magistrate makes no order that the defendant should continue to be kept, or should be placed in custody, he or she shall transfer the case in accordance with the provisions of subsection (3) and inform the accused accordingly.

Appearance of Defendant

661. COMPLAINT TO COMMENCE PROCEEDINGS

Every proceeding in the Court for of an order against any person shall be instituted by a complaint made before a magistrate.

662. COMPLAINANTS AND DEFENDANTS, WHO MAY BE

Where an enactment provides that any person who contravenes any of its provisions is liable, on summary conviction, to a fine or imprisonment, or to any other punishment, it is lawful for anyone to make a complaint against another person committing any such contravention, unless the enactment provides that any complaint for a contravention shall be made by any particular person or class of persons.

663. WRITTEN COMPLAINT GENERALLY UNNECESSARY

Unless otherwise required by the particular enactment, it is not necessary that a complaint upon which the Court may make an order is in writing.

664. OATH FOR COMPLAINT, WHEN NECESSARY

(1) Unless otherwise required by the particular enactment every complaint need not be made on oath as to the truth of it.

(2) Where a magistrate is to issue a warrant in the first instance to arrest a defendant, the complaint shall be made on oath of the complainant, or of a witness on his or her behalf, before the magistrate issues the warrant.

665. ONE MATTER OF COMPLAINT

Every complaint shall relate to one matter or offence only, but it shall not be invalid if it describes the offence or any material fact relating to the offence in alternative words according to the language of the enactment creating the offence.

666. COMPLAINT, HOW MADE

(1) Every complaint may be made by the complainant in person, or by his or her counsel or other person authorised in that behalf by him or her.

(2) A complaint may be signed by the complainant in person or on his or her behalf by his or her counsel or other person authorised in that behalf to the satisfaction of the magistrate.

667. DESCRIPTION OF OFFENCE

(1) The description of any offence in the words of the enactment creating the offence, or in similar words, with a specification, so far as may be practicable, of the time and place, when and where the offence was committed, and a reference to the section of the enactment creating the offence shall be sufficient in law.

(2) Where an offence is created by more than one section of one or more enactments, it shall only be necessary to specify or refer to the leading section of such enactments or one of the leading sections.

(3) If there is no such reference, the Court may amend the complaint, or cause it to be amended accordingly, and a mistake or omission as to such reference shall not invalidate the proceedings, but may be corrected or supplied in any document or proceedings at any time.

668. SPECIFYING OR NEGATIVING EXCEPTION, ETC., UNNECESSARY

(1) A defendant may be required to prove any exception, exemption, condition, excuse or qualification, whether or not it is relative to the description of the offence in the enactment creating the offence.

(2) The complainant need not specify or negative any such exception, exemption, condition, excuse or qualification in the complaint but if he or she does he or she shall be required to prove the matter so specified or negatived.

669. VALUE OF PROPERTY

In offences relating to property where the jurisdiction of the Court is limited to cases in which the value of such property does not exceed $2,000, or other statutory limit of value it shall be assumed, and it shall not be necessary to state in the charge, that the value of the property does not exceed such sum.

670. IMPLICATION OF STATEMENT THAT ACT IS DONE CONTRARY TO AN ENACTMENT

(1) The statement that an act was done contrary to an enactment shall imply—

(a) that the enactment applied to the circumstances existing at the time and place of the offence;

(b) that the accused was a person bound to observe the enactment;

(c) that any necessary procedure had been duly gone through; and

(d) that all the circumstances necessary to a contravention existed.

(2) Such statement shall also imply that the enactment was duly made, confirmed, published and generally made effectual according to the law applicable to the enactment, and that the enactment was in force at the time and place in question.

671. PERIOD OF LIMITATION

(1) Where no time is prescribed for making a complaint with respect to any summary offence by the enactment relating to such offence, the complaint—

(a) shall be made within 6 months from the time when the matter of the complaint arose; or

(b) if it arose upon the high seas shall be made within the 6 months after the arrival of the ship or vessel in this State; or

(c) in the case of a continuous contravention, shall be made within 6 months, from the last date of such contravention and if it shall be competent in such case in any prosecution to include the entire period during which the contravention has occurred.

(2) For the removal of doubt and despite any other provisions to the contrary there shall be no period of limitation in relation to any of the following offences—

(a) rape or any other sexual offence;

(b) any sexual offence involving a minor;

(c) murder.

672. REFUSAL TO ENTERTAIN COMPLAINTS

Where a magistrate refuses to entertain a complaint, the person aggrieved by such refusal on giving prior notice in writing to the magistrate, may make an application to the Court of Appeal for an order directing the magistrate to entertain, hear and determine the complaint and if the Court makes such an order, the magistrate shall be bound to hear and determine the complaint in accordance with the provisions of this Code.

673. BRINGING UP DEFENDANT IN PERSON

The provisions of section 612 apply, with such modifications as may be necessary to a defendant who is confined in any correctional facility.

674. ISSUE AND CONTENTS OF SUMMONS

(1) Where a complaint is made before a magistrate that a person has committed, or is suspected to have committed, any offence or act within the jurisdiction of the magistrate, for which he or she is liable by law, upon a summary order made by the magistrate to be—

(a) imprisoned; or

(b) fined; or

(c) otherwise punished; or

(d) required to pay a sum of money or to do any act,

it shall be lawful for such magistrate to issue a summons directed to such person, stating briefly the substance of such complaint, and requiring him or her to appear not later than 48 hours after the service of such summons, before the magistrate to answer to the complaint, and to be further dealt with according to law.

(2) Nothing contained in this section shall oblige any magistrate to make any such order in any case where the application for an order is made *ex parte*.

675. SERVICE AND PROOF OF SERVICE OF SUMMONS

The provisions of sections 786, 787 and 789 shall apply with the necessary modifications to the service and proof of service of summons on a defendant on a charge for a summary offence.

676. WARRANT INSTEAD OF SUMMONS IN FIRST INSTANCE

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

677. PROOF OF PREVIOUS CONVICTION

Where on the hearing of any complaint, it is proposed to prove against the defendant the fact of a previous conviction, a copy of the order of any district court with respect to the previous conviction, certified by the clerk of the Court, shall, upon proof of the identity of the defendant, be deemed sufficient evidence of such previous conviction.

678. RECORDING OF EVIDENCE

At the hearing of every case, the magistrate shall record or cause to be recorded all evidence in accordance with any enactment relating to the recording of Court proceedings or the taking of notes of evidence.

Witnesses

679. BRINGING UP INMATE TO TESTIFY

The provisions of section 791 apply, with such modification as may be necessary for the purpose of securing the attendance of a person confined in any correctional facility, who is required to give evidence at the hearing of any charge for a summary offence.

680. ISSUE OF SUMMONS TO WITNESS

If, either before or on the hearing of any complaint, it appears to the magistrate, on the statement of the complainant or the defendant or otherwise, that any person is likely to give material evidence for the complainant or for the defendant, the magistrate may issue a summons requiring the person to appear before the Court at the time stated in the summons, to give evidence respecting the case, and to bring with him or her any documents or things relating thereto which may be in his or her possession, power or control.

681. SERVICE OF SUMMONS

The provisions of sections 786, 787 and 789 shall apply, with such modifications as may be necessary, to the service and proof of service of summons on a witness in summary proceedings.

682. WARRANT FOR WITNESS DISOBEYING SUMMONS OR AVOIDING SERVICE

Where a person summoned as a witness without reasonable excuse fails to appear before the Court at the time specified in the summons, then after the proof upon oath that the summons was duly served on him or her, or that he or she wilfully avoided service, if the Court is satisfied by proof upon oath that the person is likely to give material

evidence, it may issue a warrant to bring him or her before the Court, at the time stated in the warrant, in order to testify.

683. WARRANT FOR WITNESS IN FIRST INSTANCE, WHEN

If the magistrate is satisfied by evidence upon oath that any person likely to give material evidence whether for the complainant or for the defendant, will not attend to give evidence without being compelled to do so, he or she may issue a warrant to compel the attendance of that person.

684. BRINGING UP ARRESTED WITNESS

If the hearing of the case for which his or her evidence is required is fixed for a time which is more than 72 hours after the arrest, a witness arrested under a warrant, except for disobedience to a summons issued under section 682, shall be taken before a magistrate, and the magistrate may on his or her furnishing security by recognizance, to the satisfaction of the magistrate, for his or her appearance at the hearing, order him or her to be released from custody, or shall, on his or her failing to furnish such security, order him or her to be detained to appear at the hearing.

685. LIABILITY OF WITNESS TO ATTEND ADJOURNED SITTING

A witness who is present when the hearing of a case is adjourned, who has been duly notified of the time and place to which the hearing or further hearing is adjourned, shall be bound to attend at such time and place, and if he or she defaults, may be dealt with as if he or she had failed to appear before the Court in obedience to a summons to give evidence.

Adjournment of Hearing

686. POWER TO ADJOURN IN GENERAL

(1) At any time before or during the hearing of a complaint, the Court may in its discretion, adjourn the hearing to a time and place to be appointed and stated in the presence and hearing of

the party or parties, his or her or their respective counsel or agents.

(2) Upon any such adjournment, the Court may—

(a) allow the defendant to go at large;

(b) commit the defendant to a correctional facility or to such other safe custody as the Court thinks fit;

(c) discharge the defendant upon his or her entering into a recognizance, with or without a surety or sureties, as condition for his or her appearance at the time and place to which the hearing or further hearing is adjourned.

(3) If, at the time and place to which the hearing or further hearing is so adjourned, either party does not or both parties do not appear, the Court may proceed to the hearing or further hearing of the case as if such party or parties was or were present, or, if the complainant does not appear, the Court may dismiss the complaint, with or without costs, as the Court thinks fit.

Amendment of Charge

687. POWER TO AMEND A CHARGE

(1) A Court may alter or add to any charge at any time before its decision is pronounced.

(2) Every such alteration or addition shall be read and explained to the accused.

(3) It shall be competent to correct at any time any error in the minutes of procedure or in the extract of any sentence or order, and any such correction shall be sufficiently authenticated by the initials of the proper officer of the Court.

Procedure on Non-Appearance of Parties

688. ORDER IF NEITHER PARTY APPEARS

If, when the case is called, neither the complainant nor the defendant appears, the Court shall make such order as the justice of the case may require.

689. POWERS OF COURT ON NON-APPEARANCE OF COMPLAINANT

(1) If, when the case is called, the defendant is present, but the complainant, having had due notice of the time and place of hearing, which fact has been proved to the satisfaction of the Court, fails to appear in person or by counsel, the Court shall dismiss the complaint, unless the Court, having received a reasonable excuse for the non-appearance of the complainant, or for other sufficient cause, thinks fit to adjourn the hearing of the case to such future date, and on such terms as the Court may think just.

(2) If the case is adjourned, the Court may either, by warrant, commit the defendant in the meantime to a correctional facility, or to such safe custody as the Court thinks fit, or discharge him or her, upon his or her entering into a recognizance, with or without a surety or sureties, as condition for his or her appearance at the time and place to which the hearing is adjourned.

(3) Where, the defendant admits the truth of the complaint, and shows no cause, why an order should not be made against him or her, the Court shall make such order against him or her as the justice of the case requires.

Defendant not Appearing

690. PROCEEDINGS ON NON-APPEARANCE OF DEFENDANT

(1) If the defendant against whom a summons is issued fails to appear before the Court at the time stated in the summons and it is proved upon oath, to the satisfaction of the Court, that the

summons was duly served within the time appointed for his or her appearance or that the defendant wilfully avoided service, the Court may, in its discretion either—

(a) proceed *ex parte* to hear and determine the complaint, and as if the defendant had appeared in person before the Court in obedience to the summons; or

(b) upon oath made by or on behalf of the complainant, substantiating the complaint, to the satisfaction of the Court, issue a warrant to arrest the defendant and to bring him or her before the Court to answer to the complaint, and to be dealt with further according to law.

(2) If service of the summons is not proved to the satisfaction of the Court, or if a warrant is issued for the arrest of the defendant, the Court may adjourn the hearing of the case to some future date, in order that proper service may be effected, or until the defendant is arrested, as the case may be.

(3) If the defendant is later arrested on a warrant, he or she shall be brought before a magistrate who shall commit him or her, either by warrant to a correctional facility or by verbal order to the custody of the police officer who arrested him or her, or to such safe custody as he or she thinks fit, and order him or her to be brought before the Court at such time as the Court may determine.

(4) The magistrate shall direct that notice of the time and place of hearing be duly served on the complainant.

Procedure on Parties Appearing

691. COURT, IF PARTIES APPEAR, TO HEAR COMPLAINT

(1) If both the complainant and the defendant are present when the case is called, the Court shall proceed to hear and determine the complaint.

(2) The Court shall inform the defendant of the substance of the complaint, and shall ask him or her what answer, if any, he or she desires to make to the complaint.

692. APPEARANCE IN PERSON OR BY COUNSEL

Both the complainant and the defendant are entitled to conduct their respective cases in person or by counsel.

693. HEARING OF CROSS COMPLAINTS OR SIMILAR COMPLAINTS TOGETHER

(1) Where cross complaints are made by the same parties with reference to the same matter, the Court may, if it thinks fit, hear and determine such complaints at the same time.

(2) Where 2 or more complaints are made by one or more parties against another party or other parties and such complaints refer to the same matter, such complaints may, if the Court thinks fit, be heard and determined at one and the same time if each defendant is informed of his or her right to have the complaints taken separately and consents to their being taken together.

694. OBJECTIONS TO COMPLAINTS

The defendant may, prior to pleading to the complaint, state any objections to the competency or relevancy of the complaint or proceedings, and no such objections shall be allowed later in the course of the hearing of the case, unless with the leave of the Court and with cause shown.

695. OBJECTION TO JURISDICTION

(1) A person shall not impugn in any proceedings or in any other manner, any order made by the Court on the hearing of a complaint on the ground that the Court had no jurisdiction to make the order unless such objection was taken at the hearing of the complaint before the order was made by the Court.

(2) If the objection is that the cause of complaint or the matter did not arise within the limits of the jurisdiction of the Court, and if the Court is so satisfied, it may transfer the case or proceedings to the Court having jurisdiction, and may in such case give any necessary directions.

(3) No complaint or other proceedings shall be deemed objectionable or insufficient, because it does not contain words

stating the jurisdiction or district of the Court, but the Court may allow or order any amendments in that respect, if it considers it necessary to do so, and if it is not satisfied that it has jurisdiction, shall proceed to satisfy itself in such manner and upon such evidence as it thinks fit, whether it has jurisdiction or not.

Objections not Admissible. Amendment. Particulars. Adjournment.

696. OBJECTION AS TO INFORMALITY IN SUMMONS OR SERVICE

It shall not be competent for any person who is to appear to answer to any complaint, or any legal practitioner allowed to appear for the accused if absent, to plead want of due citation or informality in his or her citation or summons or in the service or execution thereof.

697. OBJECTION AS TO MODE OF STATING CHARGE

No complaint, summons, conviction, order or other proceedings shall be held to charge 2 offences or shall be held to be uncertain on account of its stating the offence to have been committed in different modes, or in respect of one or other of several articles or things either together as one or separately.

698. OBJECTION TO DEFECT OF SUBSTANCE, OR FORM, OR VARIANCE

(1) No objection shall be taken or allowed, in any proceedings in the Court, to any complaint, summons, warrant or other form of procedure on the ground of any alleged defect in substance or in form, or for any variance between any complaint or summons and the evidence adduced on the part of the complainant at the hearing of the case.

(2) Where at the hearing of the case, it appears to the Court that the defendant has been deceived or misled by any variance or defect, the Court may make any necessary amendments, and if it is expedient so to do, adjourn the further hearing of the case upon such terms as it thinks fit.

699. VARIANCE AS TO TIME OR PLACE

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

(2) No variance between such complaint, or summons, or warrant and the evidence adduced in support of the complaint, summons or warrant, as to the place in which the cause of the complaint is alleged to have arisen, shall be deemed material, provided the Court is satisfied that the offence was committed within the jurisdiction of the Court.

700. OMISSIONS AND MIS-STATEMENTS

(1) No complaint, summons warrant, conviction or other proceedings shall be deemed objectionable or insufficient on any of the following grounds—

(a) that it does not specify the means by which the offence was committed;

(b) that it does not state who is the owner of any property mentioned in it;

(c) that it does not contain the name of the person injured;

(d) that it does not name or describe with precision the person or thing;

(e) that it does not contain any statement which it is necessary to aver or allege.

(2) The Court may, if satisfied that it is necessary in the interest of a fair trial, order that better and further particulars describing such means, person, place or thing, be furnished by the prosecutor and may adjourn the trial to enable the prosecutor to furnish such particulars.

701. POWERS OF MAGISTRATE AS TO DEFECTS OR IRREGULARITIES

(1) When any person accused of any summary offence is before a magistrate, whether voluntarily or upon summons, or after being arrested with or without a warrant, or while in custody for the same or any other offence, the charge may be heard despite—

(a) any irregularity, illegality, defect or error in the summons or warrant, or the issuing, service, or execution of the summons or warrant;

(b) the want of any complaint, or information upon oath or any defect in the complaint, or information, if any; or

(c) any irregularity or illegality in the arrest or custody of the accused person.

(2) It shall be lawful for the magistrate, if he or she thinks that the ends of justice require, to adjourn the hearing of the case, at or without, the request of the accused, to a future date, and in the meantime to remand the accused or release him or her on bail.

702. ORDER AGAINST DEFENDANT ADMITTING CHARGE

Where the defendant admits the truth of the complaint and shows no cause why an order should not be made against him or her, the Court shall make such order against him or her as the justice of the case requires.

Adjournment or Immediate Trial Hearing after Adjournment

703. PROCEEDINGS IF "NOT GUILTY" PLEADED OR PARTIAL PLEA NOT ACCEPTED

Where the accused pleads not guilty to the charge or guilty to part only of the charge, or does not otherwise admit the charge, and the complainant does not accept such partial plea, the following provisions apply—

(a) the Court may proceed to trial at once unless either party moves for an adjournment and the Court considers it expedient to grant the adjournment;

(b) the Court may adjourn the case for trial to as early a day as is consistent with the just interests of both parties, in which case the complainant shall, if desired by the accused, furnish him or her with a copy of the complaint if he or she has not already been furnished with a copy;

(c) where the accused is brought before the Court by arrest he or she shall be entitled to an adjournment of the case for not less than 48 hours, provided the request for the adjournment is made before the complainant has commenced his or her evidence and the Court has informed the accused of his or her right to such adjournment;

(d) the case may proceed to trial at once or on a shorter adjournment than 48 hours, if the Court considers this is necessary to secure the examination of witnesses who otherwise would not be available.

704. NOTICE OF DEFENCE TO COMPLAINANT

(1) Where the defendant intends to plead and give evidence of a special defence, he or she shall give written notice of such defence to the complainant, with any information which might be of material assistance to the complainant including any information in the possession of the defendant, relating to witnesses the defendant intends to call in support of the special defence.

(2) Where the defendant intends to plead and give evidence of an alibi, he or she shall give notice of such alibi to the complainant with particulars as to time and place and of the witnesses by whom he or she proposes to prove it, before the examination of the first witness for the prosecution commences.

(3) The complainant on being given a notice under subsection (1) shall, if he or she so desires, be entitled to an adjournment of the case.

705. CASE AND EVIDENCE FOR COMPLAINANT

If the defendant does not admit the truth of the complaint, the Court shall proceed to hear the complainant and such other evidence as he or she may adduce in support of his or her complaint.

706. CAUTION TO UNDEFENDED DEFENDANT

Where the defendant is not represented by counsel, on the completion of the examination of the witnesses on the part of the prosecution, the following caution or words to the like effect shall, before he or she is called as a witness, be addressed to him or her by or under the direction of the Court:

> "Having heard the evidence against you, do you wish to be called as a witness and give evidence in answer to the complaint? You are not obliged to give evidence unless you wish, but if you are called, the evidence you give will be evidence in the case."

707. CASE AND EVIDENCE FOR DEFENDANT

The Court shall also hear the defendant and any witnesses as he or she may call and such other evidence as he or she may adduce, in his or her defence.

708. EVIDENCE IN REPLY

The Court shall also hear such witnesses as the prosecution may call in reply, if the defendant has called any witnesses or given any evidence other than evidence as to the defendant's general character.

709. PLACING WITNESSES OUT OF COURT

Before evidence is adduced, witnesses for both the prosecution and defendant shall, unless the Court in any instance otherwise expressly orders, be called and placed out of Court and out of hearing, under the charge of a police officer or other person appointed by the Court.

Proceeding as to Judgments and Orders

710. DISMISSAL OR ORDER AGAINST DEFENDANT

Upon the conclusion of the hearing, the Court shall, either immediately or at an adjourned sitting of the Court, give its decision on the case, by either dismissing the complaint or making such order as the justice of the case requires against the defendant.

711. REMAND FOR MEDICAL EXAMINATION

(1) If, on trial of an offence punishable on summary conviction with imprisonment, the Court is satisfied that the offence has been committed by the accused, but is of the opinion that an inquiry ought to be made into his or her physical or mental condition before sentence is passed on him or her, the Court shall adjourn the case to enable a medical examination and report to made on him or her.

(2) Where the case is adjourned the Court shall remand the accused for the purpose of the medical examination, but the adjournment shall not be for more than 3 weeks at a time.

(3) Where the accused is remanded on bail, it shall be a condition of the recognizance that he or she undergoes medical examination by such duly qualified medical practitioner at such institution or place as may be specified in the recognizance.

(4) Where arrangements have been made for the admission of the accused, into an institution or place it may be a condition of the recognizance that he or she shall, for the purpose of the examination remain for such period as may be specified in the recognizance, in the institution or place other than an institution or place to which he or she could have been committed.

(5) Where the Court on committing any person for trial on bail is of the opinion that an inquiry ought to be made into his or her physical or mental condition under subsection (1), it may make it a condition of the recognizance taken for the purposes of his or her committal, but subject to the condition for his or her appearance, that he or she shall undergo the medical examination or shall remain in such institution or place for the medical examination as specified in the recognizance.

(6) Despite anything in the Mental Hospitals Act, or any enactment replacing it, a person released on a recognizance on the conditions provided in this section may be received, for the purpose of the medical examination, in a mental hospital or licensed house within the meaning of the Mental Hospitals Act.

(7) A person received under this section in a licensed house or mental hospital shall, for the purposes of any provisions of the Mental Hospitals Act or any enactment replacing it, relating to the number of patients who may be so received, be treated as a patient.

712. FORMAL ORDER OF DISMISSAL

(1) When a complaint is dismissed, the Court may, upon being required by or on behalf of the defendant, at any time within 6 months after such dismissal, make a formal order of dismissal and give to the defendant a certificate of the order.

(2) Such certificate shall, upon production and, without further proof, be a bar to any subsequent complaint for the same matter against the defendant.

713. EFFECT OF CONVICTION IN PART

A conviction based on a part or parts of the charge shall imply a dismissal of the rest of the complaint.

714. ENTRY OF MINUTE OF ORDER AGAINST DEFENDANT

When an order is made against the defendant, a concise minute or memorandum of the order shall immediately be entered by an officer of the Court in a book kept for that purpose.

715. OFFENCE CHARGED — CONVICTION FOR ATTEMPT

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

(2) A defendant convicted under subsection (1) of attempting to commit the offence with which he or she is charged shall not be liable to be prosecuted again for the same offence.

716. ATTEMPT CHARGED AND OFFENCE PROVED — CONVICTION

(1) Where a defendant is charged with an attempt to commit an offence and the evidence establishes the commission of the actual offence he or she may be convicted of the attempt, and punished accordingly.

(2) A defendant convicted under subsection (1) of attempting to commit an offence shall not be liable to be prosecuted again for the same offence for which he or she was charged with attempting to commit.

717. COMPLAINT DIVISIBLE

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

718. FRAUDULENT BREACH OF TRUST AND STEALING

(1) Where a defendant is charged with fraudulent breach of trust or the fraudulent application or disposition of anything and the evidence establishes stealing of any kind, he or she may be convicted of stealing and punished accordingly.

(2) Where a defendant is charged with stealing of any kind and the evidence establishes the commission of fraudulent breach of trust, or the fraudulent application or disposition of anything, the defendant may be convicted of such fraudulent breach of trust or fraudulent application or disposition and punished accordingly.

(3) No person convicted of fraudulent breach of trust, fraudulent application or disposition, or stealing under subsection (1) or

(2), is liable to be prosecuted again for stealing, fraudulent application or disposition, or fraudulent breach of trust upon the same facts.

(4) Upon a complaint for—

(a) stealing any property;

(b) handling or receiving any property knowing the property to have been stolen or unlawfully obtained;

(c) unlawful possession of any property;

(d) unlawful trespass, in which case he or she shall be punishable under section 466,

the offender may be convicted of any of these offences committed with respect to the same property, but he or she shall not be punished more than once in respect of the same facts and occasion.

Publicity of Proceedings

719. COURT TO BE OPEN AND PUBLIC GENERALLY

Unless otherwise expressly provided, the room or place in which the Court is held for the purpose of the hearing of summary proceedings is an open and public Court, to which the public may have access, so far as they can conveniently be accommodated.

SUB-PART B
Summary Appeal and Notice of Appeal

720. RIGHT TO APPEAL

(1) Where a district court acting in the exercise of its summary jurisdiction—

(a) refuses to make an order, or dismisses a complaint, the complainant may appeal to the Court of Appeal against such decision;

(b) makes an order, the person against whom the order is made, whether complainant, or defendant, may appeal to the Court of Appeal against such decision.

(2) An appeal to the Court of Appeal shall be made in the manner and subject to the conditions provided in this Sub-Part.

(3) Nothing in this section confers a right of appeal contrary to the provisions of any enactment, which provides that there is to be no appeal, or that the proceedings under the enactment are to be final.

721. APPEAL AGAINST SUMMARY CONVICTION OF INDICTABLE OFFENCE

When a person has been summarily convicted of an indictable offence, the conviction is to be deemed a conviction of a summary offence, and not an indictable offence, and such conviction may be appealed against, subject to the provisions governing appeals against convictions for summary offences.

722. RIGHT AFTER NOTICE OF APPEAL TO COPIES OF PROCEEDINGS

(1) When a party to a cause or matter in a district court has filed an appeal against the decision of the district court he or she shall, on making an application to the clerk of the court and on paying the prescribed fee obtain a copy of the proceedings in the case, including a copy of the written judgment, notes or memorandum of the reasons of the magistrate for the decision.

(2) Any such application may be made by the party himself or herself or by his or her counsel or other person authorised in that behalf by him or her.

(3) The clerk of the Court shall furnish the applicant with a copy of the proceedings as soon as practicable, and at the latest, within 5 days after the making of the application.

723. SUSPENSION OF EXECUTION DURING APPEAL

Subject to the provisions of section 734, an appeal shall, when filed, have the effect of suspending the execution of the decision appealed against, until the appeal has been determined by the Court of Appeal.

724. NOTICE OF APPEAL

(1) A person who desires to appeal against a decision of a district court shall—

(a) at the time of the decision of the Court and in the presence of the other party, either by himself or herself or by his or her counsel give notice in open court to the magistrate and to the other party, of his or her intention to appeal; or

(b) within 15 days after the decision of the Court,

serve notice in writing of the appeal upon the clerk of the Court.

(2) Every written notice of appeal may be signed either by the appellant or his or her counsel.

(3) If the appellant signs the notice by means of his or her mark, the mark shall be verified by at least one witness, who shall sign his or her name.

(4) On receiving any notice of appeal, the clerk of the Court shall make or cause to be made, an entry thereof in the proper record book of the Court.

725. NOTICE OF APPEAL BY APPELLANT IN CUSTODY

(1) Where a person desiring to appeal is committed to a correctional facility, he or she shall, having regard to the time allowed for the appeals under sub-section (3) notify a correctional officer , either verbally or in writing in sufficient time after his or her arrival at the correctional facility, to render the service of his or her notice of appeal effective, of his or her desire to appeal.

(2) In case of a verbal notification, the correctional officer shall reduce or cause the notice to be reduced into writing.

(3) In every such case, the correctional officer shall forthwith forward or cause to be delivered to the clerk of the Court the notice in writing.

(4) No such notice shall be valid unless it has been served or delivered to the clerk of the Court within 15 days after the decision of the Court.

726. NOTICE BY CLERK TO RESPONDENT

(1) The clerk of the Court shall cause to be served upon or delivered to the respondent, or his or her counsel, a notice informing him or her of the appeal within 3 days after the notice of appeal has been delivered, or so soon thereafter as it is practicable.

(2) Failure to deliver such notice shall not invalidate the appeal.

727. NOTICE OF GROUNDS FOR APPEAL

(1) The appellant shall, within 21 days after the decision of the Court, serve upon the clerk of the Court notice in writing of the grounds for his or her appeal.

(2) A notice of the grounds for appeal may be served either at the time of giving or serving the notice of appeal, or within 21 days of the decision of the Court, and may either be embodied in the written notice of appeal or in a separate document.

(3) Where the appellant is an inmate, a correctional officer shall cause a written notice of the grounds for appeal, if such grounds are communicated to him or her by the appellant, to be served in accordance with the provisions of subsection (1).

728. APPELLANT OR PRACTITIONER TO SIGN NOTICE OF GROUNDS OF APPEAL

(1) Every notice of the grounds for appeal may be signed, either by the appellant or his or her counsel.

(2) If the appellant signs the notice by means of his or her mark, the mark shall be verified by at least one witness who shall sign his or her name.

729. PARTICULARS OF GROUNDS OF APPEAL

The appellant shall set forth, in the notice of the grounds for appeal, the particular matter on which he or she relies, or of which he or she complains, in such manner as to inform the other party and the Court of such matter, if for example—

(a) he or she relies on the ground that the case has already been heard or tried and decided by a competent tribunal, or is the subject of a hearing or trial pending before, any competent tribunal, the name of the tribunal shall be stated, and if a decision is alleged, the approximate date of such decision shall be stated;

(b) he or she relies on the ground that the decision is erroneous on a point of law, the nature of the error shall be stated;

(c) he or she relies on the ground that some other specific illegality, not mentioned in this section, and which substantially affects the merits of the case, has been committed in the course of the proceedings in the case, such illegality shall be clearly specified.

730. NOTICE OF SPECIAL GROUNDS

The appellant shall not be permitted to rely on any special ground of appeal unless such ground is set forth in the notice of grounds for appeal, or unless the appellant has given 3 days' prior notice to the respondent of such special ground of appeal in the manner prescribed in section 729.

731. ENTRY OF NOTICE OF REASONS FOR APPEAL

On receiving the notice of grounds for appeal, the clerk of the Court shall make or cause to be made an entry of the notice in the proper record book of the Court.

732. STATUTORY GROUNDS OF APPEAL

Where no specific grounds of appeal have been served, the following general grounds of appeal shall be presumed with respect to an appellant—

(a) who is a defendant—

(i) that he or she is not guilty of the offence,

(ii) that the decision is not altogether supported by the evidence,

(iii) that the punishment is excessive;

(b) who is a complainant—

(i) that the defendant committed the offence with which he or she stood charged,

(ii) that the dismissal of the complaint is not altogether supported by the evidence,

(iii) that an order made against him or her is not warranted by the evidence.

733. RECOGNIZANCE OR OTHER SECURITY BY APPELLANT

(1) The appellant may, after he or she has served notice of appeal, and within 15 days after the decision of the Court, enter into a recognizance, with at least one sufficient surety, to the satisfaction of the magistrate, for the due prosecution of the appeal and for abiding by the result of the appeal, including the payment of all costs of the appeal.

(2) The appellant may, if the nature of the case admits of his or her so doing, instead of entering into a recognizance, lodge with the clerk of the Court the amount awarded by the decision as well as the amount of the costs, together with the sum of $500 to abide the costs of the appeal or the amount of costs of the appeal only, as the case may be, and in addition, shall pay to the clerk of the Court all fees in respect of the appeal, if any.

(3) If the appellant is in custody, he or she may be released from custody on the order of the magistrate if he or she complies with the requirements of this section.

(4) A person aggrieved by the decision of the magistrate pursuant to subsection (3) may appeal to a judge of the High Court in chambers who may confirm, reverse or vary the decision of the magistrate.

(5) The magistrate may, when he or she deems it expedient so to do, dispense with the requirement of such recognizance, deposit, or fees, under subsection (1) or (2).

(6) The person prosecuting or defending or appearing as a public officer, or in the public interest, shall not be bound or required to enter into any recognizance or make the deposit, or pay any fees under subsection (1) or (2).

734. TRANSMISSION OF APPEAL PROCEEDINGS TO REGISTRAR

(1) Where an appellant has served the clerk of the Court with notice of appeal or grounds for appeal, and has also complied with the requirements of section 733, the clerk of the Court shall, within 7 days after such compliance has been made, or so soon thereafter with such due despatch as may be practicable, transmit to the Registrar the record of the proceedings in the case, duly certified under his or her hand, which shall consist of—

(a) the complaint and plea or copy thereof;

(b) a copy of the notes of evidence taken in the case;

(c) a copy of the adjudication;

(d) the notice of the appeal if such notice is in writing;

(e) the notice of grounds for appeal served on the clerk; if any;

(f) the recognizance, if any;

(g) all other documents connected with the case;

(h) a list of the names of the appellant and respondent, the names of the witnesses, distinguishing the names of those examined on behalf of the complainant and those examined on behalf of the defendant;

(i) a list of the proceedings and documents or copies thereof, transmitted;

(j) the date of the order.

(2) It is not necessary to transmit a conviction or order that is formally drawn up, but it is sufficient to transmit, in place of such formal instrument, a copy of the minute or memorandum of the conviction or order, required to be made pursuant to the provisions of section 714.

(3) The magistrate shall also cause to be transmitted with the copy of the proceedings his or her written judgment, if any, or if there is none, he or she shall transmit a memorandum of the reasons for the decision.

SUB-PART B
Summary Appeal Hearings

735. SITTINGS OF COURT OF APPEAL

The Court of Appeal (referred to in this Sub-Part and in Sections 736 to 770 as "the Court") shall, except when the Court is on vacation, sit for the purpose of hearing appeals from a District Court at such time as may be fixed by the Chief Justice, or is otherwise fixed by law.

736. NOTICE OF APPEAL SITTING TO PARTIES

The clerk of the Court, after consultation with the Registrar of the Court, shall notify the parties to attend the sitting of the Court at which the case shall come on for hearing.

737. NO APPEAL TO BE HEARD WITHIN 21 DAYS OF ORDER BUT BY CONSENT

Except with the consent of all the parties no appeal shall be heard until after the expiration of 21 days of the order against which the appeal is made.

738. APPEARANCE IN PERSON OR BY COUNSEL

At the hearing of an appeal, any party may be heard in person, or by counsel.

739. STRIKING OUT APPEAL ON NON-APPEARANCE OF APPELLANT

(1) If the appellant fails to appear, on the day of hearing or at any adjournment of the case, the appeal shall be struck out and the decision shall be affirmed, unless the Court thinks fit, for sufficient cause, to order otherwise.

(2) If the appellant fails to appear but the respondent appears, the judgment shall include costs of the appeal against the appellant, unless the Court expressly orders otherwise.

(3) Where the respondent fails to appear, costs of the appeal shall be in the discretion of the Court.

740. ADJOURNMENT AND TERMS THEREOF

The Court may adjourn the hearing of the appeal from time to time upon such terms as to costs and postponement as the Court may think just.

741. GENERAL PROVISIONS AS TO HEARING

(1) If the appellant appears on the day of hearing and at every adjournment of the case, the Court shall, whether the respondent appears or not, proceed to the hearing or further hearing and determination of the case, and shall give judgment on the merits, without regard to any imperfection or defect of form in any proceedings in a district court, and although the order made by the district court was in excess of that which might lawfully have been made by a district court.

(2) If it appears, or it is proved to the satisfaction of the Court, that the appellant has not complied with the requirements of this Sub-Part, with respect to the giving or service of notice of appeal or grounds of appeal or with the requirements of section 733, the Court shall dismiss the appeal and affirm the decision, with or without costs against the appellant, as it may think fit unless, on good and sufficient cause being shown, the Court considers that it would be most unjust in the circumstances to do so, in which case it may hear the appeal on such terms and conditions as it may consider proper or make any other order as it thinks fit.

742. APPELLANT BOUND BY GROUNDS IN NOTICE

(1) At the hearing of an appeal it shall not be competent for the appellant to go into, or to give evidence of, any other ground for appeal than those set forth in his or her notice of grounds for appeal, or of which he or she has given notice as provided in section 730.

(2) The appellant may, if he or she has given no notice of grounds for appeal, rely upon the statutory grounds stated in section 732.

743. OBJECTIONS TO GROUNDS FOR APPEAL

(1) At the hearing of the appeal, no objection to any defect in the form of the notice setting forth the grounds for appeal shall be allowed, and no objection to the admission of any evidence lawfully offered in support of any of the grounds for appeal shall prevail, unless the Court is of opinion that such ground for appeal is so imperfectly or incorrectly set forth as to be insufficient to enable the respondent to reply properly to such ground for appeal.

(2) Where the Court is of the opinion that an objection to any grounds for appeal or to the admission of evidence in support of any ground for appeal ought to prevail, the Court may, if it thinks fit, cause such ground for appeal to be amended forthwith upon such terms and conditions, if any, as the Court may think just.

744. DEFECTS, VARIANCES, ETC., WHEN IMMATERIAL

(1) If, any objection is made on account of any defect or variance in a complaint or other proceeding, or on account of any omission or mistake or variance in the drawing up of a conviction or order, minute or memorandum or other proceeding, and it is shown to the satisfaction of the Court, that sufficient evidence given before a district court, making such order to have authorised the making or drawing or of any other proceeding free from such mistake or variance, the Court shall amend such complaint or such conviction, or order, minute or memorandum, or other proceeding, and proceed as if no such defect, omission or mistake or variance had existed.

(2) Subject to the provisions of section 741(2), nothing in this section shall affect the provisions of section 733.

745. AMENDMENT OF RECOGNIZANCE

The Court may, if it thinks it necessary or expedient in the interests of justice, amend any recognizance, provided it has been entered into in due time.

746. PRODUCTION OF DOCUMENTS, EXHIBITS, OR OTHER THINGS

(1) The Court may order the production of any document, exhibit, or other thing connected with the proceedings, the production of which appears to it necessary for the determination of the appeal.

(2) A proper officer shall cause all writings and other articles exhibited by any witnesses, or any of them, to be inventoried and labelled, or otherwise marked, so that the same may be identified at a trial.

(3) All exhibits shall, be taken charge of by a proper officer, and shall be produced by him or her at a trial.

747. APPEAL TO BE DETERMINED ON RECORD

Subject to the provisions of sections 749, 750 and 751, an appeal shall generally, and especially in the case of a dismissal, be heard and determined only on the record, transmitted to the Court.

748. NOTICE OF APPLICATION TO ADDUCE EVIDENCE AT HEARING

A party who intends to apply at the hearing of the appeal for evidence or further evidence to be adduced at the hearing shall give written notice of the application and the reasons in support of the application to the other parties to the appeal, and shall also file the application with the Registrar before the case is to be heard.

749. EVIDENCE BY AFFIDAVIT

Where further evidence is ordered, the Court may, in appropriate circumstances, also order that such evidence be given by affidavit.

750. EXAMINATION OF WITNESS IN APPEAL

(1) A witness may be examined at the hearing of an appeal, even though he or she was not examined at the original hearing if the Court is satisfied as to any of the following matters—

(a) that he or she was served with a summons at the original hearing, and was prevented from appearing due to some unavoidable cause;

(b) that he or she was prevented from appearing in person by reason of his or her absence from the State;

(c) that he or she was actually offered for examination, but the district court improperly refused to examine him or her.

(2) Except as otherwise provided in subsection (1), only those witnesses examined at the original hearing shall be examined at the hearing of an appeal, unless the Court is satisfied that without the further evidence of other witnesses, a miscarriage of justice is likely to result.

751. PROCEEDINGS AS TO EVIDENCE ON APPEAL

(1) Where, in any proceedings, the Court considers it necessary that fresh evidence or further evidence should be adduced, it may either—

(a) re-examine any witness, who was a competent witness at the trial, and who gave evidence at the original hearing;

(b) order any witness, who would have been a competent witness at the trial to attend and be examined before the Court, whether or not he or she was called as a witness at the original hearing;

(c) receive the evidence, if tendered, of any witness including the appellant or respondent whether or not he or she was called or examined at the original hearing, but no person shall be called as a witness without his or her consent where such consent is required by law;

(d) order the evidence to be adduced before the Court on a day to be fixed;

(e) refer the case back to the magistrate to take the evidence, and may in that case—

(i) direct the magistrate to adjudicate afresh after taking the evidence and subject to such directions in law, if any, as the Court may think fit to give, or

(ii) direct the magistrate after taking the evidence to report specific findings of fact for the information of the Court,

and on any such reference the case shall, so far as may be practicable and necessary, be dealt with as if it were being heard in the first instance;

(f) remit to any fit person to inquire and report in regard to the facts and circumstances of any case under appeal, and on considering such report may pronounce judgment.

(2) Any witness required under subsection (1)—

(a) shall be summoned or produced in the same manner;

(b) may be remunerated at the same rate; and

(c) shall suffer the same penalties and liabilities for non-attendance,

as are provided with respect to witnesses summoned to attend at the hearing or trial of any case before the Court in the exercise of its general civil jurisdiction.

(3) Where a case is referred back to a district court under subsection (1)(e), the Court may direct the district court to re-summon the respective parties to the appeal and to re-hear and determine the case referred to it without any further charges or costs and, unless the Court otherwise directs, either party is entitled, subject to the provisions of this Code, to appeal against the decision or order of the district court on such re-hearing.

752. INADMISSIBLE GROUNDS OF APPEAL

No appeal shall be allowed on any of the following grounds—

(a) that the district court had no jurisdiction in the case unless an objection to the jurisdiction of the district court had been formally taken at any time during the proceedings of the case and before the decision of the Court had been given but if such objection had been so taken, and was well founded, the Court may refer the case back to the magistrate with such directions as it considers proper, or may hear and determine the case upon the merits, and may confirm, reverse or vary the decision of the magistrate or may make such other order in the matter as the Court thinks just, and may by such order exercise any power which the magistrate against whose decision the appeal is made might have exercised;

(b) that inadmissible evidence has been admitted by the district court, if there is sufficient admissible evidence to sustain the decision;

(c) that admissible evidence has been rejected; but if the Court considers the objection well founded, it shall proceed in accordance with the provisions of section 751;

(d) that the case should not have been dealt with as a summary offence;

(e) that the sentence, penalty or punishment is inadequate;

(f) that any question of value, compensation or costs has been wrongly determined by the magistrate, unless in the opinion of the Court his or her determination is not altogether supported by the evidence nor justified in the circumstances.

753. APPEALS TO BE DECIDED ON MERITS

(1) No conviction or order made in pursuance of any proceedings for a summary conviction shall be quashed for any defect or want of form.

(2) Every appeal shall be decided on its merits, and in all cases where it appears that the merits of the case have been tried and there is evidence to support the decision by the magistrate, the Court shall confirm the decision and no conviction, order, warrant, process or proceeding in connection with the decision, shall be quashed, notwithstanding any objection concerning the improper admission or rejection of any evidence.

(3) The Court may, in any case where there was improper admission or rejection of evidence, amend the conviction, order, warrant, process or proceeding if necessary, or give such judgment or make such order as it considers the magistrate should have given or made in the circumstances.

754. POWERS OF COURT ON APPEAL

(1) In giving judgment the Court may—

(a) confirm, vary or reverse the decision, either in whole or in part;

(b) refer or remit the case under the provisions of sections 751 and 752 or otherwise;

(c) make such other order for disposing of the case as justice may require.

(2) The Court may, so far as may be necessary for doing complete justice between the parties, review any order made by the magistrate with respect to the case.

755. JUDGMENT ON APPEAL FINAL

Every judgment of the Court on appeal shall be final and conclusive.

756. POWER OF COURT AS TO COSTS

Subject to the provisions of this Sub-Part, the Court may make such order as to the costs of any case, both in the district court and in Court, as it may think just, and may order such costs to be paid forthwith, and imprisonment on default in addition to any term of imprisonment to which the person ordered to pay such costs may be otherwise liable.

757. COSTS WHERE APPEAL ABANDONED OR WITHDRAWN

Where an appeal is abandoned or withdrawn, the Court may, on proof of notice of appeal having been given to the person entitled to receive such notice, order that the person be paid such costs as the Court may think fit, although the appeal has not been prosecuted.

758. EXECUTION FOR APPEAL COSTS

(1) If payment of costs is not made, the person entitled to it may apply to the district court for an order of execution as if the judgment or order as to costs was a judgment given in the district court in the exercise of its civil jurisdiction.

(2) The magistrate may also, on application by or on behalf of the person entitled to such costs, commit the person by whom it is payable to a correctional facility for any term not exceeding 2 months, in addition to any term of imprisonment to which he or she may be otherwise liable under the judgment in the case,

unless the amount of such costs and all unpaid costs and charges of the execution if any, or otherwise, and the costs of the commitment, if the magistrate thinks fit so to order, are sooner paid.

759. DEFAULT OF APPEARANCE BY APPELLANT

(1) Where the appellant fails to appear before the Court and to prosecute his or her appeal, the Registrar of the Court shall, not later than 24 hours, transmit to the clerk of the Court from which the case on appeal was brought, a certificate to that effect, and the magistrate shall treat the recognizance as forfeited and deal with it as such, or make such order as may be just, with respect to the amount lodged by the appellant.

(2) Where the appellant has been released from custody but remains or becomes liable to be kept in custody, the magistrate shall forthwith issue a warrant for his or her arrest and detention.

760. TRANSMISSION OF APPEAL JUDGMENT TO DISTRICT COURT

The Registrar of the Court shall, within 24 hours after the Court has delivered its judgment, or so soon thereafter as may be practicable, transmit a certificate of the judgment to the clerk of the district court against whose decision the appeal is made and the clerk shall then cause the judgment to be put into execution forthwith, in the same manner as the orders of the district court are enforceable.

761. POWER OF MAGISTRATE TO ENFORCE APPEAL JUDGMENT

(1) Subject to the provisions of this section, after the Court has delivered its judgment, the magistrate of the Court against whose decision the appeal is made, shall have the same jurisdiction and power to enforce any decision which has been confirmed or varied by the Court, or any judgment which has been pronounced by the Court, in the same manner in all respects, as if such decision or judgment had been pronounced by the magistrate.

(2) Where an order for the imprisonment of any person, or for the payment of money and in default of payment for the

imprisonment of the person, is confirmed or varied, or made originally on appeal, the pronouncement of the sentence shall be a sufficient warrant without more for the arrest, detention and commitment to a correctional facility of the person.

(3) The imprisonment of the person, if it has not already commenced, shall commence from the day on which he or she is in actual custody in the correctional facility where he or she may have been ordered to be imprisoned.

(4) Where the person has been discharged from imprisonment on giving the requisite security under section 733, he or she shall be imprisoned for such further period as, together with the time during which he or she may already have spent in the correctional facility, may be equal to the period for which he or she was ordered to be imprisoned.

762. PUBLICATION OF JUDGMENT REASONS

Where the Court has delivered a written judgment, the Registrar of the Court shall forward to the Printery, a copy of the judgment to be published in the Gazette, for the guidance of the district courts.

Case Stated by Magistrate

763. POWER OF MAGISTRATE TO STATE CASE

(1) After the hearing and determination of any complaint, the magistrate may, in his or her discretion, on the application of either party to such complaint or on his or her own motion, state a case on any point of law arising in the case for the opinion of the Court.

(2) The statement of facts in the case stated shall, for the purpose of the determination of the case, be conclusive.

764. RECOGNIZANCE BY APPLICANT

If a case is stated on the application of a party, the party, (hereinafter called the "appellant"), shall , at the time of making his or her application enter into recognizance with one or more sureties acknowledged before the magistrate or the clerk of the Court on

condition to appear and prosecute his or her appeal and to abide by the judgment of the Court, as well as pay such costs as may be awarded by the Court.

765. RELEASE OF APPELLANT

If the appellant is in custody, he or she may be released upon a recognizance being entered into.

766. TRANSMISSION OF CASE AND NOTICE OF HEARING

A case stated shall be transmitted to the Registrar of the Court in the same manner and with the same notice to the parties as in a case on appeal under this Sub-Part.

767. SAVING AS TO RIGHT OF APPEAL

Nothing in this section shall be construed to prevent either party in such a case from appealing against any determination of fact or question of law that is not raised in the case stated by the magistrate, and such an appeal shall be independent of the case stated.

768. POWER OF DIRECTOR OF PUBLIC PROSECUTIONS TO REQUIRE CASE TO BE STATED

The Director of Public Prosecutions may, by notice in writing under his or her hand, require a magistrate to state a case on any point of law, and on receipt of such notice, the magistrate shall state such case accordingly.

769. REMISSION OF CASE STATED TO MAGISTRATE. HEARING AND PROCEDURE

(1) The Court may remit any case stated to the magistrate for further information from the magistrate.

(2) The Court shall hear and determine questions of law arising on the case stated, and the provisions of this Code with respect to the hearing and judgment of appeals and of all matters incidental thereto shall, so far as appropriate, apply to a case stated.

770. REVIEW OF SENTENCING

(1) A case to which this section applies may be referred to the Court for the sentencing to be reviewed under subsection (3).

(2) This section applies to any case in which sentence is passed on a person convicted of an offence in the High Court or a magistrate's court.

(3) Without prejudice to anything in this Code relating to appeals in, or stating of, criminal cases or matters to the Court, the Director of Public Prosecutions, if it appears to him or her that the sentencing of a person in a case to which this Code or any other enactment applies has been unduly lenient, may refer the case to the Court for the Court to review the sentencing; and on such a reference the Court may—

(a) quash the sentence passed on that person by the Court of trial; and

(b) in place of that sentence pass such sentence as the Court thinks appropriate and as the Court of trial had power to pass when dealing with the person tried.

(4) The provisions of subsection (3) may be satisfied if it appears to the Director of Public Prosecutions that the judge or, as the case may be, the magistrate erred in law as to his or her powers of sentencing.

(5) The time during which a person is in custody pending the review of his or her case pursuant to a reference under this section, shall be reckoned as part of the term of any sentence to which he or she is for the time being subject.

(6) The term of any sentence passed by the Court under sub section (3) shall, unless the Court orders otherwise, begin to run from the time when that term would have begun to run if it had been passed by the Court of trial.

(7) The provisions of sections 768 and 769 apply, with such modifications and adaptations as are necessary, in relation to a case referred to the Court under this section as those provisions apply in relation to a case referred to the Court under those sections.

SUB-PART C
Summary Trial of Indictable Offences

Jurisdiction

771. DEFINITION OF "COURT"

In this Sub-Part unless the context otherwise requires "**Court**" means a district court in the exercise of its jurisdiction in respect of summary offences.

772. SUMMARY TRIALS GENERALLY. POWER TO ADJOURN AND REMAND

(1) Where a person is charged before the Court with an indictable offence with respect to which the Court has or may have under the circumstances stated in sections 774 and 776 power to deal with summarily, the Court, without prejudice to any other power which it may possess, may, for the purpose of ascertaining whether it is expedient to deal with the case summarily either before or during the hearing of the case, adjourn the case and remand the person charged.

(2) A person may be remanded under this section in the same manner in all respects as a person accused of an indictable offence may be remanded.

773. PROCEDURE

Where an indictable offence is, under the circumstances stated in sections 774 and 776 authorised to be dealt with summarily—

(a) the procedure shall, unless the Court exercises its power to deal with the offence summarily, be the same in all respects as if the offence were to be dealt with throughout the trial as an indictable offence, but when the Court exercises its power to deal with the offence summarily, the same procedure shall apply as if the offence were a summary offence and not an indictable offence, and the provisions of this Code shall apply accordingly;

(b) the evidence of any witness taken before the Court exercised its power to try the offence summarily need not be taken again, but every witness shall, if the defendant so requires it, be recalled for the purpose of cross-examination;

(c) a conviction for the offence shall have the same effect as a conviction for the offence on indictment ;

(d) where the Court exercises the power to deal with the case summarily, and dismisses the complaint, it shall, if required, deliver to the person charged, a copy of the order of dismissal duly certified under the hand of the magistrate and such dismissal shall have the same effect as an acquittal on a trial on indictment for the offence;

(e) in the case of a child, the conviction shall contain a statement, as to the consent or otherwise of his or her parent or guardian, and, in case of a young person, of the consent of the person, to be tried by the Court.

774. COMPLAINT FOR OFFENCE TRIABLE EITHER ON INDICTMENT OR SUMMARILY

(1) Where a complaint is laid for a charge against any person with an offence which by virtue of any enactment is both an indictable offence and a summary offence, the Court shall, if the accused has attained the age of 12, proceed as if the offence is not a summary offence, unless the Court, having jurisdiction to try the complaint summarily, determines on the application of the prosecutor to do so.

(2) An application under subsection(1) shall be made before any evidence is called and, if the accused fails to appear to answer to the complaint, the application may be made in his or her absence.

(3) Subject to subsection (4), where the Court has, in pursuance of subsection (1), begun to inquire into the complaint as an indictable offence, then if at any time during the inquiry it appears to the Court, having regard to any representations made in the presence of the accused by the prosecutor, or made by the accused, and to the nature of the offence, that it is proper to do so, the Court may proceed to try the offence summarily.

(4) Where the prosecution is conducted by or on behalf of the Director of Public Prosecution, the Court shall not proceed under subsection (3) to try the offence summarily without the consent of the Director of Public Prosecution.

(5) Where the Court proceeds to try a case summarily under subsection (3) it shall, before asking the accused whether he or she pleads guilty, cause the charge to be written down, if this has not already been done, and read to him or her.

(6) Where, the Court has begun to try a complaint summarily under subsection (1), the Court may, at any time before the conclusion of the evidence for the prosecution, discontinue the summary trial and proceed to inquire into the complaint as an indictable offence.

(7) Nothing in this section shall affect the right of the accused or the prosecutor under any enactment to claim that an offence which is being tried summarily should be tried by a jury.

775. SUMMARY TRIAL OF COMPLAINT AGAINST ADULT FOR CERTAIN INDICTABLE OFFENCES

(1) The following provisions of this section shall have effect where a person who has attained the age of 16 years is brought before a district court on a complaint charging him or her with any indictable offence specified under this section.

(2) If at any time during an inquiry into an offence it appears to the Court, having regard to any representations made in the presence of the accused by the prosecutor or made by the accused, and to the nature of the offence, that the punishment that the Court has power to impose under this section would be adequate and that the circumstances do not make the offence one of serious character and do not for other reasons require trial on indictment, the Court may proceed to try the case summarily.

(3) For the purpose of proceeding under subsection (2), the Court shall cause the charge to be written down, if this has not already been done, and read to the accused and shall inform him or her that he or she may, if he or she consents, be tried summarily instead of being tried by a jury, and if the Court thinks it

desirable for his or her information, shall explain what is meant by being tried summarily.

(4) The Court, after informing the accused of his or her options as required under subsection (3), shall ask him or her whether he or she wishes to be tried by a jury or consents to be tried summarily, and if he or she consents to be tried summarily, the Court shall proceed to summary trial of the complaint.

(5) A person summarily convicted of an indictable offence under this section is liable to imprisonment for a term not exceeding 2 years or a fine not exceeding $2,000.

(6) Nothing in this section shall empower a district court to try an indictable offence summarily—

(a) without the consent of the prosecutor in a case affecting the property or affairs of the Government or of any local authority or other body which has power to act under or for the purposes of any enactment relating to local government;

(b) without the consent of the Director of Public Prosecution where the prosecution is being carried on by him or her or on his or her behalf.

(7) Where any person is convicted under this section of an offence of inciting to commit a summary offence, he or she is not liable to a penalty greater than that to which he or she would otherwise be liable if he or she were convicted summarily of the summary offence.

(8) Despite any provisions of this Code on attempts, where a person is convicted under this section of attempting to commit an offence that is both an indictable offence and a summary offence, he or she is not liable to any greater penalty than he or she would be liable to on being summarily convicted of the completed offence.

(9) The offences to which this section relates are—

(a) offences under section 94 of this Code (attempted suicide);

(b) offences under sections 243, 244 and 245 of this Code (relating to noteage);

(c) offences under sections 251 to 258 and section 262 of this Code (relating to fraud);

(d) offences under section 259 of this Code in relation to any document being an authority or request for payment of money where the amount of the money does not exceed $500;

(e) offences under section 263 of this Code where the document uttered, dealt with or used is a document included in the sections mentioned in paragraphs (c) and (d) of this subsection.

(f) offences under section 199 of this Code (relating to stealing);

(g) offences under sections 26 to 31 of the Post Office Act, or any enactment replacing it;

(h) offences under section 4 of the Statutory Declarations Act or any enactment replacing it;

(i) aiding and abetting, counselling or procuring the commission of any offence referred to in paragraphs (a) - (h), attempting to commit any such offence and attempting to commit any offence that is both an indictable offence and a summary offence.

776. REDUCTION OF CHARGE FROM INDICTABLE TO SUMMARY OFFENCE

Notwithstanding the provisions of section 774 (4) and section 775 (6) (b), where, on the holding of any preliminary inquiry on a charge of an indictable offence, the magistrate is of the opinion that the evidence establishes or appears to establish, the commission of a summary offence of a kind similar to the offence charged or an abetment, or an attempt or incitement to commit that summary offence, the magistrate may, if he or she thinks fit, inform the accused person accordingly, and all further proceedings thereafter in the matter shall be the same as if a complaint had been made against the person for the offence or abetment, attempt or incitement.

Summary Trial of Child

777. SUMMARY TRIAL OF CHILD OTHER THAN FOR MURDER

(1) Where a child is charged before the Court with any indictable offence other than murder, the Court, if it thinks it expedient so to do, and if the parent or guardian of the child, when informed by the Court of his or her right to have the child tried by a jury, does not object to the child being dealt with summarily, may deal summarily with the offence, and, in the case of conviction, inflict the same punishment as might have been inflicted if the case had been tried on indictment, provided that—

(a) where a term of imprisonment is imposed, the term does not in any case exceed 6 months;

(b) where a fine is imposed, the amount does not in any case exceed $500.

(2) For the purposes of proceedings under this section, the Court shall, at any time during the hearing of the case at which it becomes satisfied by the evidence that it is expedient to deal with the case summarily, cause the complaint to be reduced into writing, if this has not already been done, and to be read to the parent or guardian of the child.

(3) The Court shall then address a question to such parent or guardian in the following terms:

"Do you desire the child to be tried by a jury, and object to the case being dealt with summarily by this Court?"

with a statement, if the Court thinks such statement desirable for the information of such parent or guardian, of the meaning of the case being dealt with summarily, and of the sitting of the High Court at which the child will be tried, if tried by a jury.

(4) Where the parent or guardian is not present when the child is charged, the Court may, if it thinks it just so to do, remand the child for the purpose of causing notice to be served on such parent or guardian, with a view of securing, so far as may be practicable, his or her attendance at the hearing of the charge, or the Court may, if it thinks it expedient so to do, deal with the case summarily.

(5) Nothing in this section shall render punishable for an indictable offence any child who is not, in the opinion of the magistrate before whom he or she is tried, of or above the age of 12 years, and of sufficient capacity to commit crime.

Summary Trial of Young Person

778. SUMMARY TRIAL OF YOUNG PERSON WITH HIS OR HER CONSENT

(1) Where a young person is charged before the Court with an indictable offence, other than murder, the Court, if it thinks it expedient so to do, having regard to the character and antecedents of the person charged, the nature of the offence, and all the circumstances of the case, and if when the young person charged with the offence is informed by the Court of his or her right to be tried by a jury, consents to his or her case be dealt with summarily, the Court may deal summarily with the offence and in its discretion, order the person, if convicted of the offence, either to pay a fine not exceeding $500 or to be imprisoned for any term, not exceeding 6 months.

(2) For the purposes of proceedings under this section, the Court shall, at any time during the hearing of the case at which it becomes satisfied by the evidence that it is expedient to deal with the case summarily, cause the complaint to be reduced into writing, if this has not been already done, and read to the young person charged.

(3) The Court shall then address a question to him or her in the following terms:

"Do you desire to be tried by a jury or do you consent to the case being dealt with summarily by this Court?"

with a statement, if the Court thinks such statement desirable for the information of the young person to whom the question is addressed, of the meaning of the case being dealt with summarily, and of the sitting of the High Court at which he or she will be tried, if tried by a jury.

PART 5
PRELIMINARY INQUIRIES AND COMMITTAL PROCEEDINGS
SUB-PART A
Jurisdiction

779. PROCEEDINGS IN CASE OF SUSPECTED OFFENCE

(1) A magistrate who has reason to believe—

(a) that an indictable offence has been committed within the limits of his or her jurisdiction for which the offender might, according to the law, be arrested without warrant; or

(b) that there is reasonable ground for inquiring whether such an indictable offence has been committed within those limits; or

(c) that there are reasonable grounds for inquiring by whom such suspected offence has been committed, may, whether any particular person is charged or not, summon to the district court of his or her district any person whom he or she has reason to believe is capable of giving material evidence concerning such offence, and, if he or she thinks fit, bind the person by recognizance to appear and give evidence, if called upon by any magistrate or by the High Court, at any time within the 6 months after the summons unless the person can show reasonable excuse to the contrary.

(2) Where a person summoned pursuant to subsection (1)—

(a) neglects to appear; or

(b) without lawful excuse refuses to take an oath; or

(c) having taken an oath without lawful excuse refuses to answer any question concerning the offence which may be put to him or her, or to enter into such recognizance,

he or she may be dealt with in the same manner as a witness may be dealt with who neglects or refuses to attend or give evidence, or to be bound by recognizance to do so after having been served with a summons for that purpose.

780. PROCEEDINGS IN CASE OF ABSCONDING ACCUSED

(1) If at a preliminary inquiry it is proved that the accused has absconded and that there is no immediate prospect of arresting him or her the magistrate shall, in the absence of the accused, examine the witnesses, if any, produced on behalf of the prosecution and record their depositions.

(2) On the arrest of the accused, any such deposition may be given in evidence against him or her at the inquiry into or trial of the offence with which he or she is charged, if it is proved to the satisfaction of the magistrate or judge—

(a) that the deponent is dead, or too ill to attend, or after diligent search he or she cannot be found; or

(b) that from any other cause he or she is incapable of giving evidence or is kept away from the trial by the contrivance of the accused;

and that the deposition is signed by the magistrate by or before whom the deposition is purported to be taken.

781. DISTRICT IN WHICH TO HOLD PRELIMINARY INQUIRY

(1) Where a person is charged with kidnapping, child-stealing, or abduction, the preliminary inquiry may be held in the magisterial district, in which the kidnapping, child-stealing, or abduction, took place, or in any magisterial district, through or in which, he or she conveyed or concealed or detained the person kidnapped, stolen or abducted.

(2) Where a person is charged with counselling or procuring or aiding and abetting the commission of an offence, or with harbouring, the preliminary inquiry may be held in any magisterial district, within which the preliminary inquiry in the case of the principal offender might be held.

(3) Where an offence is committed within the boundary or boundaries of 2 or more magisterial districts, or within a distance of 2 miles of each such boundary or boundaries, the preliminary inquiry may be held in any of the magisterial districts.

(4) Where an offence is committed against the person, or in respect of any property in or on any vehicle employed on any journey,

or on board any vessel, employed on any voyage or journey, on any river within, or forming the boundary of any part of this State, the preliminary inquiry may be held in any magisterial district through any part of which the vehicle or vessel has passed in the course of the journey or voyage, when the offence was committed.

(5) Where a person is accused of having committed an indictable offence within the jurisdiction of any magisterial district, or in the course of a journey through the jurisdiction of such magisterial district, the inquiry may be held in such district.

(6) Where a person is charged with committing any offence, the preliminary inquiry may be held in any magisterial district, within which any act or event, which is an element of the offence, has taken place, or in which the accused was arrested, or is in custody.

(7) Where a person is charged with stealing, or obtaining by means of any offence any property, the preliminary inquiry may be held in any magisterial district, within which any part of the property so stolen or obtained by such offence is found in his or her possession.

(8) Where the person is alleged to have unlawfully received property which was unlawfully obtained within the limits of any magisterial district, the preliminary inquiry may be held in that magisterial district.

(9) Where a person is charged with an offence, which involves the receiving of any property by him or her, the preliminary inquiry may be held in any magisterial district, within which he or she has any part of the property in his or her possession.

(10) Where a person is accused of having committed in any place an indictable offence triable in this State, and is, or is suspected to be, within the limits of any magisterial district or resides within such limits, the preliminary inquiry may be held in that district.

(11) In special cases not falling within any of the provisions of this section, the Attorney General may authorise the preliminary inquiry to be held in any other magisterial district.

(12) In case of any doubt or dispute as to the magisterial district in which a preliminary inquiry should be held or of an objection

on the part of the accused to the holding of such inquiry in any particular district, the matter shall be referred to the Attorney General whose decision shall be final.

782. POWER TO TRANSFER INQUIRY AS TO OFFENCE COMMITTED OUT OF LIMIT OF JURISDICTION

(1) Without prejudice to the provisions of section 781 or any other provisions of this Code, if an accused person is brought before any magistrate charged with an offence committed outside the limits of the jurisdiction of that magistrate, the magistrate may, after hearing both the prosecutor and the accused, order the accused, at any stage of the inquiry to be taken by a police officer before the magistrate having jurisdiction in the place where the offence was committed.

(2) If a magistrate makes an order under subsection (1) he or she shall issue a warrant for that purpose to the police officer, and shall deliver to the police officer the information, depositions, and recognizances, if any, taken in the case, which shall be delivered to the magistrate before whom the accused is brought, and such information, depositions and recognizances shall be treated to all intents and purposes as if they had been taken by the other magistrate.

SUB-PART B
Proceedings to Compel Appearance of Accused and Witness

783. ORDER TO BRING UP INMATE FOR TRIAL OR INQUIRY

(1) If the attendance of any person confined in any correctional facility is required for the purpose of his or her taking on his or her trial, or attending an inquiry into a criminal charge against him or her, the magistrate may, by order in writing, direct a correctional officer to bring up the body of the person, as often as may be required, for the purpose of the trial or inquiry, and the correctional officer shall obey such order.

(2) Where a person applies to a magistrate for an order under subsection (1), the magistrate may require the applicant to pay in advance into the Treasury such sum, for the cost of the transport, maintenance and custody of the inmate while he or

she is being taken from a correctional facility under the order, as the magistrate may consider sufficient.

(3) The provisions of this section are in addition to and not in derogation of the provisions of any other enactment.

784. ISSUE OF SUMMONS OR WARRANTS

(1) Upon any complaint or information to a magistrate that an indictable offence has been committed with respect to which he or she has jurisdiction to hold a preliminary inquiry, the magistrate shall hear and consider the allegations of the complaint, and if he or she is of the opinion that a case for so doing is made out, he or she shall issue a summons or warrant, as the case may be, in the manner stated in this Sub-Part.

(2) The magistrate shall not refuse to issue such summons or warrant only because the alleged offence is one for which an offender may be arrested without warrant.

785. ISSUE AND CONTENTS OF SUMMONS

(1) The magistrate may issue a summons although there is no complaint or information in writing upon oath.

(2) The summons shall be directed to the accused person, and shall require him or her to appear at the time and place stated in the summons.

(3) No such summons shall be signed in blank.

786. SERVICE OF SUMMONS GENERALLY

A copy of every such summons may be served by a sheriff or police officer upon the person to whom it is directed, either by delivering it to him or her personally or by leaving it for him or her at his or her last or most usual place of abode where it is not convenient or possible to deliver it to him or her personally.

787. SERVICE ON COMPANIES, PARTNERSHIP, OR THE LIKE, OR ON PERSON ON VESSEL

(1) An accused person in respect of whom a summons has been issued is deemed to be lawfully served if the summons—

(a) is left for him or her at his or her place of business with some person resident or employed therein;

(b) if he or she has no known dwelling-house or place of business, is left at any other place in which he or she may at the time be resident; or

(c) in the case of the accused being a master or seaman or person employed in any ship or vessel, is left within the hands of a person employed on board the ship or vessel; or

(d) in the case of the accused being a partnership, company, association, or corporation, is left at their ordinary place of business with a partner, director, secretary, manager, or other official thereof, or the partnership, company association, or corporation may be cited in the same manner as if the proceedings were in the civil Court.

(2) A body of trustees may be summoned by serving a summons on any one of them resident in the State or on their known legal representative.

788. PROOF OF SERVICE GENERALLY

(1) A person who serves a summons shall, under ordinary circumstances, attend at the time and place specified in it for the appearance of the accused, in order, if necessary, to prove the service.

(2) The magistrate before whom the accused ought to appear may, in his or her discretion, receive proof of service by affidavit, which may be made before any magistrate or justice of the peace.

789. ISSUE OF WARRANT

(1) Where a complaint or information in writing has been made on oath, the magistrate may issue a warrant for the arrest of the accused person.

(2) The fact that a summons has been issued shall not prevent any magistrate from issuing a warrant at any time before or after the time stated in the summons for the appearance of the accused.

(3) Where service of the summons for the appearance of the accused has been proved and the accused does not appear, or where it appears that the summons cannot be served, a warrant may be issued.

(4) The magistrate who would have heard the charge if the person summoned had appeared, may issue the warrant, either upon information in writing and upon oath taken before him or her, or upon information in writing and upon oath taken before another magistrate or any justice of the peace, either before or after the summons was issued.

790. PROCEEDINGS ON ARREST

Where a person is arrested upon a warrant, he or she shall be brought as soon as may be practicable before a magistrate, and the magistrate shall either proceed with the preliminary inquiry or postpone such inquiry to a future time, in which latter case he or she shall either commit the accused person to a correctional facility, or admit him or her to bail, or permit him or her to be at large on his or her own recognizance, in accordance with the provisions of this Code relating to bail.

791. ORDER TO BRING UP INMATE AS WITNESS

The provisions of section 783 shall, with the necessary modification, apply for securing the attendance of any person confined in any correctional facility in this State who is required to give evidence at any preliminary inquiry or at any trial before a magistrate.

792. ISSUE AND CONTENTS OF SUMMONS TO WITNESS

If, either before or on the hearing of any complaint, it appears to a magistrate on the statement of the complaint or the accused or otherwise, that any person is likely to give material evidence for the complainant or for the accused, the magistrate may issue a summons to the person, requiring him or her to appear before the Court, at the time specified in the summons, to give evidence concerning the case, and to bring with him or her any documents or thing relating to the case, which may be in his or her possession, power or control.

793. SERVICE AND PROOF OF SERVICE OF, SUMMONS ON WITNESS

The provisions of sections 784, 785 and 786 shall with the necessary modification, apply to the service and the proof of service of summons on a witness on the holding of a preliminary inquiry with respect to an indictable offence or to the trial of any offence by a magistrate.

794. WARRANT FOR WITNESS DISOBEYING SUMMONS OR AVOIDING SERVICE

If any person to whom a summons is directed as a witness does not appear before the Court at the time stated in the summons, and does not offer any lawful excuse for his or her non-appearance, then, after proof upon oath that the summons was duly served on him or her or that he or she wilfully avoided service of the summons, the Court, if satisfied by proof upon oath that he or she is likely to give material evidence, may issue a warrant to bring him or her before the Court at the time stated in the summons, in order to testify or otherwise do what is required of him or her.

795. WARRANT FOR WITNESS IN FIRST INSTANCE

If the magistrate is satisfied by evidence upon oath that the person likely to give material evidence, either for the complainant or for the accused, will not attend to give evidence without being compelled to do so, he or she may instead of a summons issue a warrant for the arrest of the person.

796. WITNESS ARRESTED; OW DEALT WITH

When a witness is arrested under a warrant, other than for disobedience to a summons issued under section 792 if the hearing of the case for which his or her evidence is required is fixed for a time more than 24 hours after the arrest, the witness shall be taken before a magistrate, and the magistrate may, on the witness furnishing security by recognizance, to the satisfaction of the magistrate, for his or her appearance at any such hearing, order the witness to be released from custody, or shall, on the witness failing to furnish such security, order him or her to be detained to be produced at any such hearing.

Committal Proceedings

797. DISCHARGE OR COMMITTAL FOR TRIAL

(1) A magistrate inquiring into an offence shall, upon consideration of the evidence—

(a) commit the accused for trial if he or she is of the opinion that there is sufficient evidence to put the accused on trial by jury for any indictable offence; or

(b) discharge the accused if he or she is not of that opinion and if the accused is in custody for no other cause than the offence under inquiry.

(2) If a magistrate inquiring into an offence is satisfied that all the evidence tendered by or on behalf the prosecutor meet the requirements of section 800, he or she may commit the accused for trial for the offence without consideration of the contents of any statement, depositions or other documents unless—

(a) the accused or one of the accused has no counsel acting for him or her in the case; or

(b) counsel for the accused or one of the accused, as the case may be, has requested the magistrate to consider a submission that there is insufficient evidence to put the accused on trial by jury for the offence.

(3) Subsection (1) shall not apply to a committal for trial under subsection (2).

798. TAKING DEPOSITIONS OF WITNESSES AND STATEMENT OF ACCUSED

(1) For the purposes of section 797(1) a magistrate inquiring into an offence shall cause the evidence of each witness (other than witness as to character of the accused) including the evidence of the accused, to be put into writing, and as soon as practicable after the examination of the witness shall cause his or her deposition to be read to him or her in the presence and hearing of the accused and shall require the witness to sign the deposition.

(2) Where the evidence has been given in the absence of the accused, this shall be recorded on the deposition of the witness and the deposition need not be read in the presence and hearing of the accused.

(3) The depositions shall be authenticated by a certificate signed by the magistrate.

(4) After the evidence for the prosecution, including any statements tendered under section 799 has been given and after hearing any submissions, if any made, the magistrate shall, unless he or she then decides not to commit for trial, cause the charge to be written down, if this has not already been done, and if the accused is not represented by counsel, shall read the charge to him or her and explain it in ordinary language.

(5) The magistrate shall then say to the accused—

"I must warn you that if this Court should commit you for trial you may not be permitted at that trial to give evidence of an alibi or to call witnesses in support of an alibi unless you have earlier given particulars of the alibi and of the witnesses, you may give those particulars to the prosecutor not later than 7 days from the end of these committal proceedings."

or words to that effect and, if it appears to the magistrate that the accused may not understand the meaning of the term "alibi", the magistrate shall explain it to him or her.

(6) The magistrate shall not be required to give this warning where it appears to the magistrate that having regard to the nature of the offence with which the accused is charged, it is unnecessary to do so.

(7) After complying with the requirements of this section relating to the statement of the accused and whether or not he or she has made a statement in answer to his or her charge, the magistrate shall give him or her an opportunity to give evidence himself or herself and to call witnesses.

(8) Subject to subsection (9), where the accused is represented by counsel, his or her counsel shall be heard on his or her behalf with the leave of the Court both before and after the evidence is taken.

(9) Where the magistrate grants leave to counsel for the accused to be heard after and before, the evidence is taken, counsel for the prosecution shall be entitled to be heard immediately before counsel for the accused is heard for the second time.

(10) Where the magistrate determines to commit the accused for trial in respect of a charge different from that which was read to him or her in accordance with subsection (4), the magistrate shall cause the new charge to be read to him or her.

799. COMMITTAL FOR TRIAL WITHOUT CONSIDERATION OF EVIDENCE

(1) For the purposes of section 797(2), where the accused is represented by counsel and the magistrate has been informed that all the evidence for the prosecution has been given to the accused, the magistrate shall cause the charge to be written down if this has not already been done, and read to the accused, and shall then ascertain whether he or she wishes to—

(a) object to any of the prosecution statements being tendered in evidence;

(b) give evidence himself or herself or call witnesses; or

(c) submit that the prosecution statements disclose insufficient evidence to put him or her on trial by jury for the offence with which he or she is charged.

(2) If the magistrate is satisfied that the accused or as the case may be, each of the accused persons, does not wish to take any of the steps mentioned in subsections (1)(a), (1)(b) and (1)(c) and determines, after receiving any written statements tendered by the prosecution and the defence under section 800, to commit

the accused for trial without consideration of the evidence, the magistrate shall proceed in accordance with subsection (3) and in any other case the Court shall proceed in accordance with section 798.

(3) The Magistrate shall then say to the accused—

"You will be committed for trial by jury but I must warn you that at that trial you may not be permitted to give evidence of an alibi or other special defence to call witnesses in support of an alibi or other special defence unless you have earlier given particulars of the alibi or other special defence and the witnesses. You or your counsel may give those particulars now to this Court or at any time in the next 7 days to the prosecutor."

(4) Despite subsection (3), the magistrate shall not be required to give this warning in any case where it appears to him or her that having regard to the nature of the offence with which the accused is charged, it is unnecessary to do so.

800. WRITTEN STATEMENTS BEFORE MAGISTRATE

(1) In committal proceedings a written statement by any person shall, if the conditions mentioned in subsection (2) are satisfied, be admissible as evidence to the like extent as oral evidence to the like effect by that person.

(2) The conditions referred to in subsection (1) are that—

(a) the statement purports to be signed by the person who made it;

(b) the statement contains a declaration by that person to the effect that it is true to the best of his or her knowledge and belief and that he or she made the statement knowing that, if it were tendered in evidence, he or she would be liable to prosecution if he or she wilfully stated in it anything which he or she knew to be false or did not believe to be true;

(c) before the statement is tendered in evidence a copy of the statement is given by or on behalf of the prosecutor, to each of the other parties to the proceedings; and

(d) none of the other parties, before the statement is tendered in evidence at the committal proceedings, objects to the statement being tendered under this section.

(3) So much of any statement as is admitted in evidence under this section shall, unless the Court commits the accused for trial by virtue of section 797 or the Court otherwise directs, be read aloud at the hearing, and where the Court so directs an account shall be given orally of so much of any statement that is not read aloud.

(4) Any document or object referred to as an exhibit and identified in a written statement tendered in evidence under this section shall be treated as if it had been produced as an exhibit and identified by the maker of the statement.

Decision of Magistrate

801. COMMITTAL OF ACCUSED

If the magistrate holding a preliminary inquiry thinks that the evidence is sufficient to put the accused person on his or her trial, or to commit him or her for sentence, he or she shall commit him or her for trial to the next sitting of the High Court or for sentence accordingly.

802. DISCHARGE OF ACCUSED

(1) When all the evidence on the part of the prosecutor and of the accused person, as contained in their written statements or the depositions, if any, have been considered , the magistrate shall, if he or she is of opinion that no sufficient case is made out, to put the accused upon his or her trial, discharge him or her.

(2) Where the accused is discharged under subsection (1), any recognizance taken with respect to the charge shall be void, unless the Director of Public Prosecutions directs that the accused be committed for trial, and the magistrate, on discharging the accused, shall so inform him or her.

Proceedings on Committal for Trial

803. BAIL OR COMMITTAL TO CORRECTIONAL FACILITY OF ACCUSED

(1) An accused person committed for trial shall unless bailed, be committed to a correctional facility to be detained until brought for trial, unless he or she is in the meantime admitted to bail or released in due course of law.

(2) If bailed the accused shall indicate a place in the City of Castries for the service of documents upon him or her.

804. TRANSMISSION OF DOCUMENTS TO REGISTRAR

The magistrate shall, as soon as may be, after the committal of the accused person, transmit to the Registrar, the following documents—

(a) the complaint or information;

(b) the depositions of the witnesses, if any;

(c) the exhibits;

(d) the written statements of the accused and the prosecution; and

(e) all recognizance entered into,

together with copies of all such documents for the Director of Public Prosecutions.

Powers of the Director of Public Prosecutions on Consideration of the Preliminary Inquiry

805. POWER OF DIRECTOR OF PUBLIC PROSECUTIONS

(1) After considering the documents submitted to him or her, the Director of Public Prosecutions may—

(a) decline to prefer an indictment against the accused and may consequently order that the accused, if in custody, be released forthwith unless he or she has received notice from some person entitled to commence a private

prosecution against the accused for the offence charged, that he or she intends to institute such a prosecution;

(b) remit the case to be tried by the magistrate under his or her ordinary jurisdiction if in the opinion of the Director of Public Prosecutions the charge should be purely summary;

(c) take such measures and give such directions for the trial of the inmate before such competent Court as he or she may deem most expedient.

(2) Where a case has been remitted to a magistrate for trial under this section, the provisions of section 671 of this Code (relating to the period of limitation for summary offences) shall not apply.

806. DIRECTIONS BY DIRECTOR OF PUBLIC PROSECUTIONS

(1) Any directions given by the Director of Public Prosecutions under section 805 shall be in writing and signed by him or her, and the magistrate shall comply with the directions.

(2) The Director of Public Prosecutions may at any time add to, alter, or revoke the directions.

(3) The Director of Public Prosecutions shall forthwith transmit a copy of the directions to the Registrar, who shall file it with the documents relating to the case transmitted to him or her, and if the case is remitted, he or she shall transmit the documents to the magistrate.

807. PROCEEDINGS CONSEQUENT ON DIRECTION OF DIRECTOR OF PUBLIC PROSECUTIONS

(1) Where the Director of Public Prosecutions has remitted a case under section 805(1)(b) to be tried by the magistrate, the provisions of this section shall apply.

(2) Where the accused person is in custody, the magistrate may, by an order in writing under his or her hand, direct the correctional officer having custody of the accused person, to convey him or her or cause him or her to be conveyed to the place where the proceedings are to be held for the purpose of being dealt with, as the magistrate may direct.

(3) Where the accused person is not in custody, the magistrate shall issue a summons or if, in the circumstances he or she considers it necessary so to do, a warrant, for his or her attendance at the time when, and place where, the proceedings are to be held.

(4) The proceedings shall then be held in accordance with the provisions of this Code as they relate to an indictable offence or a summary offence, as the case may be.

808. DIRECTOR OF PUBLIC PROSECUTIONS TO ORDER COMMITTAL OF ACCUSED

(1) Where the magistrate discharges an accused person, the Director of Public Prosecutions may require the magistrate to send him or her the written statements or copies of such statements, and any other documents or things connected with the case, which he or she may think fit.

(2) If, on examination of the written statements and such other relevant documents and things, the Director of Public Prosecutions is of opinion that the accused person should have been committed for trial, the Director of Public Prosecutions may, subject to such directions as he or she may consider proper, order the committal of the accused for any offence disclosed by the evidence based on the written statements and such other relevant documents submitted at the committal proceedings.

(3) The Director of Public Prosecutions may at any time add to, alter, or revoke any such directions.

PART 6
INDICTABLE TRIALS

SUB-PART A
THE TRIAL
Preliminaries

809. MISTAKE IN CAPTION

Any mistake in the heading of an indictment shall, upon being discovered, be amended forthwith and, whether or not amended, is immaterial.

810. SUFFICIENCY OF STATEMENT OF OFFENCE IN COUNT

(1) Each count of an indictment shall contain, and it is sufficient if it contains in substance, a statement that the accused person has committed an offence specified in the count.

(2) The statement may be made in ordinary language without any technical averments or any allegations of matter not essential to be proved.

(3) The statement may be in the words of the enactment describing the offence or declaring the matter charged to be an indictable offence, or in words sufficient to give the accused notice of the offence with which he or she is charged.

(4) Each count shall contain so much detail of the circumstances of the alleged offence as is sufficient to give the accused reasonable information as to the act to be proved against him or her, and to identify the transaction referred to in the count.

(5) The absence or insufficiency of such details shall not vitiate the count, but the Court may order an amendment or further particulars, mentioned.

(6) A count shall refer to the section of any enactment creating the offence charged, and, in estimating the sufficiency of such count, the Court may have regard to such reference.

(7) The omission of, or any mistake in the reference, shall not vitiate the count, but the reference may be supplied or corrected at any time.

(8) Each count shall, in general, apply only to a single transaction.

(9) Where any of the particulars referred to in this section are unknown to the prosecutor, it is sufficient to state that fact in the indictment.

811. COUNTS TO BE NUMBERED

Where an indictment contains more than one count, the counts shall be numbered consecutively and each count may be treated as a separate indictment.

812. UNNECESSARY AVERMENTS AS TO OFFENCE BY BANKRUPT

In an indictment for any offence relating to bankruptcy or insolvency, it is not necessary to set forth any debt, act of bankruptcy, adjudication or other proceeding in any Court or any order, warrant or document, made or issued by, or by the authority of, any Court.

813. STATEMENT OF INTENT TO DEFRAUD, DECEIVE OR INJURE

Where the enactment creating the offence does not make an intent to defraud, deceive or injure a particular person an essential ingredient of the offence, it is not necessary in stating any intent to defraud, deceive or injure in an indictment to state an intent to defraud, deceive or injure any particular person.

814. ALLEGATIONS FOR PRETENDING AS TO ENCLOSURES IN POSTAL PACKETS

It is not necessary to allege in any indictment against the person for wrongfully and wilfully pretending or alleging that he or she enclosed and sent, or caused to be enclosed and sent, in any postal packet any money or valuable security or to prove on the trial, that the act was done with intent to defraud.

815. NEGATIVING EXCEPTIONS OR EXEMPTIONS

It is not necessary in any count charging a statutory offence, to negative any exception or exemption from or qualification to the operation of the enactment creating the offence.

816. STATEMENT OF MEANS OR INSTRUMENT

It is not necessary in any indictment to set forth the means or instrument by which any act is done, unless the means are or the instrument is, an essential element of the offence.

817. STATEMENT NOT NEEDING PROOF

It is not necessary in any indictment to set forth any particulars as to any person or thing which need not be proved, nor any other matter which need not be proved.

818. QUALIFYING ALLEGATIONS UNNECESSARY

It is not necessary in any indictment to allege that any act of commission or omission charged was done or omitted to be done "intentionally," "wilfully," or "maliciously," or "wickedly and feloniously", or "falsely and fraudulently," or "knowingly," or "negligently," or "recklessly" or in "breach of duty," or to use such words as "knowing the same to be forged," or "having good reason to know," or "well knowing the same to have been stolen," or "unlawfully," or "unlawfully and carnally," or to use any words or qualifying expressions, as such qualifying allegations are implied in every case.

819. STATEMENT OF VALUE

It is not necessary in any indictment to state the value of any thing mentioned in the indictment, unless the value is an essential element of the offence.

Averments Sufficient or Unobjectionable

820. INADMISSIBLE OBJECTION

No count shall be deemed objectionable or insufficient on any of the following grounds, that it—

(a) does not set out any document which may be the subject of the charge;

(b) does not specify the means by which the offence was committed;

(c) does not state who is the owner of any property mentioned in it;

(d) does not set out or imperfectly sets out, the addition of any accused or any other person;

(e) designates the person mentioned in it by a name of office or other descriptive appellation instead of his or her proper name;

(f) does not name or describe with precision any person or thing;

(g) charges an intent to defraud without naming or describing the person whom it was intended to defraud;

(h) does not contain the name of the person injured;

(i) omits to state the time at which the offence was committed, or states that it was committed between any 2 days stated, or on or about a day stated, or otherwise;

(j) states the offence to have been committed on a day subsequent to the filing of the indictment or on an impossible day or on a day that never happened;

(k) does not state the value or price of any matter or thing, or the amount of damage, injury or spoil in any case;

(l) does not set out the words used where words used are the subject of the charge;

(m) does not aver any matter unnecessary to be proved.

Inadmissible Objections in certain Special Cases

821. STATEMENTS IN ALTERNATIVE AS IN ENACTMENT LAWFUL

(1) Where an enactment creating an offence states the offence to be—

(a) the doing or the omission to do any one of any different acts in the alternative;

(b) the doing or the omission to do any act in any one of any different capacities;

(c) with any one of any different intentions;

(d) states any part of the offence in the alternative,

the acts, omissions, capacities, or intentions, or other matters stated in the alternative in the enactment, may be stated in the alternative in the count charging the offence.

(2) A count shall not be deemed objectionable on the ground that it charges in the alternative several different matters or acts which are stated in the alternative in the enactment describing any offence, or declaring the matters or acts charged to be an indictable offence, or on the ground that it is double or multifarious.

(3) The Court may, at any stage of the trial, amend or divide the count on the ground that it is so framed as to embarrass the accused in his or her defence.

(4) The Court may, if it is satisfied that the ends of justice require it, order any count to be amended or divided into 2 or more counts, and, on such order being made, the count shall be so divided or amended, and a formal commencement may be inserted before each of the counts into which it is divided.

822. SUFFICIENCY OF AVERMENT AS TO BANK-NOTE OR NOTE DESCRIBED AS MONEY

In every indictment in which it is necessary to make averment as to any money or bank-note, it is sufficient to describe the money or bank-note simply as money, without specifying any particular note, or bank-note, and an allegation, so far as it concerns the description of the property, shall be sustained—

(a) by proof of any amount of note or of any bank- note, although the particular species of note of which the amount was composed, or the particular nature of the bank- notes shall not be proved;

(b) in the case of money or bank- note obtained by false pretences or by any other unlawful act, by proof that the offender obtained any note or bank- note, or any portion of its value although such note or bank- note may have been delivered to him or her in order that part of its value should be returned to the party who delivered it, or, to any other person, and that part has been returned accordingly.

823. SUFFICIENCY OF AVERMENTS CHARGING FRAUD WITHOUT DETAILS

(1) Subject to subsection (2), no count which charges any false claim, or any fraud, or any attempt or conspiracy by fraudulent means, shall be deemed insufficient because it does not set out in detail what constituted the false claim, or the fraud, or the fraudulent means.

(2) The Court may, if it is satisfied that it is necessary for a fair trial, order that the prosecutor shall furnish particulars of the matters referred to in subsection (1) or any of them.

824. COUNT FOR LIBEL OR SELLING OR EXHIBITING PUBLICATIONS

(1) Subject to subsection (2), no count for publishing a blasphemous, seditious, obscene or defamatory libel or for selling or exhibiting any obscene book, pamphlet, newspaper, or other printed or written matter, shall be deemed insufficient on the ground that it does not set out the words thereof.

(2) The Court may order the prosecutor to furnish such particulars stating what passages in the book, pamphlet, newspaper, or writing are relied on in support of the charge.

(3) A count for libel may charge that the matter published was written in a sense which would make the publishing criminal, specifying the sense without any prefatory averment showing how that matter was written in the sense, and at the trial it is

sufficient to prove that the matter published was criminal, either with or without any innuendo.

825. COUNT FOR PERJURY, ETC. NOT INVALID ETC.

(1) Subject to subsection (2), no count charging perjury, the making of a false oath or of a false statement, fabricating evidence, subordination, or procuring the commission of any of these offences, shall be deemed insufficient on the ground that it does not state the nature of the authority of the tribunal before which the oath or statement was taken or made, or the subject of the inquiry, or the words used, or the evidence fabricated, or on the ground that it does not expressly negative the truth of the words used.

(2) The Court may, if it is satisfied that it is necessary for a fair trial, order that the prosecutor furnishes particulars of what is relied on in support of the charge.

826. EXCEPTION

No provisions contained in this Sub-Part as to matters which are not to render any count objectionable or insufficient, shall be construed as restricting or limiting in any way, the general provisions of section 810.

Descriptions

827. DESCRIPTION OF ACCUSED

(1) The description or designation in an indictment of the accused person, or of any other person to whom reference is made, shall be such as is reasonably sufficient to identify him or her without necessarily stating his or her correct name, or his or her abode, style, title, degree or occupation.

(2) Where the name of a person is unknown, or for any other reason, it is impracticable to give his or her description or designation, it is sufficient to give a description or designation as is reasonably practicable in the circumstances or the person may be described as "a person unknown."

828. DESCRIPTION OF DOCUMENT OR THING

Any document or other thing may be described in any indictment by any name, or designation, by which it is usually known, and any document may be described by its purport, without setting out a copy, or facsimile of the whole, or any part of it.

829. STATEMENT OF ACT, OMISSION, PLACE, THING, TIME

Subject to any other provisions of this Sub-Part, it is sufficient to describe any place, time, thing, matter, act or omission to which it is necessary to refer in any indictment, in ordinary language in such a manner as to indicate with reasonable clarity, the place, time, thing, matter, act or omission referred to.

830. DESCRIPTION OF PROPERTY

The description of property in a count in an indictment shall be in ordinary language and such as to indicate with reasonable clarity the property referred to, and if the property is so described, it is not necessary, except when required for the purpose of describing an offence depending on any special ownership of property or special value of the property, to state the name of the person to whom the property belongs or the value of the property, and the allegation that the property concerned was not the property of the accused is implied in all cases where it is essential to the criminality of the charge.

831. DESCRIPTION OF TRADE OR OTHER MARK

A trade-mark may be described in any indictment, by that name, and any other mark may be described in any way which will indicate its nature, without setting out a copy or facsimile of it.

Joinder

832. JOINING OF COUNTS, BUT MURDER ALONE TO BE CHARGED

(1) Any number of counts for any offences may be joined in the same indictment if the offences are founded on the same facts or form or are a part of a series of offences of the same or a

similar character, but with respect to a count charging murder, no count charging any other offence than murder shall be joined.

(2) When there are more counts than one in an indictment, each count may be treated as a separate indictment.

(3) If the Court thinks it conducive to the ends of justice so to do, it may direct that the accused person be tried on any one or more of such counts separately.

(4) The Court may make such order either before or in the course of the trial, and, if it is made in the course of the trial, the jury shall be discharged from giving a verdict on the counts on which the trial is not to proceed.

(5) The counts in the indictment which are not then tried shall be proceeded upon in all respects, as if they had been contained in a separate indictment.

(6) Unless there are special reasons for so doing, the Court shall not make an order preventing the trial at the same time of any number of distinct charges of stealing, not exceeding five, alleged to have been committed within 6 months from the first to the last of such offences whether or not against the same person.

833. CHARGING ANY OR ALL OF SEVERAL OFFENCES

If a single act or series of acts is of such a nature that it is doubtful which of the several offences is constituted by the facts which can be proved, the accused may be charged with having committed all or any of those offences and any number of such charges may be tried at once, or he or she may be charged in the alternative with having committed some or one of those offences.

834. INDICTMENT FOR STEALING

(1) In an indictment for stealing money, the accused may be charged and proceeded against for the amount of a general deficiency although such general deficiency is made up of any number of specific sums of money, the taking of which extended, over any space of time.

(2) It is lawful in any indictment for stealing, to allege that the property charged to have been stolen was taken at different times between any 2 specific days stated in the indictment, and upon such an indictment, proof may be given of the stealing upon any day or days between the 2 specific days.

(3) In an indictment against a person for stealing he or she may be charged with not more than 5 distinct acts of stealing, whether against the same person or not, committed by him or her within the space of 6 months from the first to the last of such acts.

835. ELECTION BY PROSECUTOR ETC.

(1) Where upon an indictment for stealing, it appears that the property alleged in the indictment to have been stolen at one time was stolen at different times, the prosecutor shall not by reason thereof, be required to elect upon which act of stealing he or she will proceed and the accused shall be liable to be convicted of every such act of stealing in like manner as if every act had been separately charged, unless it appears that there were more than 5 acts of stealing, or that more than 6 months elapsed between the first and the last of the acts.

(2) Where there are more than 5 acts of stealing or more than 6 months have elapsed between the first and the last of the acts, the prosecutor shall be required to elect to proceed in respect of 5 acts of stealing which appear to have taken place within the period of 6 months from the first to the last of the acts.

836. JOINDER OF PERSONS

Any number of persons charged—

(a) with committing or, with aiding and abetting, or with procuring the commission of the same offence, although at different times;

(b) with harbouring in respect of the same offence, although at different times;

(c) with receiving, although at different times, any property or part of any property obtained by means of an indictable offence or by means of an act which, if it had been done in this State, would be an indictable offence and which is

an offence under the laws in force in the place where it was done,

may be charged with substantive offences in the same indictment and may be tried together although, as the case may be, the principal offender is not included in the same indictment, or is not amenable to prosecution.

837. POWER TO ORDER PARTICULARS AND ADJOURN FOR PURPOSE

The Court may, in any case, where it is satisfied that it is necessary for a fair trial, direct that the prosecutor furnishes the accused person with particulars of any matter alleged in the indictment, and may adjourn the trial for that purpose.

838. CONSIDERATION OF WRITTEN STATEMENTS OR DEPOSITIONS ON APPLICATION

(1) In determining whether particulars of any matter alleged in an indictment are required or not, and whether a defect in the indictment is material to the substantial justice of the case or not, the Court may have regard to the written statements or depositions tendered by the prosecution.

(2) When any particulars are furnished, a copy shall be given without charge to the accused person or his or her counsel.

(3) An entry as to the furnishing of particulars shall be made in the Crown Book, and the trial shall proceed in all respects as if the indictment had been amended in conformity with such particulars.

Previous Convictions

839. CHARGING PREVIOUS CONVICTIONS

Any charge of a previous conviction of an offence shall be stated at the end of the indictment by means of a statement that the person accused has been previously convicted of that offence at a certain time and place, without stating the particulars of the offence.

840. UNNECESSARY TO CHARGE PREVIOUS CONVICTION. COMPETENCE TO PROVE PREVIOUS CONVICTION

(1) It is not necessary in an indictment against the person for any offence to charge or allege that the person had been previously convicted of any offence, and except as otherwise expressly provided in this Code, it is not competent to prove at the trial of the person for any offence that he or she was previously convicted of an offence.

(2) Where at the trial of any person for any offence, the person gives evidence of his or her good character, it is lawful for the prosecutor in rebuttal to give evidence of the former conviction of the person of any offence.

Preferring of Indictments

841. INDICTMENTS TO BE GENERALLY PREFERRED BY DIRECTOR OF PUBLIC PROSECUTIONS

(1) Unless otherwise provided in this Code, every indictment shall be preferred by and in the name of the Director of Public Prosecutions.

(2) The averment in an indictment, that the prosecution is instituted by the direction of the Director of Public Prosecutions, is sufficient evidence of that fact, until the contrary is shown.

842. CHARGING OFFENCE DISCLOSED BY DEPOSITIONS

An indictment may charge the offence for which the accused was committed for trial or for sentence or for any offence disclosed by the committal proceedings.

843. SIGNING OF INDICTMENTS

(1) Subject to the provisions of subsections (2) and (3) , all indictments shall be signed by the Director of Public Prosecutions or by counsel acting for him or her and a statement on the indictment to that effect is sufficient evidence of that fact.

(2) Where under any enactment any injured party or complainant is entitled to prosecute privately, the indictment shall be signed by that party and not by the Director of Public Prosecutions.

(3) The Registrar shall not receive an indictment from any private prosecutor unless—

(a) the indictment has been endorsed by a certificate of the Director of Public Prosecutions to the effect that he or she has seen such indictment and declines to prosecute at the public instance the offence set forth in the indictment; and

(b) the private prosecutor has given the required security to prosecute the indictment to conclusion at the time at which the accused shall be required to appear and has paid such costs as may be ordered by the Court, except where the Court has dispensed with payment of such costs.

844. FILING OF INDICTMENTS

(1) Every indictment shall be filed in the Registry of the High Court at least 5 days before the first day of the sitting of the Court.

(2) Copies of the indictment for service shall also be supplied to the Registrar.

(3) Subject to the provisions of section 845, a judge may allow an indictment to be filed at any time before the close of the sitting of the Court.

845. SERVICE OF COPY OF INDICTMENT

(1) A copy of the indictment filed against an accused person together with a list of the witnesses intended to be called by the prosecution at the trial, shall be served on the accused person at least 5 days before the day of the trial.

(2) The accused person may dispense with any requirements as to time provided in this section or otherwise.

Treason Indictments

846. STATEMENT AND PROOF OF OVERT ACTS

(1) Every indictment for high treason must state overt acts, and no evidence shall be admitted of any overt act not stated unless it is otherwise relevant as tending to prove some overt act already stated in the indictment.

(2) The power of amending indictments under this Sub-Part shall not extend to authorise the Court to add to the overt acts stated in any such indictment.

847. DOCUMENTS TO BE SERVED

(1) When any person is indicted for high treason or for misprision of treason, the Director of Public Prosecutions shall cause the following documents to be delivered to that person after the indictment has been filed, and at least 7 days before his or her arraignment—

(a) a copy of the indictment;

(b) a list of the witnesses to be produced on the trial to prove the indictment.;

(c) a list of the panel of the jurors who are to try him or her returned by the sheriff.

(2) The list of witnesses and the list of the panel of the jurors must include the names, occupations, and places of abode of those witnesses and jurors.

(3) The documents referred to in subsection (1) must all be given to the accused person at the same time and in the presence of 2 witnesses.

Crown Book and Other Records

848. CROWN BOOK TO BE A RECORD

(1) It is not necessary to draw any formal record of the proceedings on any trial for an indictable offence but the Registrar shall

cause to be preserved all indictments and all written statements and depositions transmitted to him or her, and shall keep a book to be called the Crown Book, which shall be the property of the Court and shall be deemed a record of the Court.

(2) There should be entered in the Crown Book the name of the judge, and a memorandum of the substance of all proceedings at every trial and of the result of every trial.

(3) The Registrar shall cause to be entered in the Crown Book in every case a statement of the following particulars—

(a) the name of the committing magistrate and the charge on which the accused person was committed;

(b) the names of all the witnesses whose depositions have been transmitted to the Registrar.

(4) The omission of such statement , or any mistake in it, shall not constitute a ground for an objection to the proceedings, but the Court may, and shall, on the application of either the prosecutor or the accused, at any time, order a statement of these particulars to be entered or amend the statement where it is erroneous or defective.

(5) Any erroneous or defective entry in the Crown Book may at any time be amended by the judge in accordance with the facts by which such error or defect is sought to be corrected, but nothing contained in this section shall dispense with the taking of notes by the judge presiding at the trial.

(6) The entries in the Crown Book, or a certified copy of the entries, or of so much of the entries as may be material may be referred to in any proceeding in a criminal case on appeal.

(7) Any certificate of any indictment, trial, conviction, or acquittal, or of the substance of such certificate, shall be made up from the memorandum in the Crown Book, and shall be admissible in evidence for the same purpose and to the same extent as certificates of records, or the substantial parts of such certificates of records, are by law admissible.

849. ORDINARY SITTINGS

The ordinary criminal sittings of the Court shall be held at such times as may be prescribed by rules made under the authority of the High Court.

850. SPECIAL SITTING

The Chief Justice may, at any time, direct any special sitting of the Court to be held.

851. PROCEEDINGS ON SUNDAY AND OTHER HOLIDAY

The taking of the verdict of the jury, or other proceedings of the Court shall not be invalid by reason of its happening on Sunday or any other holiday.

852. PROCEDURE IN INDICTABLE CASES GENERALLY

The provisions of this Code or any other enactment, regulating any criminal proceedings in cases or matters not indictable, shall apply if necessary, to all proceedings in indictable cases, where there is no ex press provision in this Code or any other enactment applicable to such indictable proceeding, except where it appears from the context that such provision is not applicable to indictable cases.

853. SERVICE OF DOCUMENTS

(1) Unless some other period or mode of service is expressly provided, the notice of trial and any other notice or document required to be served on an accused shall be served by delivering it to the accused at least 3 days before the day specified in it for his or her trial, or by leaving a copy of the notice or document with the person of his or her household at his or her dwelling house, or if no person of his or her household can be found, by affixing the copy to the main outer door or other conspicuous part of his or her dwelling house.

(2) Where the accused is not in custody, the copy of the notice or document, may also be served on him or her by leaving it at the place specified in the recognizance as the place at which service

of the indictment or other document may be made or by leaving it at his or her place of employment or business.

(3) Where service cannot reasonably be effected by any of the modes specified in subsection (1) or (2) , it may be made at the Registry of the High Court by leaving the copy of the notice or documents for the accused.

(4) The officer effecting the service of the copy of the notice or document shall forthwith deliver or transmit to the official from whom he or she received such notice for service a return of the mode by which the service was made and such return is *prima facie* evidence that the service of the notice was made in manner and form stated in the return.

(5) The accused may waive any period allowed under this section for the service of any notice or document on the accused and the Court may, if it considers it proper, adjourn the trial to enable the period to run to completion or the notice to be given.

854. SHERIFF TO AID REGISTRAR AS TO SERVICE

The sheriff shall assist the Registrar with respect to the service of any copy of an indictment, or of any document, required under this section to be served on the accused.

Procedure at Indictable Hearings

855. NOTICE OF OBJECTION OR SPECIAL PLEA AND GROUNDS

(1) When the accused intends to apply to have the indictment quashed or to object, under the provisions of sections 859 to 863, or to plead any of the pleas mentioned in section 865, except guilty or not guilty, he or she shall give 4 days' notice to the Director of Public Prosecutions and in the case of a private prosecution to the private prosecutor, stating the grounds upon which he or she seeks to have the indictment quashed or upon which he or she bases his or her objection or plea.

(2) Subject to such conditions as it may think fit to impose, the Court may on good cause shown allow the notice to be given on arraignment or adjourn the trial to enable the notice to be given.

856. OBJECTION AND PLEA

When the accused pleads and objects, it is in the discretion of the Court whether it disposes of the plea or objection first.

Objections

857. DEMURRER NOT ALLOWED

No objection to an indictment shall be taken by way of demurrer.

858. AMENDMENT OF NAME OF ACCUSED

Where the accused claims he or she is wrongly named in an indictment the Court may, on being satisfied by affidavit or otherwise of the error, order the indictment to be amended.

859. APPLICATION TO QUASH COUNT NOT FOUNDED ON DEPOSITIONS BEFORE MAGISTRATE

(1) An accused person may, at any time before he or she is given in charge to the jury, apply to the Court to quash any count in the indictment on the ground that it is not founded on the facts and evidence disclosed in the written statements of the prosecution or the depositions taken before the magistrate.

(2) The Court shall quash the count, if the Court is satisfied that the count is not founded on such facts and evidence.

(3) If, at any time during the trial, it appears to the Court that any count is not so founded, and that injustice has been or is likely to be done to the accused in consequence of the count, the Court may quash the count and discharge the jury from finding any verdict based upon it, if the Court is satisfied that is in the interest of justice.

860. OBJECTION FOR FORMAL DEFECT

(1) Every objection to any indictment for any formal defect apparent on the face of it shall be taken before the jury is sworn and not after the jury has been sworn.

(2) The Court, before which any objection is taken for any formal defect may, if it considers it necessary, cause the indictment to be forthwith amended in such particular and thereupon the trial shall proceed as if no such defect had occurred.

861. OBJECTION THAT INDICTMENT IS LIKELY TO PREJUDICE OR EMBARRASS

(1) The accused may before pleading to an indictment apply by oral motion to the Court to quash the indictment on the ground that it is calculated to prejudice or embarrass him or her in his or her defence to the charge.

(2) Upon hearing the motion the Court may quash the indictment or may order that it be amended in such manner as the Court thinks just or may refuse the motion.

862. OBJECTION OF SUBSTANCE OR TO JURISDICTION

(1) If an indictment does not state in substance an indictable offence, or states an offence not triable by the Court, the accused person may move the Court to quash it or in arrest of judgment in accordance with the provisions of this section.

(2) If such motion is made before the accused pleads, the Court shall either quash the indictment or amend it, if it thinks that it ought to be amended.

(3) If the defect in the indictment is noticed by the Court during the trial, and the Court does not think it fit to amend it, the Court may, in its discretion, quash the indictment or leave the objection to be taken in arrest of judgment.

(4) Upon an objection to the jurisdiction of the Court, the Court shall proceed to satisfy itself in such manner and upon such evidence as it thinks fit, whether it has jurisdiction or not.

863. OBJECTION WITHOUT PLEA

(1) When the accused objects only and does not plead any plea, the Court shall proceed to hear and determine the matter forthwith.

(2) If the objection is overruled, he or she shall be called upon to plead to the indictment.

864. SPECIAL DEFENCE

(1) Where the accused intends to plead a special defence, he or she shall give written notice of such defence to the Director of Public Prosecutions or the private prosecutor, with any information which might be of material assistance to the prosecution including any information in the possession of the defence, relating to witnesses the defence intends to call in support of the special defence.

(2) Where the accused intends to plead an alibi, he or she shall give written notice of such alibi to the Director of Public Prosecutions or the private prosecutor, with particulars as to time and place and of the witnesses by whom it is proposed to prove it, and the prosecutor on being given the notice, if he or she so desires, shall be entitled to an adjournment of the case, if the Court is of opinion that he or she has not had sufficient length of notice.

865. SPECIAL PLEAS

(1) The following special pleas, and no others, may be pleaded in accordance with the relevant provisions of this Sub-Part, that is to say—

(a) a plea of *autrefois acquit*;

(b) a plea of *autrefois convict*;

(c) a plea of pardon, and such plea under section 327 with respect to defamatory libel.

(2) All other grounds of defence may be relied on under the plea of not guilty.

Plea of Autrefois Acquit or Autrefois Convict or Pardon

866. AUTREFOIS ACQUIT OR CONVICT AND PARDON PLEADED TOGETHER

(1) The pleas of *autrefois* acquit, *autrefois* convict or pardon, may be pleaded together, and shall, if pleaded, be disposed of before the accused person is called on to plead further.

(2) In respect of the pleas of *autrefois* acquit or *autrefois* convict, it is sufficient for the accused to state that he or she has been lawfully acquitted or convicted, as the case may be, of the offence charged in the count or counts to which such plea is pleaded.

(3) Where every such plea is disposed of against the accused, he or she shall be allowed to plead not guilty.

867. DISCHARGE OF ACCUSED ON PLEA OF *AUTREFOIS* CONVICT

(1) On the trial of an issue on a plea of *autrefois* convict to any count or counts, if it appears that the matter on which the accused person was given in charge on the former trial is the same in whole or in part as that on which it is proposed to give him or her in charge, and that he or she might on the former trial, if all proper amendments had been made which might then have been made, have been convicted of all the offences of which he or she may be convicted on the count or counts to which such plea is pleaded, the Court shall give judgment that he or she be discharged from the count or counts.

(2) If it appears that the accused might, on the former trial, have been convicted of any offence of which he or she may be convicted on the count or counts to which such plea is pleaded, but that he or she may be convicted on the count or counts of some offence or offences of which he or she could not have been convicted on the former trial, the Court shall direct that he or she shall not be convicted on the count or counts of any offence of which he or she might have been convicted on the former trial, but that he or she shall plead over as to the other offence or offences charged.

868. PREVIOUS ACQUITTAL OR CONVICTION, A BAR TO CHARGE WITH ADDITIONS TENDING TO INCREASE PUNISHMENT

Where an indictment charges substantially the same offence as that charged in the indictment on which the accused person was given in charge on a previous trial, but adds a statement of intention or circumstances of aggravation tending, if proved, to increase the punishment, the previous acquittal or conviction shall be a bar to the subsequent indictment.

869. ACQUITTAL OR CONVICTION FOR MURDER A BAR TO SECOND CHARGE OF MANSLAUGHTER AND VICE VERSA

(1) A previous acquittal or conviction on an indictment for murder is a bar to a second indictment for the same offence being charged as manslaughter.

(2) A previous acquittal or conviction on an indictment for manslaughter is a bar to a second indictment for the same offence being charged as murder.

(3) If it appears, at the trial of an issue on a plea of *autrefois* acquit or *autrefois* convict to an indictment for murder or manslaughter, that the first trial was for an offence committed against the person now alleged to have been killed, and the death of the person is now alleged to have been caused by the offence previously charged, but that the death happened after the trial at which the accused was acquitted or convicted, as the case may be, then, if it appears on the first trial not the accused, if convicted, might have been sentenced to imprisonment with hard labour for 3 years or more, the Court shall direct that the accused be discharged from the indictment before it, or direct that the accused pleads over.

870. USE OF DEPOSITION AND JUDGE'S NOTES TO TRY PLEA OF *AUTREFOIS* ACQUIT OR CONVICT

On trial of an issue on a plea of *autrefois* acquit or *autrefois* convict, the written statements and depositions transmitted to the Court on the previous trial, together with the Judge's notes, if available, and the written statements and depositions transmitted to the Court on the subsequent charge, are admissible in evidence to prove or disprove the identity of the charges.

871. PROCEEDING ON PLEAS OTHER THAN PLEA OF GUILTY

Unless it is otherwise expressly provided in this Code, if the accused pleads any plea, other than the plea of guilty, he or she is, by such plea without any further form, deemed to have demanded that the issues raised by such plea shall be tried by a jury and is entitled to have them tried accordingly.

872. TRIAL OF FRESH ISSUES ON PLEAS OTHER THAN PLEA OF NOT GUILTY

(1) When the issues raised by any plea except the plea of not guilty, have been found against an accused person, who has not pleaded the plea of not guilty, he or she shall be called upon to plead afresh, and, if those issues have been tried by a jury, the judge may direct the issues raised by any fresh plea to be tried by the same jury or another jury.

(2) If the judge directs that those issues be tried by the same jury, it is not necessary that the jury should be sworn afresh, but the oath already taken by them is to be deemed to extend to the trial of any fresh issues.

873. TRIAL TO BE ON INDICTMENT

Every person who is committed for trial by magistrate on a charge of having committed an indictable offence, or against whom an indictment is preferred, shall be tried on indictment in the Court.

874. TRIAL TO BE BY JUDGE AND JURY

Every cause before the Court shall be tried and decided by the judge and a jury as constituted in accordance with the provisions of this Code.

875. SAME PROCEDURE FOR ALL OFFENCES EXCEPT TREASON

The proceedings in respect of all indictable offences with the exception of treason shall be conducted in the same manner.

876. NON-APPEARANCE OF ACCUSED

When any person against whom an indictment has been duly preferred is at large, and does not appear to plead to the indictment, whether he or she is under recognizance to appear or not—

(a) the Court may issue a warrant for his or her arrest;

(b) the Registrar shall, at any time after the end of the sitting of the Court at which the accused person ought to have appeared and pleaded, grant to the prosecutor, upon

application made on his or her behalf and upon payment of $5, a certificate of such indictment having been preferred;

(c) upon production of the certificate to any magistrate or justice of the peace, the magistrate or justice shall issue a warrant to arrest the accused, and to cause him or her to be brought before the magistrate or justice, to be dealt with according to law;

(d) if it is proved upon oath before a magistrate that any person arrested and brought before him or her on such warrant is the person charged and named in the indictment, the magistrate shall, without further inquiry or examination, either commit to correctional facility by a warrant or release him or her on bail, and if it appears that the accused had, without reasonable excuse, broken his or her recognizance to appear, he or she shall not be entitled to bail as of right;

(e) if it is proved upon oath before the magistrate or justice of the peace that the accused person is, at the time of the application and production of the certificate, confined in a correctional facility for any other offence than that charged in the indictment, the magistrate or justice of the peace shall issue a warrant directed to the correctional officer, commanding him or her to detain the person in custody until he or she is, by lawful authority, removed from custody.

877. FORFEITURE OF RECOGNIZANCE OF ACCUSED AND SURETIES

Where an accused person against whom an indictment has been duly preferred does not appear to plead to the indictment, and he or she has given security for his or her appearance, the accused and his or her sureties shall be dealt with in accordance to section 604.

878. POWER TO ADJOURN AND DIRECTIONS TO JURY

(1) When the accused person is given in charge to the jury, the trial thereafter shall proceed continuously subject to the power of the Court to adjourn it.

(2) A trial may be adjourned at any time of the trial, whether a jury has or has not been sworn and whether evidence has or has not been given.

(3) Upon every adjournment the Court may, if it thinks fit, direct that during the adjournment the jury should be kept together and proper provision made for preventing the jury from communicating with any other person on the subject of the trial.

(4) If the Court gives no such direction, the jury shall be permitted to separate.

(5) When a trial is adjourned after the jury have been sworn, the Court may discharge the jury.

879. FORMAL ADJOURNMENT NOT NECESSARY

No formal adjournment of the Court shall be required, and no entry thereof in the Crown Book shall be necessary.

880. BAIL OF ACCUSED OR WITNESSES ON ADJOURNMENT

When a trial is postponed or adjourned, the Court may admit the accused to bail or enlarge his or her bail if he or she has already been admitted to bail in accordance with section 601 and may enlarge the recognizances of the witnesses.

881. DEFECTS, OMISSIONS, VARIANCES

(1) If, on trial of any indictment, there appears to be a variance between the proof and the charge in any count in the indictment, either as preferred, or as amended , or as it would have been if amended in conformity with any such particulars, the Court may amend the indictment, or any count in it, or any particulars so as to make it conformable with the proof.

(2) If the Court is of opinion that the accused person has not been misled or prejudiced in his or her defence by such variance, it shall make such amendment.

(3) If it appears that there is in the indictment, or in any count in it, an omission to state or a defective statement of anything requisite to constitute the offence, but that the matter omitted is

provided by the evidence, the Court shall, if it is of the opinion that the accused has not been misled or prejudiced in his or her defence by such omission, amend the count by inserting in it the matter omitted.

(4) The trial in either of these cases may then proceed in all respects as if the indictment or count had been originally framed as amended.

(5) If the Court is of the opinion that the accused has been misled or prejudiced in his or her defence by any variance, or omission, or defective statement, but that the effect of such misleading or prejudice might be removed by adjourning or postponing the trial, the Court may, in its discretion, make the amendment and adjourn the trial to a future day in the same sittings, or discharge the jury and postpone the trial to the next sittings of the Court, on such terms as it thinks just.

(6) In determining whether the accused has been misled or prejudiced in his or her defence, the Court shall consider the contents of the written statements, or depositions tendered by the prosecution, as well as such other circumstances of the case.

882. INSERTION, OR CHANGE OF COUNT TO MEET PLEA

(1) The Court may allow any count to be inserted in the indictment, or to be altered, or added to, to meet any plea which the accused is willing to plead and which the prosecution is willing to accept.

(2) The Court may alter or add to any count at any time before judgment is pronounced.

(3) Every such insertion, alteration or addition, shall be read and explained to the accused.

883. TERMS AND CONDITIONS OF AMENDMENTS

Whenever the Court allows an amendment, it shall do so only on such terms and conditions, if any, as to costs or otherwise as may be considered just and proper.

884. CORRECTION OF ERRORS

It shall be competent to correct any error in the minutes or procedure or in the extract of any sentence or order or judgment at any time, and any such correction shall be sufficiently authenticated by the initials of a proper officer of the Court.

885. ORDER TO BRING UP INMATE IN CUSTODY FOR THE OTHER CAUSE

If the person against whom an indictment is preferred is at the time confined for some other cause in the correctional facility, the Court may, by order in writing, without a writ of *habeas corpus*, direct the correctional officer to bring up to the body of the person, as often as may be required, for the purpose of the trial, and the correctional officer shall obey such order.

886. RIGHT OF ACCUSED TO HAVE INDICTMENT READ

Every accused person shall, upon being called upon to plead, be entitled to have the indictment on which he or she is to be tried read over to him or her, if he or she so requires.

887. ACCUSED TO APPEAR AND PLEAD

(1) At the time appointed for the trial or sentencing of the accused upon any indictment he or she shall appear or be placed at the bar.

(2) The accused shall be informed in open Court of the offence with which he or she is charged as set forth in the indictment, and he or she shall be required to plead instantly to the indictment, unless where the accused, having been committed for trial objects, and the Court finds that he or she has not been duly served with a copy of the indictment.

(3) A trial is deemed to begin when the accused is called upon to plead to the indictment.

888. ACCUSED COMMITTED FOR SENTENCE TO PLEAD

A person who has been committed for sentence shall be called upon to plead to the indictment.

889. NO PLEADING TO PREVIOUS CONVICTION COUNT. EXCEPTION

Unless otherwise expressly provided, where an indictment contains a count charging the accused person with having been previously convicted, he or she shall not, at the time of his or her arraignment, be required to plead to it unless he or she pleads guilty to the rest of the indictment, nor shall such count be mentioned to the jury when the accused is given in charge to them, nor shall he or she be tried upon the count if he or she is acquitted on the other counts.

890. NO PLEA IN ABATEMENT

No plea in abatement shall be allowed.

891. COMPETENT PLEAS

(1) When the accused person is called upon to plead, he or she may plead either guilty or not guilty, or he or she may object or plead such special pleas as are provided in this Sub-Part.

(2) If the accused wilfully refuses to plead or will not answer directly, the Court may, if it thinks fit, order the Registrar to enter a plea of not guilty.

892. JURY TO FIND IF ACCUSED CAPABLE TO PLEAD AND TAKE HIS OR HER TRIAL

(1) If, when the accused is called upon to plead to the indictment, it appears to be uncertain for any reason whether he or she is capable of understanding the proceedings at the trial so as to be able to make a proper defence, a jury chosen from the panel of jurors shall be empanelled forthwith and shall be sworn to find whether or not he or she is so capable.

(2) Where the jury finds that the accused person is so capable of understanding the proceedings, the trial shall proceed as in other cases.

(3) Where the jury finds that he or she is not capable of understanding the proceedings, the finding shall be recorded and the Court may order the accused to be discharged or may order him or her to be kept in custody in such place and in such manner as the Court thinks fit until he or she can be dealt with according to law.

(4) A person so found to be incapable of understanding the proceedings at the trial, may subsequently be indicted and tried for the offence if he or she is then found capable of understanding the proceedings.

893. GIVING ACCUSED IN CHARGE TO JURY

Where the jury has been sworn to give a true verdict according to the evidence upon the issues to be tried by them, and have elected a foreman, the proper officer of the Court shall inform them of the charge set forth in the indictment and of their duty as jurors at the trial.

894. DEPOSITION SIGNED BY MAGISTRATE TO BE EVIDENCE

(1) A deposition taken at committal proceedings may be produced and given in evidence at the trial of the person against whom or for whom it was taken, if it is proved to the satisfaction of the judge—

(a) that the deponent is dead, or so ill as not to be able to travel, although there may be a prospect of his or her recovery; or

(b) that the deponent is kept out of the way by the prosecutor or the accused person; or

(c) that the deponent is absent from the State or cannot be found after diligent search, or cannot be compelled to attend the Court, and if the Court is satisfied that such absence is caused by, or is due to any improper motive on the part of the deponent, and, if such motive exists, that there is any collusion between the deponent and the party tendering the deposition in respect of such motive, this provision shall not apply;

(d) that the deponent is mentally ill so as to be incapable of testifying;

(e) if the deposition purports to be signed by the magistrate by or before whom it purports to have been taken; or

(f) if it is proved to by the person who offers it as evidence that it was taken in the presence of the accused person or the prosecutor, as the case may be, or, in cases where the deposition was taken after committal, that notice of the examination was given as provided in this Code, to the party against whom the deposition is proposed to be given in evidence.

(2) If the deposition purports to have been taken and signed, it is presumed, in the absence of evidence to the contrary, to have been duly taken, read and signed.

(3) If it is made to appear to the Judge that the witness who made the deposition may, within a reasonable time, be capable of attending to give evidence and that the ends of justice require that the witness should be examined personally before the jury, the Court may postpone the trial on such terms as may seem proper.

895. EVIDENCE AT FORMER TRIAL SIMILARLY ADMISSIBLE

The evidence of a witness given at a previous trial under like circumstances as mentioned in section 894 shall be admissible on any subsequent trial of the same charges.

896. EVIDENCE OF POSSESSION OF STOLEN PROPERTY AND OF PREVIOUS CONVICTIONS

(1) At the trial of a person charged with handling stolen goods, evidence may be given at any stage of the proceedings that there was found in his or her possession other property stolen within the immediately preceding period of 12 months, and such evidence may be taken into consideration for the purpose of proving that he or she knew the property to be stolen which is the subject of the proceedings taken against him or her.

(2) At the trial of a person charged with handling stolen goods, where evidence has been given that the stolen property was

found in his or her possession, then if, within immediately preceding period of 5 years he or she has been convicted of any offence involving fraud or dishonesty, evidence of his or her previous conviction may be given at any stage of the proceedings after he or she has been given not less than 3 days written notice by the prosecutor to give evidence of his or her previous convictions.

(3) Evidence of the previous convictions of an accused person may be taken into consideration for the purpose of proving that the accused person knew the property was stolen.

(4) For the purposes of this section it is not necessary to set out in the indictment the previous convictions.

897. JURY TO DETERMINE ISSUES AS TO PREVIOUS CONVICTION

(1) Where an indictment contains a count charging the accused person with having been previously convicted, if he or she is convicted on any other part of the indictment, he or she shall be asked whether or not he or she has been previously convicted as alleged, and if he or she says that he or she has not or does not say that he or she has been so convicted, the jury shall be charged to inquire into the matter.

(2) If, upon the trial of the person for any subsequent offence evidence is given on the part of the accused of his or her good character, the prosecutor may, in rebuttal, prove such previous conviction, and the jury shall be charged to inquire into the matter together with the offence to be tried.

898. PREVIOUS CONVICTION, HOW PROVED

(1) Where the person indicted for an offence has previously been convicted of any offence, it is lawful for the prosecutor, if the accused has denied such conviction, to give notice that in the event of his or her pleading guilty or being found guilty of the offence for which he or she is indicted, proof will be given of any previous conviction.

(2) When notice has been duly served on the accused that evidence of any previous conviction would be offered against him or her, in accordance with subsection (1), it is lawful, where the person

pleads guilty or is convicted, for the prosecutor before sentence is pronounced, to offer to prove such previous conviction or convictions, and the Court shall then ask the accused whether he or she confesses to the fact that he or she is the person who has been previously convicted and whether he or she was previously convicted as alleged.

(3) If the accused does not confess any such matter, then, in the event of his or her pleading guilty, the Court shall empanel a jury, and in case of the accused person not pleading guilty, shall direct the jury which convicted him or her to try the truth of any matter, to which the accused does not confess, or admit.

(4) If on trial by the jury, the previous convictions of the accused or any of them to which he or she does not confess or admit is proved, or if he or she confesses or admits such previous convictions or any of them, then the Court shall take into account such of the previous convictions as has been proved or confessed or admitted, in passing sentence for the offence to which the accused has pleaded guilty or of which he or she has been found guilty.

899. JUDGE TO TAKE NOTES OF EVIDENCE

The judge presiding at the trial shall take or cause to be taken notes of the evidence, unless the proceedings are recorded by mechanical or electronic means.

900. ORDER TO BRING UP INMATE WITNESS

The provisions of section 783 apply, with the necessary modification, for securing the attendance of the person confined in any correctional facility in this State, who is required to give evidence for the purpose of the trial.

901. SUMMONS TO WITNESS

The Registrar shall issue summonses for witnesses to attend at a trial of offences in the High Court.

902. SERVICE OF SUMMONS TO WITNESS

The provisions of sections 786, 787 and 788 apply, with the necessary modifications, to the service and proof of service of summons on a witness to attend at a trial of offences in the High Court.

903. COURT TO ORDER PROSECUTION TO CALL WITNESS

(1) If the Judge is of the opinion that any witness who is not called for the prosecution ought to be called, he or she may require the prosecutor to call such witness, and if the witness does not attend, the Judge may make an order that his or her attendance be procured, and the Court may, if it thinks fit, adjourn the further hearing of the case to some other time during the sittings.

(2) If, in such a case, the Judge is of the opinion that it would be conducive to the ends of justice so to do, it may, upon the application of the accused, discharge the jury and postpone the trial.

904. COURT TO DISPENSE WITH PRODUCTION OF MEDICAL OR OTHER WITNESS

(1) Without prejudice to any other provision, the judge may dispense with the production of a Government medical officer or other person as a witness at a criminal trial in the High Court, if in the opinion of the judge that the evidence of such witness is merely formal, or is not really material to the guilt or innocence of the accused, or that the trial, without injustice to the accused, can proceed without such witness being called.

(2) In such a case the judge may allow the deposition of such witness taken at the preliminary inquiry to be read at the trial.

905. WITNESS FOR PROSECUTION NOT PREVIOUSLY EXAMINED

If the judge is of the opinion that the accused person is taken by surprise, in a manner likely to be prejudicial to his or her defence, by the production on behalf of the prosecution of a witness who did not give any deposition, or of whom the prosecutor has not given sufficient notice to the accused of his or her intention to produce, the Court may, on the application of the accused, adjourn the further

hearing of the case, or discharge the jury from giving a verdict, and postpone the trial.

906. WITNESSES TO BE OUTSIDE COURTROOM

The judge may, at any time during the trial, order every person who is to be called as a witness, other than the accused himself or herself, to leave the Courtroom and remain outside in the precincts of the Court until he or she is called.

907. REFRACTORY WITNESS

(1) When—

(a) it is proved to the satisfaction of the judge that the summons was served on any witness who has failed to attend or remain in attendance;

(b) any witness who at the preliminary inquiry has entered into a recognizance to appear at the trial has failed to appear, and that the presence of such witness is material in the interest of justice, the judge may, by warrant, cause such witness to be arrested and forthwith brought before him or her to give evidence and to answer for his or her disregard of the summons.

(2) The judge may detain such witness before the Court or in the correctional facility or lock-up, in order to secure his or her presence as a witness, or may release him or her on a recognizance with or without sureties as a condition for his or her appearance to give evidence and to answer for his or her default in not attending or not remaining in attendance at the trial.

(3) The Court may, in a summary manner, inquire into and dispose of the charge against the witness, who, if convicted of the charge, is liable to a fine not exceeding $500, or to imprisonment for a term not exceeding 3 months or to both, and the recognizance of such witness and his or her sureties, if any, entered into at the preliminary inquiry shall be forfeited.

Disclosure by Prosecutor and Accused

908. DISCLOSURE BY THE PROSECUTOR

(1) Subject to any guidelines as may from time to time be issued by the Director of Public Prosecutions, at the trial of any indictable offence the prosecutor shall—

(a) disclose to the accused any prosecution material which has not previously been disclosed to the accused and which, in the opinion of the prosecutor, might undermine the case for the prosecutor against the accused; or

(b) give to the accused a written statement that there is no material of a description mentioned in paragraph (a).

(2) For the purposes of this section prosecution material is material—

(a) which is in the prosecutor's possession and which came into his or her possession in connection with the case for the prosecution against the accused;

(b) which he or she has inspected in connection with the case for the prosecution against the accused.

(3) Where the material consists of information which has been recorded in any form, the prosecutor discloses it for the purposes of this section—

(a) by ensuring that a copy is made of it and that the copy is given to the accused; or

(b) if in the prosecutor's opinion it is not practicable or not desirable to make a copy by allowing the accused to inspect it at a reasonable time and place, or by taking steps to ensure that he or she is allowed to do so,

and a copy may be in such form as the prosecutor thinks fit and need not be in the same form as that in which the information has already been recorded.

(4) Where the material consists of information which has not been recorded, the prosecutor discloses it for the purposes of this section by ensuring that it is recorded in such form as he or she thinks fit and—

(a) by ensuring that a copy is made of it and that the copy is given to the accused; or

(b) if in the prosecutor's opinion it is not practicable or not desirable, by allowing the accused to inspect it at a reasonable time and place or by taking steps to ensure that he or she is allowed to do so.

(5) Where the material does not consist of information, the prosecutor discloses it for the purpose of this section by allowing the accused to inspect it at a reasonable time and place or by taking steps to ensure that he or she is allowed to do so.

(6) Material shall not be disclosed under this section to the extent that the Court, on an application by the prosecutor, concludes that it is not in the public interest to disclose it and orders accordingly.

(7) For the purposes of this section, if the prosecution intends to adduce evidence of an expert witness, it shall disclose any material relating to the evidence of the expert witness, which may include but not be limited to—

(a) a coroner's report or post mortem report;

(b) any certificate of analysis;

(c) any ballistic or armourers' report;

(d) any medical or psychiatric report.

(8) The prosecutor shall make a disclosure as soon as is reasonably practicable after the accused is committed for trial or as soon as is practicable after the accused gives a defence statement or, where the Court makes an order under section 910, within such time as the Court may specify in that order.

909. VOLUNTARY DISCLOSURE BY ACCUSED

(1) Subject to any guidelines as the Director of Public Prosecutions may from time to time issue, at the trial of an accused for an offence, the accused shall, where the prosecutor has complied with section 908 give a defence statement to the prosecutor; and to the Court.

(2) For the purposes of this section a defence statement is a written statement—

(a) setting out in general terms the nature of the accused's defence;

(b) indicating the matters on which he or she takes issue with the prosecution; and

(c) setting out in the case of each such matter, the reason why he or she takes issue with the prosecution.

(3) If the defence statement discloses a special defence, the accused must give particulars of the defence in the statement, including—

(a) the name and address of any witness the accused believes is able to give evidence in support of the special defence if the name and address are known to the accused when the statement is given;

(b) any information in the accused's possession which might be of material assistance in finding any such witness, if his or her name and address are not given.

(4) The defence shall make a defence statement as soon as is practicable after the prosecution complies or purports to comply with section 908 or section 913 as the case maybe.

910. APPLICATION BY ACCUSED FOR DISCLOSURE

(1) If the accused has at any time reasonable cause to believe that—

(a) there is prosecution material which might be reasonably expected to assist the accused's defence as disclosed by the defence statement given under section 909; and

(b) the material has not been disclosed to the accused,

the accused may apply to the Court for an order requiring the prosecutor to disclose such material to the accused in accordance with section 913.

(2) For the purpose of this section prosecution material has the same meaning as in section 913.

911. CONTINUING DUTY OF PROSECUTOR TO DISCLOSE

Subject to section 913(8), the duty of the prosecutor to disclose arises from the commencement of the trial to its conclusion.

912. FAULTS OF DISCLOSURE BY ACCUSED

(1) Where the defence—

(a) fails to give a defence under section 908;

(b) gives a defence after undue delay following the disclosure by the prosecution;

(c) sets out inconsistent defences in a defence statement given under section 909;

(d) at his or her trial puts forward a defence which is different from any defence set out in a defence statement given under section 909;

(e) at his or her trial, adduces evidence in support of a special defence without having given particulars of the defence in a statement given under section 909;

(f) at his or her trial, calls a witness in support of a special defence without having complied with section 909(3),

the Court or, with the leave of the Court, any other party, may make such comment as appears appropriate or the Court or jury may draw such inferences as appear proper in deciding whether the accused committed the offence concerned.

(2) A person shall not be convicted of an offence solely on an inference drawn under subsection (1).

913. OPENING CASE AND EVIDENCE FOR PROSECUTION

After an accused person has been given in charge to the jury, the counsel for the prosecution, may open the case against the accused, and adduce evidence in support of the charge.

Hearing and Verdict

914. POWERS OF COURT AT CLOSE OF PROSECUTION

(1) If, at the close of the case for the prosecution, the Court considers that there is no evidence that the accused committed the offence charged in the indictment, or any other offence of which he or she might be convicted on the indictment, the Court may direct the jury to return a verdict of not guilty.

(2) If the Court considers that there is evidence that the accused committed the offence charged or any other offence of which he or she might be convicted on the indictment, the Court shall call on the accused to enter on his or her defence.

915. DEFENCE COUNSEL TO DECLARE INTENTIONS

If an accused person, or any one of several accused persons being tried together, is defended by counsel, such counsel shall, at the end of the case for the prosecution, declare whether he or she intends to adduce evidence or not on behalf of the accused person for whom he or she appears.

Reply for the Prosecution

916. DEFENCE BY COUNSEL AND CAUTION TO UNDEFENDED ACCUSED

(1) Any person charged with an indictable offence may make his or her full defence by counsel.

(2) Where an accused person is not defended by counsel, then, on the completion of the examination of the witnesses on the part of the prosecution, the judge shall inform him or her, or cause him or her to be informed, of his or her right to address the jury and to give evidence on his or her own behalf or to remain silent, and also of his or her right to call witnesses in his or her defence.

917. OPENING OF CASE AND EXAMINING WITNESSES FOR DEFENCE

At every trial for an indictable offence, the accused or his or her counsel shall be entitled to open his or her case, and after the conclusion of such opening, the accused or his or her counsel shall be entitled to examine such witnesses as he or she thinks fit, and when all the evidence is concluded, to sum up the evidence by way of an address to the jury.

918. REPLY FOR PROSECUTION

(1) If evidence is adduced on behalf of an accused person, the counsel for the prosecution is entitled to reply.

(2) Except as otherwise provided in subsection (3), if evidence is adduced for one or more of several accused persons, but not for all of them, the counsel for the prosecution other than the Director of Public Prosecutions or counsel acting on his or her behalf is entitled to reply with respect only to the person or persons by whom or in respect of whom such evidence is adduced.

(3) The Director of Public Prosecutions, or any counsel acting on his or her behalf, is entitled to reply in all cases whether or not evidence is adduced on behalf of any accused person.

919. JUDGE'S DUTIES AND POWERS

It is the duty of the judge—

(a) to decide all questions of law arising in the course of the trial and especially all questions as to the relevancy of facts which it is proposed to prove and the admissibility of evidence or the propriety of questions asked by or on behalf of the parties, and in his or her discretion to prevent the production of inadmissible evidence whether or not it is objected to by the parties;

(b) to decide upon the meaning and construction of all documents given in evidence at the trial;

(c) to decide upon all matters of fact which it may be necessary to prove in order to enable evidence of particulars to be given;

(d) to decide whether any question which arises is for determination by him or her or for the jury and upon this point his or her decision shall bind the jurors.

920. SUMMING UP BY JUDGE

(1) When both sides have closed their case and completed their addresses, if any, the Judge shall sum up the law and if necessary, the evidence in the trial.

(2) The judge may if he or she thinks fit in the course of his or her summing up, express to the jury his or her opinion on a question of fact or on any question of mixed law and fact relevant to the proceedings.

921. JURY'S DUTIES AND POWERS

It is the duty of the jury—

(a) to decide which view of the facts is true and then to return the verdict which, consistent with such view, ought according to the direction of the judge to be returned;

(b) to determine the meaning of all technical terms, other than terms of law, and words used in an unusual sense which it may be necessary to determine, whether such words occur in documents or not;

(c) to determine all questions which, according to law, are to be deemed questions of fact;

(d) to decide whether general indefinite expressions do or do not apply to particular cases unless such expressions refer to legal procedure, or unless their meaning is ascertained by law, in either of which cases it is the duty of the judge to decide their meaning.

922. CONSIDERATION OF VERDICT

After the summing up, the jury shall consider their verdict.

923. VERDICTS

(1) With respect to the deliberation and verdict of the jury, the following provisions shall have effect—

(a) in the case of the trial of any capital offence the verdict shall be unanimous;

(b) where during the trial of any capital offence any member of the jury dies or is discharged by the Court in accordance with the provisions of this Code, the jury shall, provided,, their number is not less than 10, be treated as properly constituted, for all purposes of the trial and their verdict shall be deemed to be the unanimous verdict of the jury;

(c) in the case of the trial of any offence other than a capital offence—

(i) during the first hour after the conclusion of the judge's summing up the verdict shall be unanimous,

(ii) after the first hour or during the second hour after the judge's summing up, the verdict may be a majority verdict with a minority of one,

(iii) after the second hour or during the third hour the verdict may be a majority verdict with a minority of 2,

(iv) where, owing to the discharge of any member of the jury, the number of the jurors is reduced to not less than 6 the provisions of this subparagraph shall, with the necessary modification apply, provided that the verdict is returned by at least 6 jurors.

(2) If the jury do not agree and are not likely to agree after the expiration of the third hour from the conclusion of the summing-up, they may be discharged by the Court.

(3) In any case the maximum length of time in which a jury shall consider the verdict is 6 hours.

924. PRECAUTIONS AGAINST UNDUE COMMUNICATION WITH JURY DURING RETIREMENT

(1) If the jury retire to consider their verdict, no person, other than an officer of the Court who has charge of them, shall be

permitted to speak or to communicate in any way with any of the jury, without the leave of the Court.

(2) Any contravention of subsection (1), shall not affect the validity of the proceedings.

(3) Despite subsection (1), if any contravention of that subsection is discovered before the verdict of the jury is returned, the Court may, if it is of the opinion that such contravention has produced substantial mischief, discharge the jury, and direct a new jury to be sworn or empanelled during the sittings, to try the case or may postpone the trial on such terms as justice may require.

SUB-PART B
The Jury

925. QUALIFICATION

A person is qualified to serve as a juror if he or she is—

(a) a citizen of Saint Lucia; or

(b) a citizen of a CARICOM member State ordinarily resident in Saint Lucia for 2 years;

(c) a Commonwealth citizen ordinarily resident in Saint Lucia for not less than 2 years.

926. DISQUALIFICATION

(1) A person who—

(a) cannot speak, read and write English;

(b) has been convicted of any infamous offence, unless he or she has received a full pardon,

is not qualified to serve as a juror.

(2) In this section, the expression "**infamous offence**" means any indictable offence, and includes an attempt to commit, or aiding and abetting the commission of or conspiracy to commit, any such offence.

927. EXEMPTION FROM SERVICE

(1) The following persons are exempted from serving on juries, and their names shall not be inserted in the jury lists:

(a) members of Parliament;

(b) officers of the Courts of justice;

(c) members of the Royal Saint Lucia Police Force;

(d) practising attorneys at law and their clerks;

(e) priests and ministers of religion;

(f) registered medical practitioners.

(2) Except as provided in subsection (1), no person otherwise qualified, to serve as juror, is exempt from serving as juror.

928. DISQUALIFICATION OR EXEMPTION WHEN TO BE CLAIMED

No person, whose name appears in the Jury Book as a juror, is entitled to be excused from attendance on the ground of any disqualification or exemption, other than illness, not claimed by him or her at the time of, or before the revision of the list by the Registrar, and a notice to that effect shall be printed at the bottom of every jury list.

929. JUDGE MAY DIRECT SHERIFF TO STRIKE NAME

Where an issue of disqualification or exemption under section 927 arises after the revision of the jury list, and the judge is of opinion that the person should be excused from attendance, the judge may, if necessary, direct the sheriff to strike the person's name out of the Jury Book or give such other direction as he or she may consider just.

930. ALIENS AS JURORS

An alien who has naturalized shall, if he or she is in other respects duly qualified, be liable to serve as a juror.

931. PRELIMINARY LIST

(1) The Registrar shall, within the first 7 days of July in every year, cause to be compiled in each magisterial district based on the

current voter registration register, an alphabetical list of the persons within the district qualified to serve as jurors, with the name and surname written in full, and with the true place of abode, the title, occupation, or business, and the nature of the qualification, of every person, in the proper columns of the form provided for the purpose in Schedule 5 to this Code.

(2) The magistrate in charge of each district shall be responsible for compiling the list in respect of the district.

(3) The Registrar shall, before compiling lists, cause notices to be affixed on or near the doors of all churches and police stations in each district, requiring all persons residing in the district who are qualified or claim to be qualified to serve as jurors to submit to the district magistrate, within 8 days after the notice, their names, places of abode, and descriptions and the nature and amount of their property and qualification.

(4) For the purposes of compiling such lists and for any revision of the lists the magistrate of each district shall consult with 2 assessors to be appointed by the Attorney General from time to time as the Attorney General thinks fit, but the magistrate shall not be bound by the advice given by the assessors whose functions shall be merely deliberative and advisory, and any appointment of an assessor may be determined by the Attorney General at any time.

932. PUBLICATION OF LIST

(1) The list, when compiled, shall be signed by the Registrar and shall forthwith be published in the Gazette, and copies thereof, shall be affixed on or near the doors of all the churches and police stations in the district.

(2) There shall be subjoined to the list a notice stating that all objections to the list will be heard by the magistrate of the particular district at the time and place stated in the notice, which shall be at the first sitting of the district court after the expiration of 14 days from the date of publication of such notice.

(3) The original list and notice shall be retained by the magistrate and produced in Court at the revision of the list.

933. REVISION OF LIST

(1) On the day appointed for the revision, the magistrate shall receive and hear any objections to the list.

(2) If any person who is not qualified and liable to serve on a jury is included in the list, the magistrate may, upon the evidence on oath of the person objecting or other proof to that effect, or upon his or her own knowledge, strike out of the list the name of the person, and may also strike out the name of any person who is incapacitated from serving as a juror on account of mental disorder, deafness, blindness, or other permanent infirmity of body or mind.

(3) The magistrate may insert in the list the name of any person improperly or erroneously omitted from it, and generally correct errors or omissions which may appear to him or her to have been made in the list.

934. MAGISTRATE TO CERTIFY AND TRANSMIT TO REGISTRAR COPY OF LIST

(1) The magistrate shall, on completion of the revision of the list, certify in writing on a fair copy of the list as revised, that the list is, to the best of his or her knowledge and belief, a true and correct list of the jurors within his or her district.

(2) The magistrate shall forthwith transmit the certified copy of the list to the Registrar.

(3) The alterations and corrections, if any, made in the original list on the revision shall be published in the same manner as the original list.

935. APPEAL

(1) A person who, having raised an objection to the list is dissatisfied with the decision of the magistrate may, upon giving to the magistrate, within 5 days after the decision, notice of his or her intention so to do, appeal against the decision to a judge in chambers.

(2) The magistrate shall, as soon as practicable after the expiration of the 5 days, transmit to the Registrar, a note of the proceedings on the hearing and determination of the objection.

(3) The judge shall hear the appeal in a summary manner, and shall make such order as may be just.

(4) The Registrar shall forthwith publish in the Gazette the alterations and corrections, if any, made in the lists as a result of the determination of any such appeals.

936. THE JUROR'S BOOK

(1) The Registrar shall, immediately after the final revision of the list, cause the final revised list to be fairly and truly copied, in alphabetical order, in a book to be kept by him or her for that purpose and to be called "The Jurors' Book."

(2) The Registrar shall assign to each name in the Jurors' Book a number, beginning with the numbers from the first name and continuing them in a consecutive order down to the last name.

(3) The Registrar shall cause to be written, on separate pieces of cards of equal size, the numbers assigned to the names and these shall be put together in a separate drawer or box which shall be safely kept to be used as and when required by law.

(4) The Jurors' Book shall be taken to be a true record of all persons qualified and liable to serve as jurors for the ensuing period of 12 months.

(5) Each Jurors' Book shall remain in force until the next Jurors' Book has been compiled.

Summoning of Jurors

937. SUMMONING OF JURORS

(1) At a convenient time before the sitting of the Court at which a jury is required, the sheriff shall select—

(a) in the case of the trial of capital offences, not less than 30 persons; and

(b) in any other case not less than 20 persons,

whose names appear in the Jurors' Book, taking one from the top and one from the bottom of the list alternately, and shall so proceed from time to time, commencing each time from where he or she last left off, until every person has been summoned in his or her turn.

(2) When selecting from the new Jurors' Book compiled for each year, the sheriff shall begin with the names on the list next following or preceding in alphabetical order, the names of the persons who were last taken in the preceding year, or as near thereto as circumstances may permit.

938. ONLY ONE PERSON TO BE SUMMONED FROM EACH PLACE OF BUSINESS

(1) The sheriff shall not summon more persons than one from the same place of business, or branch thereof, in any one city, town or village, or other place, to serve as jurors at the same sitting.

(2) The sheriff shall summon to serve at the next or subsequent session of the Court, the person omitted to be summoned under this section.

(3) If, at any time, more persons than one are inadvertently summoned from the same place of business, or branch thereof, to serve as jurors at the same Court, it shall not be compulsory on more than one of the persons to attend the Court, and the Court, on being satisfied that more than one of the persons are in attendance, shall excuse the attendance of the other or others of them.

939. OMISSION OF JUROR BELIEVED ABSENT OR DEAD

(1) It is lawful for the sheriff not to issue a summons for a juror in any case where he or she has a reason to believe that the juror is dead or absent from this State, or will be so absent at the time of the sessions of the Court.

(2) Any person so omitted shall, if in fact not dead, or if in this State and available, be summoned for the next or subsequent session of the Court.

940. PRESUMPTION OF REGULARITY AND LAWFULNESS OF PANEL

(1) The persons selected shall be the jurors to serve for the trial of all issues at that sitting of the Court.

(2) Unless challenged and set aside, the panel shall be deemed to be correctly selected and to be regular and lawful in every respect.

941. COPY OF PANEL TO BE DELIVERED TO REGISTRAR

(1) The sheriff shall, before the day appointed for the sitting of the Court, cause to be accurately compiled from the Jurors' Book in alphabetical order, a list of the names of the persons who have been summoned indicating their places of abode and other relevant particulars, and these shall be numbered consecutively from the first to the last.

(2) The sheriff shall then deliver the complete list of the panel together with the cards containing the corresponding numbers to the Registrar at least 2 days before the sitting of the Court.

(3) The Registrar shall then place the cards in a box to be provided for that purpose.

(4) Any omission on the part of the Registrar or sheriff or other officer of the Court to follow the directions in this section shall not affect the validity of the proceedings.

942. SERVICE OF SUMMONS TO JUROR

(1) Every summons to any person qualified to serve on a jury shall be served by the summoning officer of the Court at least 8 days before the day appointed for the sitting of the Court, and service shall be effected by delivering the summons issued under the hand of the sheriff to the person summoned, or by leaving it for him or her at his or her last or most usual place of abode or at his or her place of business or employment.

(2) The summoning officer shall make a true return of such service, and shall attend at the sitting of the Court, and, if necessary, verify the service on oath.

943. ORDER TO SUMMON TALES ON EXHAUSTION OF PANEL

(1) When from any cause the panel has been exhausted, and a complete jury cannot be constituted, the Court may order, either verbally or in writing, the sheriff or his or her officer forthwith, to summon such number of persons, whether qualified jurors or not, as the Court deems necessary in order to make a full jury.

(2) Such persons may be summoned by word of mouth, and shall serve under the same penalty and receive the same fees as if they were duly qualified and regularly summoned to serve as jurors.

(3) The names of the persons so summoned shall be added to the general panel for the purposes of the trial, and the same proceedings shall be taken as to calling and challenging the persons as are provided for in this Sub-Part with respect to the persons named in the original panel, except that persons summoned under this section shall not be challenged merely on the ground that they are not qualified jurors.

944. SUMMONING OF JURY FOR ADJOURNED SITTING ON DISCHARGE OF JURY FOR NON-AGREEMENT

(1) Where the jury are discharged for non-agreement in their verdict, the Court may adjourn its sitting to any other day, and may order the sheriff to summon a jury to attend on the day appointed on such adjournment.

(2) The sheriff shall cause jurors to be summoned anew, and they shall attend on the named day appointed under the same responsibilities as if they had been summoned to attend the Court on a day duly appointed for holding a Court.

Empanelling a Jury

945. CALLING JURORS TO EMPANEL A JURY

If the array of jurors is not challenged, or if the triers find against the challenge, the Registrar shall proceed to empanel a jury and to swear the jurors.

946. DRAWING A JURY

(1) When any issue is to be tried by a jury, the Registrar shall, in open Court, draw out of the box provided for that purpose, cards with the names of the jurors one by one to the number required to constitute a jury, with each name corresponding to the number on the list of the panel.

(2) If any of the persons whose names are so drawn do not appear or are challenged and set aside, then such further number as may be required shall be drawn, until the required number of persons are drawn who appear, and, after all just causes of challenge allowed, remain as fair and neutral.

(3) The names of the requisite number of persons drawn under subsection (2) and approved as fair and neutral shall be marked in the panel and, on being sworn, they shall constitute the jury to try the issue.

(4) The cards corresponding with the numbers of the persons so drawn and sworn, shall be kept apart by themselves until the jury have delivered their verdict and their verdict has been recorded, or until the jury have otherwise been discharged, and the cards shall then be returned to the box and mixed with the other numbers then remaining undrawn, and shall be redrawn as often as and as long as any issue remains to be tried.

(5) If any issue is brought up to be tried before the jury in any other issue on which the jury have brought in their verdict or have been discharged, the Registrar shall draw the requisite number of the jury from the remainder of the cards in the manner prescribed in this section for the trial of the issue which is brought to be tried.

947. TRIAL OF SUCCESSIVE ISSUES BY SAME JURY

Where no objection is made by either party, it shall be lawful for the Court to try any issue with the same jury who have previously tried or been drawn to try any other issue, without their names being returned to the box and redrawn, or to order the name of the person or persons on the panel who may be justly challenged or excused by the Court to be set aside, and another name or other names to be drawn from the box.

948. NUMBER OF JURY

In every case the jury shall consist of 9 persons except in the case of a trial for a capital offence when the jury shall consist of 12 persons.

949. COUNTING AND SWEARING OF JURY

(1) As soon as the jury are chosen, they shall be counted in the jury box by the Registrar, who shall then at once proceed to swear them, but if any juror refuses or is unwilling from alleged conscientious motives to be sworn, it shall be lawful for the Court, upon being satisfied of the sincerity of such objection, to allow him or her to make a solemn affirmation.

(2) The affirmation shall have the same effect as if the person had taken an oath in the usual form, and shall, if untrue, be liable to the same penalty as a person convicted of perjury.

(3) Whenever, in any legal or other proceedings, it is necessary or usual to state or allege that jurors have been sworn, it shall not be necessary to specify that any particular juror has made affirmation instead of oath, but it is sufficient to state or allege generally that the jurors have been sworn.

950. SWEARING OF JURY COLLECTIVELY

(1) The jury may be sworn collectively in every case with uplifted hand without kissing any book or object or repeating the words of the oath, and each juror may swear with uplifted hand saying after the oath has been administered "I so swear so help me God."

(2) If a juror objects to be sworn, he or she may be sworn in such manner as the judge is satisfied is binding on him or her.

951. JURY TO BE SWORN TO GIVE TRUE VERDICT

The jury shall be sworn to give a true verdict according to the evidence upon the issues to be tried by them.

952. ELECTION OF FOREPERSON

After they have been sworn, the jurors shall, by a majority of voices, elect one of their number to be their foreperson.

953. ALTERNATE JURORS

(1) The Court may direct that not more than 6 jurors in addition to the regular jury be called and empanelled to sit as alternate jurors.

(2) Alternate jurors in the order in which they are called, shall replace jurors who, prior to the time the jury retires to consider its verdict, have become or are found to be unable or disqualified to perform their duties.

(3) An alternate juror who does not replace a regular juror shall be discharged after the jury retires to consider its verdict.

(4) Alternate jurors shall be drawn in the same manner, shall have the same qualifications, and have the same powers, facilities and privileges as the regular jurors.

(5) In relation to alternate jurors, in addition to the challenges permitted under section 958—

(a) where one person is indicted, the prosecution and the accused person each shall be entitled to one peremptory challenge; and

(b) where 2 or more persons are jointly indicted—

(i) each accused person shall be entitled to one peremptory challenge,

(ii) the prosecution shall be entitled to one peremptory challenge in respect of each person charged.

Challenging of Jurors

954. CHALLENGE TO THE PANEL, WHEN TO BE MADE

An objection to the whole panel of jurors must be made before any juror has taken his or her seat in the jury box and not afterwards.

955. GROUNDS, ETC. OF CHALLENGE TO THE PANEL

(1) The prosecutor or the accused person may challenge the panel on the ground of partiality, fraud, or wilful misconduct on the part of the sheriff, but on no other ground.

(2) The objection shall be made in writing, and shall state that the sheriff was partial, or was fraudulent, or wilfully misconducted himself or herself, as the case may be.

(3) If such partiality, fraud, or wilful misconduct, as the case may be, is denied, the Court shall appoint any 2 neutral persons to try whether the alleged ground of challenge is true or not.

(4) If the triers find that the alleged ground is true in fact, the Court shall direct a new panel to be returned.

956. CHALLENGE TO THE POLLS

An objection to a juror either by way of peremptory challenge or by way of challenge for cause may be made at any time before the juror has taken his or her seat in the jury box, but not afterwards.

957. GROUNDS AND MODE OF CHALLENGE FOR CAUSE

(1) The prosecutor and every accused person is entitled to any number of challenges on any of the following grounds—

(a) that a juror is disqualified as an alien under the law;

(b) that a juror has been convicted of an offence for which he or she was sentenced to death or to any term of imprisonment exceeding one year;

(c) that a juror cannot speak, read, and write English;

(d) that the name of a juror does not appear in the Juror's Book, but no misnomer or misdescription in the Jurors' Book shall be a ground of challenge, if it appears to the Court that the description given in the Juror's Book sufficiently designates the person referred to;

(e) that a juror is not neutral between the Crown and the accused or between the accused and the Crown; or

(f) that a juror was returned to serve as jury contrary to the provisions for the returning of jurors in rotation.

(2) No other ground of challenge than those stated in subsection (1) shall be allowed.

(3) If any such challenge is made, the Court may, in its discretion, require the party challenging to put his or her challenge in writing.

(4) The other party may deny that the ground of challenge is true, or may, in the case of subsection (1)(b), allege that the juror challenged has received a free pardon.

958. TRIAL OF CHALLENGE FOR CAUSE

(1) If the ground of challenge is—

(a) that the name of the juror does not appear in the Jurors' Book or was not taken in proper rotation; or

(b) that the juror cannot speak, read or write English;

the issue shall be tried by the Court on *voir dire* by the inspection of the Jurors' Book, and on such other evidence as the Court thinks fit to receive.

(2) If the challenge is on any other ground than those referred to in subsection (1), the Court shall enquire into and determine whether the juror objected to stand neutral between the Crown and the accused or between the accused and the Crown, or has been convicted and sentenced and has not received a free pardon, or is disqualified as an alien, as the case may be.

(3) If the Court finds against the challenge, the juror shall be sworn, and if the Court finds in favour of the challenge, the juror will not be sworn.

959. PEREMPTORY CHALLENGES

(1) On the trial of any capital offence, the prosecutor and the accused person respectively may challenge peremptorily any number of jurors, not exceeding 4, and any further challenges on either side shall be for cause.

(2) On the trial of any offence other than a capital offence the prosecutor and the accused person respectively may challenge peremptorily any number of jurors , not exceeding 3, and any further challenges on either side shall be for cause.

(3) The prosecutor is not entitled to require or direct any juror to stand by.

960. JOINING OR SEVERING CHALLENGES ON TRIAL OF SEVERAL PERSONS

(1) If several accused persons are jointly indicted, and it is proposed to try them together, they or any of them may either join in their challenges, in which case the persons who do so join shall have only as many challenges as a single person would be entitled to, or each may make his or her challenges in the same manner as if he or she were intended to be tried alone.

(2) Where accused persons join in their challenges, not more than 15 jurors shall be peremptorily challenged by the accused persons.

(3) If the accused persons join in their challenges, the prosecutor shall have as many challenges as a single person would be entitled to but if the accused persons do not so join, the prosecutor shall be entitled to make his or her challenges as if each accused was intended to be tried alone and not more than 15 jurors shall be peremptorily challenged in any such trial by the prosecutor.

961. TALES

Whenever from any cause the panel has been exhausted and the requisite number of jury cannot be constituted other persons may be summoned as jurors in accordance with section 944 .

Discharge of Juror or Jury

962. POWER OF COURT TO DISCHARGE JURY WITHOUT VERDICT

(1) The Court may, in its discretion, in case of any emergency or casualty rendering it, in its opinion, expedient for the ends of justice so to do, discharge the jury without their giving a verdict, and direct a new jury to be empanelled during the sittings, or may postpone the trial on such terms as justice may require.

(2) If the judge becomes incapable of trying the case or directing the jury to be discharged, the Registrar shall discharge the jury.

(3) In any such case, the accused, unless already released on bail, must remain in custody until he or she is put on his or her trial, but he or she has the same rights with respect to admission to bail as he or she would have upon an original committal for trial for the offence with which he or she is charged, and the Court, or if the judge is incapable, the Registrar, may, in an appropriate case, admit him or her to bail accordingly.

963. PROCEDURE WHERE JUROR DIES, BECOMES INCAPABLE OR IS ABSENT

If, at any time during the trial, a juror dies or becomes, in the opinion of the Court, incapable of continuing to act as a juror, or is absent, he or she shall be replaced by one of alternate jurors on the panel as the judge may direct.

964. POWER OF COURT TO DISCHARGE NON-NEUTRAL JUROR, SWORN OR NOT

(1) If, before or after a juror has been sworn, it appears to the Court from his or her own statement that he or she is not neutral as between the prosecution and the accused or *vice versa*, or that for any other reason he or she ought not to be allowed or required to act as a juror at the trial, the Court may, before any evidence has been given, without discharging the whole of the jury, discharge that particular juror and direct another juror to be sworn in his or her place.

(2) Where a juror is discharged under subsection (1) after any evidence has been taken, the Court shall read over such evidence to the jury, or if it thinks fit so to do, cause the evidence to be given again.

Fees and Fines

965. RIGHT OF SUMMONED JURORS TO FEES ON ATTENDANCE

Every person who has been summoned to attend the Court as a juror or alternate juror, and actually attends, is entitled, whether he or she is empanelled or not, to such sum for his or her fees on attendance as is fixed by any tariff for the time being in force and such sum shall be paid to him or her by the Registrar, who may make a requisition on the Accountant General for the necessary amount to pay all such fees.

966. REGISTRAR'S DISCRETION AS TO FEES

If, owing to the hour at which a juror is discharged, the Registrar is satisfied that the juror had to incur extra expense because of his or her inability to return to his or her home, the Registrar may in his or her discretion allow the juror such sum not exceeding 2 days' fee or pay in the circumstances, as he or she thinks fit.

967. LIMITATION OF JUROR'S CLAIM FOR PAYMENT

No claim made by a juror for any sum for attendance shall be entertained unless the claim is made within one month after the last day of the sitting of the Court in respect of which the claim is made.

968. RETURN BY REGISTRAR OF PAYMENTS

The Registrar shall, after the expiration of one month from every sitting of the Court, make out a list of all jurors who have attended at sittings of the Court during the month, and of the several sums paid to them, and shall transmit the list to the Director of Audit.

969. FINE ON JUROR FOR NON-ATTENDANCE, ETC.

If any person, having been duly summoned to attend as a juror at any sitting of the Court—

(a) does not attend;

(b) having been called 3 times, does not answer to his or her name;

(c) if any such person, after having been called, is present but does not appear;

(d) after his or her appearance and before he or she is sworn, wilfully withdraws himself or herself from the presence of the Court, without leave of the judge and without reasonable cause, the Court may impose upon him or her such fine, not exceeding $1,000, as the Court may think fit.

970. FINE ON JUROR REFUSING TO SERVE, ETC.

If any person, having been duly summoned to serve as a juror, refuses to serve when required by the Court so to do, or if, after having been duly sworn, he or she leaves the Court before verdict is given or before he or she is properly discharged, the Court may impose upon him or her such fine not exceeding $1,000, as the Court may think fit.

971. POWER OF JUDGE TO REDUCE OR REMIT FINE

The judge may, during the same sitting of the Court, remit or reduce any fine upon sufficient cause shown to him or her in open Court, or he or she may, within 5 days after the close of the sitting, remit or reduce such fine upon sufficient cause shown by affidavit duly filed.

972. LEVY BY DISTRESS AND SALE ON NON-PAYMENT OF FINE

(1) If any person on whom any fine is imposed under section 970 or 971 refuses or neglects to pay the fine to the sheriff, the judge may, by order of the Court signed by the Registrar, cause such fine to be levied by distress and sale of the goods and chattels of the person on whom such fine is imposed.

(2) Any balance which remains after payment of the fine and deduction of any reasonable charges incurred in respect of such distress and sale, shall be rendered to the person whose goods and chattels have been sold.

(3) Every fine so imposed shall, when received or levied, be paid by the sheriff into the Treasury for the use of the State.

(4) Where the person on whom the fine is imposed does not have sufficient goods, or chattels to satisfy such fine, he or she may

be committed to a correctional facility, by warrant under the hand of the judge, for a period, not exceeding 3 months, as the judge may think fit.

Other Provisions as to Jurors and Juries

973. ACCOMMODATION, CUSTODY AND REFRESHMENT OF JURY

The judge may make such order as he or she thinks fit for the accommodation, custody, and refreshment of the jurors who have been sworn in any case, and the costs of attendance upon the making of the order shall be defrayed from the Treasury.

974. POWER OF COURT TO DISCHARGE OR RELEASE JUROR

The Court may at any time discharge any person summoned as a juror from further attendance on the Court, or may excuse the person from attendance for any period during the sitting of the Court.

975. VIEW BY JURY

Where in any case it appears to the judge that it is in the interests of justice that the jury who are to try or are trying the case should have a view of any place, thing or person connected with the case, the judge may direct the jury to view the place, thing or person in such manner and upon such terms and conditions as the judge may consider proper.

976. DIRECTIONS TO PREVENT UNDUE COMMUNICATION WITH JURORS

(1) Where the judge directs the jury under section 975 to view any such place, thing or person, the judge shall give such further directions as may be appropriate for the purpose of preventing undue communication with the jurors.

(2) No breach of any such directions shall affect the validity of the proceedings.

(3) Where a breach of any such directions is discovered before the verdict is given, the judge may, if he or she is of the opinion

that such breach is likely to prejudice the fair trial of the charge, discharge the jury and direct that a fresh jury be sworn during the same sitting, or may adjourn the trial.

977. IRREGULARITY AS TO JURY NOT TO INVALIDATE

No mistake, error, informality or omission to observe the directions of the Court under this Sub-Part, or otherwise or any of them with respect to the qualification, selection of jurors, the preparing of jury lists, the entry of such lists in the proper books, the drafting panels from the jury lists, or the empanelling or swearing of the jury, shall be a ground of impeaching the verdict, judgment or sentence rendered in any case.

SUB-PART C
Verdicts and Related Matters

978. DELIVERY AND RECORDING OF VERDICT

(1) When the jury arrives at a verdict, the foreperson shall inform the judge, or in the absence of the judge, the proper officer of the Court, in open Court and in the presence of all the jury and of the inmate the verdict of the jury which shall then be recorded by the judge or proper officer of the Court.

(2) The jury shall either pronounce a general verdict of "guilty" or "not guilty" or else shall return a special verdict on the facts of the case.

(3) The jury may acquit the accused of any part of the charge against him or her and find him or her guilty of the remainder.

979. VERDICT ON EACH COUNT GENERALLY. QUESTIONS TO JURY

(1) Unless otherwise ordered by the judge, the jury shall return a verdict on each count on which the accused is tried, and the judge may ask them such questions as are necessary to ascertain what their verdict is in respect of each count.

(2) The judge shall record the questions put to the jury and their answers to them.

980. RECTIFYING VERDICT

When by accident or mistake a wrong verdict is returned, the jury may before or immediately after it is recorded, amend the verdict and it shall stand as ultimately amended.

981. DISCHARGE OF ACCUSED ON ACQUITTAL

If the jury find the accused person not guilty, of the offence, the judge shall immediately discharge him or her from custody for that offence.

982. VERDICT ON CHARGE OF ATTEMPT

(1) Where an accused is charged with an attempt to commit an offence, but the evidence establishes the commission of the substantive offence, the accused shall not be acquitted but the jury may convict him or her of the attempt to commit the offence.

(2) Where the accused has been convicted of attempting to commit an offence, he or she shall not be liable to be tried again for the offence which he or she was charged with attempting to commit.

(3) Upon an indictment charging a person with attempting to commit any offence, he or she may be convicted of attempting to commit any other offence of such nature that a person may be convicted of upon an indictment charging him or her with committing the offence which the accused person is alleged to have attempted to commit.

(4) Upon an indictment charging a person with attempting to procure the commission of any offence, he or she may be convicted of attempting to procure the commission of any other offence of such a nature that a person may be convicted of, upon an indictment charging him or her with committing the offence of which the accused person is alleged to have attempted to procure the commission.

983. OFFENCE CHARGED — CONVICTION FOR ANOTHER

If, in the case mentioned in section 833 the accused is charged with a particular offence, and it appears by the evidence that he or she

committed a different offence for which he or she might have been charged under the provisions of that section, he or she may be convicted of the offence which he or she is proved to have committed, although he or she was not charged with that offence.

984. OFFENCE CHARGED — CONVICTION FOR ATTEMPT

Upon an indictment, charging a person with committing any offence, he or she may be convicted of attempting to commit that offence or of attempting to commit any other offence of which he or she might be convicted upon the indictment.

985. COUNT DIVISIBLE

(1) Every count shall be deemed divisible.

(2) If the commission of the offence charged, as described in the enactment creating the offence or as charged in the count, includes the commission of any other offence, the accused person may be convicted of any offence so included which is proved, although the whole offence charged is not proved, or he or she may be convicted of an attempt to commit any offence so included.

(3) Except as otherwise provided, upon an indictment charging a person with an offence committed with circumstances of aggravation, he or she may be convicted of any offence which is established by the evidence and which is constituted by an act or omission, which is an element of the offence charged, with or without any of the circumstances of aggravation charged in the indictment.

986. VERDICT WHERE OFFENCE CAUSING SPECIFIC RESULT CHARGED

(1) At the trial on indictment of a person charged with an offence of which the causing of some specific result is an element, he or she may be convicted of any offence which is established by the evidence, and of which an intent to cause that result, or a result of a similar but less injurious nature, is an element.

(2) At the trial on indictment of a person charged with an offence of which an intent to cause some specific result is an element, he or she may be convicted of any offence which is established by the evidence, and of which the unlawful causing of that result is an element.

987. CONVICTION FOR OFFENCE CHARGED ALTHOUGH PROVED TO BE INCLUDED IN ANOTHER OFFENCE

(1) At the trial of a person charged with an indictable offence, if the evidence establishes that he or she is guilty of another indictable offence of such a nature that upon an indictment charging him or her with that other offence he or she might have been convicted of the offence with which he or she is actually charged, he or she may be convicted of the offence with which he or she is so charged.

(2) A person so tried is not liable to be prosecuted again for the offence established by the evidence, unless the Court thinks fit to discharge the jury from giving any verdict, and to direct that the accused person be indicted for that other offence, in which case he or she may be dealt with in all respects as if he or she had not been put upon his or her trial for the offence with which he or she is actually charged.

988. VERDICT ON CHARGE OF MURDER OR MANSLAUGHTER

(1) At the trial on indictment of a person charged with murder, he or she may be convicted of manslaughter, if that crime is established by the evidence, and except as otherwise expressly provided in subsection (3), he or she shall not be convicted of any other offence than that with which he or she is charged.

(2) At the trial on indictment of a person charged with manslaughter he or she shall not, except as otherwise expressly provided in subsection (3) be convicted of any other offence.

(3) At the trial on indictment of a person charged with the murder or manslaughter of another person, if upon the evidence it appears that the person alleged to have been killed was a child of which a woman had been delivered, the accused person may be convicted of the offence of causing harm to a living child during the time of its birth, or of the offence of concealing the

body of the child, if either of those offences is established by the evidence.

989. VERDICT ON CHARGE OF ASSAULT TO MURDER OR WITH INTENT

At the trial on indictment of a person—

(a) charged with assault with intent to murder, he or she may be convicted of assault with intent to cause grievous bodily harm, or of a common assault;

(b) charged with assault with intent to cause grievous bodily harm, or with assault with any other particular intent specified in the indictment, he or she may be convicted of common assault.

990. VERDICT WHERE PROCURING OFFENCE CHARGED

(1) At the trial on indictment of a person charged with procuring the commission of an offence, he or she may be convicted of procuring the commission of any other offence of such a nature that a person may be convicted of upon an indictment charging that person with committing the offence, of which the accused person is alleged to have procured the commission.

(2) Upon an indictment charging a person with the offence of manslaughter he or she shall not, except as otherwise expressly provided in subsection (3) be convicted of any other offence.

(3) Upon an indictment charging a person with procuring the commission of any offence, he or she may be convicted of attempting to procure the commission of that offence, or of attempting to procure the commission of any other offence of such a nature that a person may be convicted of upon an indictment charging him or her with committing the offence, of which the accused person is alleged to have procured the commission.

991. VERDICT ON CHARGE OF RAPE, ETC.

Upon the trial on indictment of a person charged with rape, or with the offence of having sexual intercourse or sexual connection with a

male or female under the age of 12 years, he or she may be convicted of any offence which is established by the evidence, and of which the unlawful sexual intercourse or sexual connection with a male or female, whether of a particular age or description or not, is an element, or of which procuring the male or female to have unlawful sexual intercourse or sexual connection with any male or female is an element, or he or she may be convicted of any of the following offences—

(a) administering to the male or female, or causing him or her to take any drug or any other thing, with intent to stupefy or overpower him or her, in order to enable any male or female to have unlawful sexual intercourse or sexual connection with him or her;

(b) unlawfully and indecently assaulting the male or female;

(c) a common assault.

992. VERDICT ON CHARGE OF ROBBERY

Upon an indictment for robbery, the accused may be convicted of an assault with intent to rob, or of an assault, or of stealing.

993. VERDICT ON CHARGE OF STEALING, ETC.

(1) Upon an indictment charging a person with any of the following offences, that is to say—

(a) stealing any property;

(b) obtaining or inducing the delivery of any property by deception or false pretence, and with intent to defraud;

(c) procuring any other person to commit any offence referred to in paragraph (a) or (b);

(d) obtaining or inducing the delivery of payment of any property or money by means of a fraudulent trick or device,

he or she may be convicted of any other offence committed with respect to the same property, if such other offence is established by the evidence.

(2) Upon an indictment charging a person with stealing, he or she may be convicted of handling, and similarly upon an indictment

charging a person with handling, he or she may be convicted of stealing.

994. VERDICT ON JOINT CHARGES OF STEALING OR HANDLING

Charges of stealing any property and of handling the same property or any part of the property, knowing it to have been stolen, may be joined in the same indictment, and the accused may, according to the evidence, be convicted either of stealing the property or of handling it or any part of it, knowing it to have been stolen.

995. VERDICT ON CHARGE AGAINST 2 OR MORE PERSONS FOR HANDLING

(1) Upon an indictment charging 2 or more persons jointly with an offence of which handling any property is an element, if the evidence establishes that one or more of them separately handled any part or parts of the property under such circumstances as to constitute an offence, such one or more of the accused persons may be convicted of the offence so established against them by the evidence.

(2) When such an indictment is preferred against 2 or more persons, all or any of the accused may, according to the evidence, be convicted of stealing the property, or of handling it or any part of it knowing it to be stolen, or according to the evidence, one or more of them may be convicted of stealing the property, and the other, or others of handling it or any part of it knowing it to be stolen.

996. POWER TO DIRECT RETURN OF SPECIAL VERDICT

Where it appears to the Court that the question whether the accused ought or ought not to be convicted of an offence depends upon a specific fact, or that the proper punishment to be awarded upon conviction depends upon a specific fact, the Court may require the jury to find specially as to the existence or non-existence of that fact.

997. GENERAL VERDICT OF GUILTY OR NOT GUILTY IN LIBEL

Despite the provisions of section 996, the jury, on the trial of a person charged with the unlawful publication of defamatory matter, may give a general verdict of guilty or not guilty upon the whole matter in issue.

998. INSPECTION OF DEPOSITIONS AND EXHIBITS BY ACCUSED

Where any person is being tried for an offence he or she is entitled—

(a) at the time of his or her trial to inspect all depositions or copies of all written statements or depositions, which have been taken in evidence against him or her and returned into the Court, subject to the use of them by the judge and to the directions of the judge;

(b) inspect exhibits, whether documents or things, either before or at the trial.

Judgment and Arrest of Judgment

999. ALLOCTUS

If the jury find the accused guilty or if the accused pleads guilty, the Registrar shall ask him or her whether he or she has anything to say as to why sentence should not be passed upon him or her according to law, but the omission to so ask the accused shall not affect the validity of the proceedings.

1000. MOTION IN ARREST OF JUDGMENT

(1) The accused may, at any time before sentence, whether on his or her plea of guilty or otherwise, move in arrest of judgment on the ground that the indictment does not even after any amendment which the Court is willing and has power to make, state any indictable or other offence which the Court has power to try.

(2) The Court may, in its discretion, either hear and determine the matter during the same sittings, or adjourn the hearing of the matter to a future time to be fixed for that purpose.

(3) If the Court decides in favour of the accused, the Court shall discharge him or her.

1001. SENTENCE AT SAME OR FUTURE SITTING

If no motion in arrest of judgment is made or if the Court decides against the accused upon such motion, the Court may either sentence the accused at any time during the sittings, or may, in its discretion, discharge him or her on his or her own recognizance, or on that of such sureties as the Court thinks fit, or both, to appear and receive judgment at some future sitting of the Court or when called upon by the Court.

1002. POWER TO RESERVE DECISION ON QUESTIONS RAISED AT TRIAL

The judge presiding at the sittings of a Court at which any person is tried for an offence may reserve the giving of his or her final decision on questions raised at the trial, and his or her decision whenever given shall be considered as given at the time of the trial.

1003. VALIDITY OF PROCEEDINGS

(1) Judgment after verdict upon an indictment for any offence shall not be stayed or reversed—

(a) by reason that the jury process has been assigned to a wrong officer, upon an insufficient suggestion;

(b) for any misnomer or misdescription of the officer returning such process, or of the jurors;

(c) because any person has served upon the jury who was not returned as a juror by the sheriff or other officer.

(2) Where the offence charged is an offence created by any enactment, or is liable to a greater degree of punishment by any enactment, the indictment shall after verdict be held sufficient, if it describes the offence in the words of the enactment creating the offence, or prescribing the punishment, although the words disjunctively state the offence or appear to include more than one offence, or otherwise.

Sentence and Proceedings Subsequent

1004. SENTENCE BY ANY JUDGE

If sentence is not passed immediately after the accused is convicted, any other judge of the Court may at any subsequent sitting of the Court, at which the offender is present, pass sentence upon him or her.

1005. EVIDENCE AS TO PROPER SENTENCE

The judge may, before passing sentence, receive such evidence he or she thinks fit, in order to inform himself or herself as to the appropriate sentence to be passed.

1006. SENTENCE ON VERDICT OF GUILTY ON SEVERAL COUNTS

If one sentence is passed upon any verdict of guilty on more counts than one, the sentence shall be good if any one count would have justified the sentence.

1007. SENTENCE OF DEATH NOT TO BE PASSED ON PREGNANT WOMEN

(1) Where any woman convicted of an offence punishable with death alleges or it appears to the Court that she is pregnant the Court shall, before sentence is passed upon her, direct any 2 or more registered medical practitioners to be sworn to examine the woman in some private place either together or separately and report to the Court whether or not the woman is pregnant.

(2) If upon the report of any of the medical practitioners the Court is satisfied that the woman is pregnant, she shall be sentenced to imprisonment for life instead of death.

(3) Any woman who is under sentence of death may move the Court in arrest of execution on the ground that she is pregnant and the Court shall direct an inquiry and report as in this section provided and shall, if it finds that the woman is pregnant, arrest execution until she is delivered of the child or until it is no longer possible in the course of nature that she should be so

delivered, and the Court shall direct the finding to be recorded and shall immediately report the finding to the Governor General.

1008. NO JURY DE *VENTRE INSPICIENDO*

No jury de *ventre inspiciendo* shall be empanelled or sworn.

1009. ERROR NOT ALLOWED

No proceedings in error shall be taken upon any trial under the provisions of this Code.

1010. RESERVE OF QUESTION OF LAW

The practice and procedure in respect of any question of law reserved upon the trial of any person for an indictable offence shall be as provided in the Court of Appeal Rules.

1011. WARRANT FOR EXECUTION OF SENTENCE

Every warrant for the execution of any sentence may be issued, either by the judge who passed the sentence, or by any other judge of the High Court.

Miscellaneous Matters

1012. PRESENCE OF ACCUSED AT TRIAL

(1) Every accused person shall be entitled to be present in Court during the whole of his or her trial, unless he or she misconducts himself or herself by so interrupting the proceedings as to render the conduct of the proceedings in his or her presence impracticable.

(2) The Court may, if it thinks fit, permit an accused to be out of Court during the whole or any part of any trial, on such terms as it considers appropriate.

1013. POWER TO CLEAR COURT

The judge may, if he or she thinks fit at any time during the trial, order the Court to be cleared or that the person or class of persons shall leave the Court.

1014. PROCEEDINGS IN CAMERA

(1) At the trial of the person charged with a sexual offence, the provisions of sections 137 and 138 shall apply.

(2) Nothing contained in this section authorises the exclusion of *bona fide* representatives of any newspaper or news agency from any Court.

1015. DIRECTIONS AS TO SEPARATE TRIALS

When 2 or more persons are charged in the same indictment whether with the same offence or with different offences, the Court may, at any time during the trial, on the application of the prosecutor, or of any of the accused persons, direct that the trial of the accused persons or any of them shall be held separately from the trial of the other or others of them and, for that purpose, may, if a jury has already been sworn, discharge the jury from giving a verdict as to any of the accused persons in respect of whom such an application is made.

1016. MOTION BY ACCUSED FOR DISCHARGE ON FAILURE TO PROSECUTE

(1) When no indictment has been preferred, or the proceedings have not been stayed, or if the prosecutor does not appear to prosecute the indictment against the accused before the close of the session at which the trial is to take place, the accused may move the Court to discharge him or her and, when the accused or any other person on his or her behalf is bound by recognizance for his or her appearance to take his or her trial, may move that the recognizance be discharged.

(2) Where the indictment is at the instance of a private prosecutor, the accused may move the Court that the private prosecutor and his or her sureties be called on their recognizance and in default of his or her appearance, that the recognizance be forfeited.

(3) The accused may also apply to the Court for an order directing that the private prosecutor pay the costs incurred by him or her in preparing his or her defence.

(4) Nothing in this section is to be taken to deprive the Director of Public Prosecutions of the right of withdrawing any indictment at any time before the accused is given in charge to the jury and of presenting a fresh indictment before the Court.

(5) Neither the discharge from imprisonment nor the expiration of the recognizance shall be a bar to the person being brought to trial in any competent Court for any offence for which he or she was previously committed to a correctional facility or admitted to bail.

1017. WITHDRAWAL OF COUNTS AFTER CONVICTION ON ONE OR MORE

(1) When an indictment containing more than one count is preferred against the same person, and a conviction is secured on one or more of such counts, the prosecutor may withdraw the remaining charge or charges contained in the count or counts against the person.

(2) Any such withdrawal under subsection (1) shall have the effect of an acquittal on such charge or charges unless the conviction is set aside in which case the Court, subject to the order of the Court of Appeal setting aside the conviction, may proceed with the trial of the charge or charges so withdrawn.

1018. ISSUE OF MENTALLY ABNORMAL ON OR BEFORE ARRAIGNMENT

(1) If any accused person appears before or upon arraignment, to be mentally ill, the Court may order a jury to be empanelled to try the sanity of the person, and the jury shall, after hearing evidence in that regard, find whether or not the person is mentally ill and unfit to take his or her trial and the jury shall, if it finds that the accused person is mentally ill, return a verdict that the person is mentally ill.

(2) A verdict under this section shall not affect the trial of any person found to be mentally ill for the offence for which he or

she was indicted, if he or she subsequently becomes of sound mind.

1019. SPECIAL VERDICT IF JURY FINDS THAT ACCUSED WAS MENTALLY ILL AT TIME OF OFFENCE

Where, in any indictment, any act is charged against any person as an offence, and at the trial evidence is given that he or she was mentally ill, so as not to be responsible, according to law, for his or her actions at the time when the act was committed, then, if it appears to the jury that he or she committed the act charged, but was mentally ill at the time when he or she did it, the jury shall return a special verdict to the effect that the accused was guilty of the act with which he or she is charged but was mentally ill at the time when he or she committed the act.

1020. PERSON FOUND MENTALLY ILL MAY BE DETAINED AT GOVERNOR GENERAL'S PLEASURE

(1) Where the accused person is found to be mentally ill under section 1018 or has a special verdict found against him or her, under section 1019, the Court shall direct the finding of the jury to be recorded and the Court may order the person to be detained in safe custody, in such place and manner as the Court thinks fit.

(2) The judge shall immediately report the finding of the jury to the Chief Justice of the Supreme Court who shall order the person to be dealt with as a person of unsound mind under the laws of this State for the time being in force for the care and custody of persons of unsound mind, or otherwise as he or she may think fit.

1021. COURT TO REMIT SUMMARY CASE TO MAGISTRATE OR TO TRY IT

If, before or during the trial of any person committed for an indictable offence, it appears to the Court that the person is not guilty of the indictable offence but guilty of a summary offence, the Court may remit the case to a magistrate with such directions as it may think fit, or allow the case to proceed, and, in case of conviction, impose such

punishment upon the person so committed as a magistrate would have imposed in respect of the offence.

PART 7
GENERAL PROCEDURAL MATTERS

Habeas Corpus and like Proceedings

1022. HIGH COURT TO RELEASE PERSON IN ILLEGAL CUSTODY

The Court may, whenever it thinks fit, direct that a person unlawfully or improperly detained in public or private custody in the State or within the limits of its jurisdiction be set free.

1023. HIGH COURT ON APPLICATION BY WAY OF *HABEAS CORPUS* OR THE LIKE

Whenever any person in custody charged with an indictable offence has taken proceedings, before the judge or the Court having jurisdiction by way of *habeas corpus* or otherwise, to have the lawfulness of his or her detention inquired into, the judge or Court may, with or without determining the question, make an order for the further detention of the person accused or hear such evidence, or do such further act as in the opinion of the Court or judge may best further the ends of justice.

Proceedings before Magistrates

1024. ORDER APPEALED FROM NOT TO BE REMOVED

No proceedings shall be allowed to remove any conviction or order made by any magistrate if the defendant has appealed against the conviction or order to any Court which has jurisdiction to hear such appeal or remove any conviction or order made upon such appeal.

1025. WANT OF FORM NOT TO NULLIFY ORDER. WARRANT OF COMMITMENT NOT VOID FOR DEFECT

No conviction or order made on summary conviction which has been confirmed, or confirmed and varied, on appeal, shall be quashed for want of form, or be removed to the Court of Appeal, and no warrant of commitment shall be held void by reason of any defect in the warrant therein, provided it is alleged in the warrant that the defendant has been convicted, and there is a good and valid conviction or order to support the warrant.

1026. VALIDITY OF PROCEEDING IN SUMMARY TRIALS OF INDICTABLE OFFENCES

No conviction, order, sentence or proceeding on summary trial of an indictable offence under Sub-Part C of Part 4, shall be quashed for want of form or be removed to the High Court, and no warrant of commitment under that Sub-Part shall be void by reason of any defect in the warrant, if it is alleged that the person has been convicted and there is a good and valid conviction or order to support the warrant.

1027. VALIDITY OF PROCEEDING DESPITE DEFECTS

(1) No conviction or order made by any magistrate and no warrant for enforcing the order, shall be held invalid for any irregularity, informality or insufficiency, if the judge before whom the question is raised, upon perusal of the record is satisfied that an offence of the nature described in the conviction, order or warrant, has been committed, over which the magistrate has jurisdiction, and that the punishment imposed is not in excess of that which might have been lawfully imposed for the offence.

(2) The judge, if so satisfied, shall, even if the punishment imposed or the order made is in excess of that which might lawfully have been imposed or made, have the like powers in all respects to deal with the case as seems just as are by section 752, or other provisions regulating appeals, conferred upon the Court to which an appeal is taken under the provisions of section 721 or other provisions allowing an appeal.

(3) Any statement which, under this Code or otherwise, would be sufficient if contained in a conviction, shall be sufficient if contained in an information, summons, order or warrant.

1028. MATTERS WITHIN SECTION 1027

(1) The following matters, among others, shall be held to be within the provisions of section 1027—

(a) the statement of the adjudication, or of any other matter or thing, in the past tense instead of the present;

(b) the punishment imposed being less than the punishment by law assigned to the offence stated in the conviction or order, or minute or memorandum, or to the offence which appears by the written statements or depositions to have been committed;

(c) the omission to negative any circumstances, the existence of which would have made the act complained of lawful, whether such circumstances are stated by way of exception or otherwise in the section under which the offence is charged, or are stated in another section.

(2) Nothing in this section shall be construed to restrict the generality of the provisions of section 1027.

1029. HIGH COURT TO QUASH CONVICTION, ORDER, ETC.

If an application is made to quash a conviction, order or other legal process made by or before a magistrate, on the ground that the magistrate has exceeded his or her jurisdiction, the judge to whom the application is made, may, if he or she thinks fit so to do, quash the conviction, order or other legal process, subject to the condition that no action shall be brought against the magistrate by or before whom such conviction, order or other process was made or against any officer acting under such conviction, order or legal process or under any warrant issued to enforce any such conviction or order.

1030. OBJECTION AS TO NO EVIDENCE OF NOTICE, PROCLAMATION ETC. INADMISSIBLE

(1) No order, conviction or other legal process made by any magistrate shall be quashed or set aside, and no defendant shall be discharged, by reason of any objection that evidence has not been given of a notice, proclamation or order of the Cabinet, or the Governor-General, or of any rules, regulations, or by-laws made or approved by the Cabinet or the Governor-General in pursuance of any enactment, or of the proclamation or publication of such proclamation, notice, order, rules, regulations or by-laws in the Gazette.

(2) Any such notice, proclamation, order, rules, regulations and bylaws and the publication thereof shall be judicially noticed.

1031. VALIDITY OF PROCEEDINGS TRIED AND DECIDED ON THE MERITS

Whenever it appears by any conviction or order made by a magistrate that a defendant appeared at the trial and pleaded to the charge and the case was tried on its merits, if the defendant has not appealed against the conviction, or order, where an appeal is allowed, such conviction or order shall not afterwards be set aside or vacated on account of any defect of form.

Rejection or Admission of Evidence

1032. IMPROPER ADMISSION OR REJECTION OF EVIDENCE

The improper admission or rejection of evidence shall not be a ground of itself for a new trial or reversal of any decision in any case if it appears to the Court, hearing the objection that independently of the evidence objected to being admitted, there was sufficient evidence to justify the decision, or that even if the rejected evidence had been received, it would not have varied the decision.

Warrants of Commitment in General

1033. WARRANTS OF COMMITMENT VALID IF ORDER GOOD

A warrant of commitment is not to be held void by reason only of any defect in the warrant if it is alleged in the warrant that the offender has been ordered to do or to abstain from doing any act or thing required to be done or left undone, and there is good and valid order to sustain the warrant.

1034. QUALIFICATION OF ACCUSED, WHEN PRESUMED

Where an offence is alleged to be committed in any special capacity, such as by the holder of a licence, master of a vessel, occupier of a house, or the like, the fact that an accused person possesses the qualification necessary with respect to the commission of the offence shall, unless challenged by preliminary objection before his or her plea is recorded, be held as admitted.

1035. AGE FROM APPEARANCE, PRESUMPTION

In the absence of other evidence, or by way of corroboration, the judge or magistrate, or in cases where an offender is tried by a jury, the jury before whom an indictment for the offence is tried, or the magistrate before whom a preliminary inquiry is held, may infer the age from the appearance of a child or young person, or from any other evidence considered to be satisfactory.

1036. PROOF OF CONVICTION

(1) A witness may be questioned as to whether he or she has been convicted of any offence, and upon being so questioned, if he or she either denies the fact or refuses to answer the question, the other party may prove such conviction.

(2) The fact of such conviction may be proved by producing—

(a) a certificate containing the substance and effect only, omitting the formal part of the indictment and conviction, in the case of an indictable offence, or a copy of the summary conviction, or of the note or memorandum thereof, in the case of an offence punishable upon

summary conviction, purporting to be signed by the clerk of the Court or other officer having the custody of the records of the Court in which the conviction, was had or returned;

(b) proof of identity.

(3) Nothing contained in this section shall require an accused person giving evidence on his or her own behalf, or any similarly protected witness, to answer any question tending to show that he or she has committed or been convicted of any offence, except when he or she is required under the provisions of any enactment to answer such question.

1037. MODE OF PROVING NOTE FALSE

When, at the trial of any person, it becomes necessary to prove that any note produced in evidence against him or her is false or counterfeit, it is sufficient to prove the note to be false or counterfeit by the evidence of any credible witness.

1038. DIFFERENCE AS TO DATE, YEAR OR LEGEND ON NOTE IMMATERIAL

At the trial of any person accused of any offence respecting currency or note, no difference in the date or year, or in any legend marked upon the legal note described in the charge and the date or year or legend marked upon the false note counterfeited to resemble or pass for such legal note or upon any die, plate, press, tool, or instrument used, constructed, devised, adapted, or designed, for the purpose of counterfeiting or imitating any such legal note, shall be considered a just or lawful cause or reason for acquitting any person of such offence, and in any such case, it is sufficient to prove any general resemblance to the legal note, as will show an intention that the counterfeit should pass for the legal note.

1039. COURT TO CUT IN PIECES AND DISPOSE OF FALSE NOTE

Unless otherwise provided, if any false or counterfeit note is produced at any trial for an offence against currency, the Court shall order such note to be cut in pieces in open Court or in the presence of a magistrate or other person.

1040. DEFAMATION PRESUMPTION OF PUBLICATION

At the trial of a person charged with the unlawful publication of a defamatory matter, which is contained in a periodical, after sufficient evidence has, in the opinion of the Court, been given of the publication by the accused of the number or part of the periodical containing the matter complained of, other writings or prints, purporting to be other numbers or parts of the same periodical, previously or subsequently published, and which contain a printed statement that they were published by or for the accused, are admissible in evidence for either side, without further proof of their publication.

1041. PRESUMPTION OF VALIDITY OF DEPOSITION

A written statement or deposition of a witness, purporting to have been tendered or taken before a magistrate on the investigation of a criminal charge and to be signed by the witness and the magistrate, or the copy or record of evidence duly certified as required by law, returned to and produced from the custody of the proper officer, shall be presumed *prima facie* to have been signed by the witness or to contain the evidence given by the witness at the preliminary inquiry, as the case may be.

1042. PROOF OF INTENT TO DECEIVE OR DEFRAUD

At the trial of a person charged with any offence of which an intent to injure or deceive or defraud, or an intent to enable another person to deceive or defraud, is an element, it is not necessary to prove an intent to injure or deceive or defraud any particular person, or an intent to enable any particular person to deceive or defraud any particular person.

1043. PRESUMPTION FROM THINGS FOUND IN BETTING-HOUSE

When any cards, dice, balls, counters, tables or other instruments of betting used in playing any illegal game, are found in any house, room, tent, vehicle or place suspected to be used as a betting-house or on the body of any of the persons found in any such house, room, tent, vehicle, or place it shall be *prima facie* evidence at the trial of an offence for keeping a betting-house and that the persons found there

were playing illegal game, although no illegal game was actually being played when the officer authorised in that behalf or any person accompanying him or her entered such house, room, tent, vehicle or place.

1044. PRESUMPTION OF USE OF PLACE AS BETTING-HOUSE

In any prosecution for keeping a betting-house, it shall be *prima facie* evidence that a house, room, tent, vehicle or place is used as a betting-house—

(a) if any police officer or person authorised to enter any such house, room, tent, vehicle, or place is wilfully prevented from or obstructed or delayed in, entering the house, room, tent, vehicle or place or any part of it;

(b) if any such house, room, tent, vehicle or place is found fitted or provided with any contrivance for concealing removing or destroying any instruments of betting.

1045. PROOF OF PLAY FOR MONEY, WAGER, OR STAKE UNNECESSARY

At the trial of a person charged with the offence referred to in section 1044, it is not necessary to prove that any person found there playing at any game was playing for any money, wager or stake.

1046. COMPARISON OF DISPUTED HANDWRITING

Comparison of a disputed handwriting with any writing proved to the satisfaction of the Court to be genuine shall be permitted to be made by witnesses, and such writings, may be submitted to the Court or to a jury, as evidence of the genuineness or otherwise of the writing in dispute.

1047. PRESUMPTION AS TO IDENTITY

When in any trial the evidence is sufficient to prove the identity of any person, corporation or company, or of any place, or of anything, it shall not be a valid objection to the sufficiency of such evidence that any particulars set forth with regard to the identity of the person,

corporation or company , place or thing in the complaint, charge or indictment have not been proved.

1048. EVIDENCE OF RELATIONSHIP ON TRIAL OF INCEST

(1) At the trial of a person charged with incest, it is sufficient to prove that the female or male in respect of whom the offence is alleged to have been committed is reputed to be the lineal ascendant, descendant, or sister or brother of the other party to the incest, and it is not necessary to prove that any such person was born in lawful wedlock, or was of the whole blood.

(2) The accused person, until the contrary is proved, is presumed to have had knowledge at the time of the alleged offence of the relationship existing between him or her and the other party to the incest.

1049. PRESUMPTION IN PROSECUTIONS FOR OFFENCES RESPECTING LIQUOR

(1) In any prosecution for any offence with respect to intoxicating liquor, it is not necessary that any witness deposes directly to the precise description of the liquor in respect of which the offence is alleged to have been committed, or to the precise consideration thereof, or to the fact of the offence having been committed with his or her participation or with his or her knowledge.

(2) Where it appears to the Court that the evidence sufficiently establishes the offence complained of, the Court shall put the defendant on his or her defence and if he or she is unable to rebut the evidence, shall convict the defendant accordingly.

1050. PRESUMPTION OF NATIONALITY OR RACE FROM APPEARANCE

Whenever it becomes necessary to prove the nationality or race of the person in any cause, or matter before any Court, the Court, or jury, may infer as a fact the nationality or race of the person in question from the appearance of the person.

1051. PRESUMPTION OF NATIONALITY OF SHIPS

In any proceedings relating to shipping it is not necessary to produce the official register of the ship referred to in such proceedings in order to prove the nationality of the ship, but the nationality of the ship as stated in the complaint shall in the absence of evidence to the contrary, be presumed to be the nationality of the ship.

1052. PROOF OF FALSE TESTIMONY BY CERTIFICATE

(1) At the trial of a person charged with an offence, of which the giving of false testimony by the person at the trial is an element, a certificate setting out the substance and effect only, without the formal parts of the indictment or complaint and the proceedings at the trial and purporting to be signed by the officer having the custody of the records of the Court or by his or her deputy is sufficient evidence of the trial without proof of the signature or official status of the person, who appears to have signed the certificate.

(2) A fee of $10 shall be charged for a certificate by the person who demands the certificate but no such fee shall be charged in respect of a certificate demanded by the Director of Public Prosecutions.

1053. MODE OF PROOF OF SEAL OR STAMP USED FOR PUBLIC REVENUE OR POST OFFICE

At the trial of a person charged with an offence relating to any seal or stamp, used for the purposes of public revenue, or of the post office, in any part of the Commonwealth or in any foreign country, a despatch from one of Her Majesty's Principal Secretaries of State, or from the Government of such foreign country to the Governor-General of this State transmitting any stamp, mark, or impression and stating it to be a genuine stamp, mark or impression of a die, plate or other instrument, made or used by or under the direction of the proper authority of the country in question, for the purpose of expressing or denoting any stamp duty or postal charge, is admissible as evidence of the facts stated in the despatch, and the stamp, mark or impression so transmitted, may be used by any Court or by a jury or by witnesses for the purposes of comparison.

1054. PRESUMPTION FROM ENTRIES OF RECEIPT OF MONEY BY PUBLIC OFFICER OR CLERK OR SERVANT

(1) At the trial of a person charged with stealing, while employed in the public service, money which was the property of Her Majesty, or which came into the possession of the person by virtue of his or her employment, or charged with stealing, while a clerk or servant, money which was the property of his or her employer, or which came into his or her possession on account of his or her employer, an entry in any book of account kept by the accused person, or kept in, under or subject to his or her charge or supervision, purporting to be an entry of the receipt of any money, is evidence that the money so purporting to have been received was so received by him or her.

(2) At the trial of the person charged with an offence referred to in subsection (1), it is not necessary to prove the stealing by the accused person of any specific sum of money, if, on examination of the books of account or entries kept or made by him or her, or kept or made, under, or subject to his or her charge or supervision, or by any other evidence, there is proof of a general deficiency, and if the jury are, or in a trial without jury the Court is, satisfied that the accused stole the deficient money or any part of it.

1055. PROOF OF SERVICE OR EXECUTION

A complaint, warrant, or other process under this Code may, without endorsement, be served or executed at any place within the State by any officer of law, and such service or execution may be proved either by the oath in Court or affidavit of such officer or by production of his or her written execution or return of service, but the Court may direct such proof to be by oath in Court, or by affidavit, if it considers it proper so to do in the circumstances.

1056. PROOF OF STATUTES, RECORDS, DOCUMENTS OR OTHER WRITINGS

In the absence of express provision—

(a) all statutes, official, notarial and other authentic records, books, registers, instruments, documents or writings, and copies or extracts thereof and therefrom, as well as

private writings, are admissible in evidence in any criminal trial, proceedings or inquiry, in the same manner and subject to the same conditions under which they are admissible in evidence under the Code of Civil Procedure, or any other enactment, regulating their proof and admissibility as evidence, on mere production without further proof, or with such further proof, as may be required, and as the case may be;

(b) the Court may allow any documentary evidence to be tendered for what it is worth, although it is not regularly proved, if in its opinion it is in the interests of justice that it should be so admitted, subject nevertheless to the directions and comments of the Court and the comments of any party to proceedings.

1057. PROOF OF DOCUMENT NOT DISPUTED UNNECESSARY

(1) It is not necessary to prove any documents the terms of which are not in dispute.

(2) Copies of any documents may, by agreement of the parties, be accepted as equivalent to the originals.

1058. ADMISSIBILITY OF UNSTAMPED DOCUMENTS

Every instrument liable to stamp duty shall be admitted in any criminal proceedings, although it may not be stamped as required by law.

1059. NO PROOF OF UNNECESSARY AVERMENT

It is not necessary to prove any matter alleged which it was not necessary or essential to aver or allege.

Perjury Prosecutions

1060. POWER OF COURT TO ORDER PROSECUTION FOR PERJURY IN PROCEEDING BEFORE IT

Where it appears to the Court, sitting in the exercise of any civil or criminal jurisdiction, that any person committed perjury in respect of any evidence given by him or her, or in any affidavit, deposition, examination, answer, or other proceeding taken before the Court, it may direct that the person be prosecuted for perjury, and the Court may, if it thinks fit, remand him or her in custody or release him or her on bail until he or she can conveniently be brought before a magistrate to answer such charge.

1061. DUTY OF MAGISTRATE

The magistrate before whom a person is charged, or prosecuted for perjury, shall deal with the case, as far as is practicable, in the same manner as if the person has been arrested under a warrant issued by the magistrate in respect of such perjury.

1062. SERVICE OF CHARGE ON ACCUSED

Except, with the consent of the person charged, the charge of perjury shall not be proceeded with until after at least 48 hours after service of the summons, or where the person is in custody, after the service on him or her of a notice stating the charge, or after at least 48 hours after the charge has been read to him or her in Court.

Proceedings Against Associations, Companies, etc.

1063. PROCEEDINGS AGAINST ASSOCIATIONS, COMPANIES, ETC.

(1) The provisions of this section shall apply with respect to prosecution of offences committed by a company, association, corporation, firm or partnership, or body of trustees, without prejudice to any other powers conferred by any other enactment.

(2) Proceedings may be taken against a company, association corporation, firm or partnership or body of trustees, in their corporate capacity, and in that case any penalty shall be recoverable by execution as in civil cases.

(3) Proceedings may be taken against an individual or a representative of any company, association or corporation, firm or partnership as follows—

(a) in the case of an unincorporated company or firm, any one of the partners thereof, or the manager or the person in charge or locally in charge of its affairs, may be dealt with as if he or she were the offender;

(b) in the case of an association, or incorporated company, the managing director, the secretary, or other principal officer thereof, or the person in charge or locally in charge of the affairs thereof, may be dealt with as if he or she were the offender.

(4) The offence shall be deemed to be the offence of such company, association, or corporation, and a conviction thereof may be charged as an aggravation of any subsequent offence of the same nature committed by the same company, association, or corporation, although the individuals charged and convicted of such subsequent offence are different persons.

Statement of Ownership of Property

1064. TESTAMENTARY INSTRUMENT

In any document in connection with any proceedings for an offence relating to a testamentary instrument, it is not necessary to allege that the instrument is the property of any person.

1065. DOCUMENT OF TITLE TO LAND

In any document in connection with any proceedings for an offence relating to a document which is evidence of title to land or to an interest in land, the document may be described as being evidence of the title of the person or one of the persons having an interest in the

land to which the document relates and the land or any part of it may be described in a manner sufficient to identify it.

1066. PROPERTY OF A SUCCESSOR

In any document in connection with any proceedings for stealing, or any other offence with respect to the property of a deceased person or of a successor, it is sufficient to state that the property is that of the successor of the deceased person.

1067. PROPERTY LEASED

In any document in connection with any proceedings for stealing anything let to the offender it is sufficient to describe the thing as the property of the person who actually let it for hire.

1068. PROPERTY FOR RELIGIOUS WORSHIP

Where in any document in connection with any proceedings under this Code, it is necessary to state the ownership of any church, chapel, or building set apart for religious worship, or of any chattel belonging to or in the possession of such church or chapel, it is sufficient to state that such church, chapel, or building or chattel, is the property of the clergyman, or the officiating minister or the church warden without stating his or her name.

1069. UNCERTAINTY OF OWNERSHIP OF PROPERTY BELONGING TO SEVERAL PERSONS

In any document in connection with any proceedings for an offence with respect to any property if it is uncertain to which of 2 or more persons the property belonged at the time when the offence was committed, it is sufficient to describe the property as being the property of one or other of the persons naming each of them but without specifying which of them owns the property, and the charge will be sustained with respect to the allegation of ownership if it is proved that at the time when the offence was committed, the property belonged to one or other of the persons without ascertaining which of them.

1070. PROPERTY OF SEVERAL PERSONS

(1) Where, in any document in any proceedings under this Code, it is necessary to state the ownership of any property, whether movable or immovable, which belongs to or is in the possession of more than one person, it is sufficient to name one of the persons, and to state that such property belongs to the person so named and another or others, as the case may be.

(2) Where, in any such document, it is necessary to mention for any purpose any partners, other joint owners or holders of joint interest it is sufficient to describe them in the manner stated in subsection (1).

(3) The provisions of this section apply to all joint-stock companies and associations, societies and trustees.

1071. PROPERTY BELONGING TO CORPORATE BODY

In any document in connection with any proceedings for an offence committed with respect to any movable or immovable property of which any body corporate has by law the management, control or custody, it is sufficient to describe the property as belonging to such corporate body.

1072. SUFFICIENCY OF STATEMENT OF NAME OR TITLE OF COMPANY OR PARTNERSHIP

In any document in connection with any proceedings in which it is necessary to name any joint-stock company or co-partnership without naming any of the officers or shareholders of such joint-stock company or any of the partners in such co-partnership, and in the case of one individual trading under the style or title of a firm, that individual may be described by such style or title.

1073. USE OF COLLECTIVE NAME SUFFICIENT

Where property is vested in more than one person, and the owners of the property are referred to in any document in any proceedings, if the persons who own the property are a body of persons with a collective name such as “Inhabitants,” “Government,” “Town Council,” “Trustees,” “Commissioners,” or “Club” or other such name, it is

sufficient to use the collective name without specifying by name any individual.

1074. PROPERTY AS OWNED BY INHABITANTS OF STATE, DISTRICT, TOWN OR VILLAGE

Where, in any document in connection with any proceedings under this Code, it is necessary to state the ownership of any building erected or maintained, either wholly or in part, at the expense of the inhabitants of the State or any district, town, or village, or of any chattel belonging to or in the possession of the State, district, town or village, or of any materials or tools used for repairing any such building or any public road or highway, it is sufficient to state that such property, movable or immovable, is the property of the inhabitants of the State, district, town or village, as the case may be, without specifying by name any of such inhabitants.

1075. PROPERTY IN PUBLIC PLACES NEED NOT BELONG TO ANY PERSON

In any document in connection with any proceedings for an offence relating to anything fixed in a square or street, or in a place for public use or ornament or to anything on or taken from a public place or office, it is not necessary to allege that the thing in respect of which the offence is committed, is the property of the person.

1076. DESCRIPTION OF PROPERTY IN CHARGE AGAINST PUBLIC SERVANTS

In any document in connection with any proceedings against a person employed in the public service for an offence committed with respect to anything which came into his or her possession by virtue of his or her employment, it is sufficient to describe the thing in question as the property of Her Majesty or of the Government.

1077. DESCRIPTION OF PROPERTY BELONGING TO GOVERNMENT

In any document in connection with any proceedings with respect to property belonging to the public or the Government, it is sufficient to describe it as the property of the Government.

1078. DESCRIPTION OF PROPERTY AS BELONGING TO PUBLIC OFFICER OR COMMISSIONER

In any document in connection with any proceedings for an offence committed with respect to anything in the custody, possession or under the management of any public officer or commissioner, it is sufficient to describe the thing as belonging to such officer or commissioner without specifying him or her by name.

Time Enlargement and General Trial Provisions

1079. POWER TO ENLARGE TIME

In the absence of express provision to the contrary in this Code or any other enactment, the Court may enlarge the time for doing any act where it considers it in the interest of justice so to do.

1080. CONDITIONS OF ADJOURNMENT OR AMENDMENT

(1) Without prejudice to any other provision, whenever the Court, allows an adjournment or amendment, it shall be on such terms and conditions, if any, as to costs or otherwise as the Court may consider just and proper.

(2) Without prejudice to any other power or provision, if an accused absents himself or herself during the trial without leave, the Court may direct a warrant to be issued to arrest and bring him or her before the Court.

1081. MODE OF TRIAL WHEN NONE PRESCRIBED

(1) Where no mode of trial of any offence is prescribed by this Code or any other enactment, the offence shall be deemed to be summary and triable as a summary offence, if the imprisonment for such offence, whether mandatory or as an alternative for any other penalty, does not exceed 6 months.

(2) In any other case an offence shall be deemed to be indictable and triable as an indictable offence subject to any provision with respect to the trial of an indictable offence summarily, or by a magistrate.

1082. TRIAL OF ALIENS

Every person, whether a citizen or not, is triable in the same manner as a natural-born citizen.

1083. PROCEDURES IN CASES NOT PROVIDED FOR

(1) The Chief Justice may make rules of practice for regulating proceedings in criminal causes and matters, whether in the High Court or district court, and in all matters of criminal procedure not provided for by this Code or any other enactment.

(2) Without prejudice to subsection (1) in all cases of procedure not provided by this Code or any rules of practice, or otherwise, the procedure or practice or form in matters of criminal proceedings shall be such as may be directed or approved for the purpose and occasion by the judge in the case of the High Court or by the magistrate in the case of a district court.

Forms

1084. FORMS

The forms set out in Schedule 5 to this Code with such variations and additions as the circumstances of the particular case may require, or forms to the like effect, may be used in the cases to which they respectively apply, and shall be deemed good, valid and sufficient for the purposes of this Code.

1085. TARIFFS OF FEES

Cabinet may, by notice in the Gazette, prescribe the fees payable in criminal causes, matters or proceedings by or to any person whether as jurors, parties, witnesses, or otherwise.

CHAPTER 4
PUNISHMENT, PARDON, REMISSION, REWARDS AND MISCELLANEOUS MATTERS

PART 1
GENERAL PROVISIONS

SUB-PART A
Punishment in General

1086. EXTENT OF JURISDICTION

For the purposes of this Code, the jurisdiction of the Courts of this State extends to every place in this State within 3 miles of any part thereof.

1087. LIABILITY FOR ACT DONE PARTLY BEYOND JURISDICTION

When an act, which, if wholly done within the jurisdiction of the Courts, would be an offence against this Code, is done partly within and partly outside the jurisdiction of the Courts, the person who within the jurisdiction does or aids and abets any part of such act, may be tried and punished under this Code in the same manner as if the act had been done wholly within the jurisdiction of the Courts.

1088. ACT WHEN PUNISHABLE

A person shall not be punished for doing any act which does not constitute an offence under the law in force when the act was done.

1089. CONVICTION ESSENTIAL BEFORE PUNISHMENT

When a person is declared to be liable to punishment for doing an act, that person shall only be liable to punishment after he or she is duly convicted.

1090. PUNISHMENT NOT TO BE DOUBLE

A person shall not be punished twice for the same offence under the provisions of this Code or any other law, except in the case where a person causes the death of another person, in which case he or she may be convicted of the offence which he or she committed by reason of causing such death, although he or she has already been convicted of some other offence constituted by his or her act.

1091. PROSECUTION AND PUNISHMENT UNDER ONE OR MORE ENACTMENTS

Where an act constitutes an offence, punishable on summary conviction or on indictment, under the same enactment or under 2 or more enactments, the offender shall, unless the contrary intention appears, be liable to be prosecuted and punished accordingly under either or any of such enactments, but shall not be liable to be punished twice for the same offence.

1092. SEVERAL ACTS RESPECTING ONE PERSON OR THING, EACH OF WHICH IS A CRIME

(1) Where a person does several acts against or in respect of another person or thing, each of which is a crime under this Code or any other enactment, but all of which acts are done in execution of the same design, and, in the opinion of the Court before which the person is tried, from one or continuous transaction, the person may be punished for all of such acts as one crime, or for any one of such several acts as one crime, and all the acts may be taken into consideration in determining punishment, but he or she shall not be liable to separate punishments with respect to the several crimes.

(2) If a person by one act assaults, harms, or kills several persons or in any manner causes injury to several persons or things, he or she shall be punished in respect of one of the persons so assaulted, harmed, or killed or of the persons to whom or things to which injury is so caused, but in determining punishment the Court may take into consideration all the intended or probable consequences of the crime.

Increased Punishments for Repetition of Crime

1093. LIABILITY TO INCREASED PUNISHMENT ON SUBSEQUENT CONVICTION

(1) Where a person, having a previous conviction for a crime, is again convicted of a crime, he or she shall be liable to increased punishment in the manner provided in Part 1 of the Table in Schedule 6 to this Code.

(2) Unless otherwise provided in this Code or any other enactment—

(a) a previous conviction shall not be admitted in evidence against a person except within the period specified in Part 2 of the Table after the expiration or execution of the sentence passed on that person upon the previous conviction, or of any sentence to which that sentence has been commuted;

(b) nothing in this section, or in the Table, shall exempt a person from any liability to which he or she may be subject under this Code to death or to any greater or other punishment than the punishment prescribed in the Table, and any other different punishment to which he or she is liable under this Code may be inflicted in addition to the punishments prescribed in the Table;

(c) nothing in this section, or in the Table, shall apply to libel, or to any act which is a crime on the ground of negligence, or to any offence punishable on first conviction by fine only.

(2) A conviction of a person for a crime committed by him or her before attaining the age of 18 years shall not be admitted in evidence against him or her after he or she has attained the age of 21 years.

Punishment in cases not Specified

1094. INDICTABLE OFFENCE

(1) Where an offence is declared by this Code or by any other enactment to be an indictable offence, and no punishment for the offence is specified, a person convicted of the offence shall be liable to imprisonment for 5 years.

(2) Where an offence may be tried under this Code or by any other enactment, either as an indictable offence or a summary offence and no punishment for the offence is specified, a person convicted of the offence summarily shall be liable to imprisonment for 3 years.

1095. SUMMARY OFFENCE

Where by this Code or any other enactment, any offence is punishable on summary conviction and no punishment is specified, therefore the punishment shall be a fine not exceeding $1,000.

SUB-PART B
Principles of Judicial Sentencing

1096. RESTRICTIONS ON THE IMPOSITION OF CUSTODIAL SENTENCES

(1) This section applies where a person is convicted of an offence punishable with a custodial sentence other than one fixed by law.

(2) Subject to subsection (3), the Court shall not pass a custodial sentence on the offender unless it is of the opinion—

(a) that the offence, or the combination of the offence and one other offence associated with the offence, was so serious that only such a sentence can be justified for the offence; or

(b) where the offence is of a violent or sexual nature, that only such a sentence would be adequate to protect the public from serious harm from the offender.

(3) Nothing in subsection (2) prevents the Court from passing a custodial sentence on an offender if the offender refuses to consent to a community sentence which is proposed by the Court and requires that consent.

(4) Where a Court passes a custodial sentence, it is the Court's duty—

(a) in a case not falling within subsection (3), to state in open Court that it is of the opinion that either or both of subsection (2)(a) and (2)(b) apply and why it is of that opinion; and

(b) in any case, to explain to the offender in open Court and in ordinary language why it is passing a custodial sentence on the offender.

(5) A Court shall cause a reason stated by it under subsection (4) to be specified in the warrant of commitment and to be entered in the record of the Court.

1097. LENGTH OF CUSTODIAL SENTENCES

(1) This section applies where a Court passes a custodial sentence.

(2) The custodial sentence shall be—

(a) for any term (not exceeding the permitted maximum) as in the opinion of the Court is commensurate with the seriousness of the offence, or the combination of the offence and other offences associated with the offence; or

(b) where the offence is of a violent or sexual nature, for such longer term (not exceeding that maximum) as in the opinion of the Court is necessary to protect the pubic from serious harm from the offender.

(3) Where the Court passes a custodial sentence for a term longer than is commensurate with the seriousness of the offence, or the combination of the offence and other offences associated with it, the Court shall—

(a) state in open Court that it is of the opinion that subsection (2)(b) applies and why it is of that opinion; and

(b) explain to the offender in open Court and in ordinary language why the sentence is for such a term.

(4) A custodial sentence for an indeterminate period shall be regarded for the purposes of subsections (2) and (3) as a custodial sentence for a term longer than any actual term.

1098. PROCEDURAL REQUIREMENTS FOR CUSTODIAL SENTENCES

(1) Subject to subsection (2), a Court shall obtain and consider a pre-sentence report before forming any such opinion as is mentioned in subsection (2) of either section 1096 or section 1097.

(2) Where the offence or any other offence associated with it is triable only on indictment, subsection (1) does not apply if, in the circumstances of the case, the Court is of the opinion that it is unnecessary to obtain a pre-sentence report.

(3) In forming any such opinion as is mentioned in subsection (2) of either section 1096 or section 1097 a Court—

(a) shall take into account all such information about the circumstances of the offence (including any aggravating or mitigating factors) as is available to the Court; and

(b) in the case of any such opinion as is mentioned in paragraph (b) of that subsection, may take into account any information about the offender which is before the Court.

(4) A custodial sentence which is passed in a case to which subsection (1) applies is not invalidated by the failure of the Court passing sentence to comply with that subsection but any Court, on an appeal against such a sentence—

(a) shall obtain a pre-sentence report if none was obtained by the Court passing sentence; and

(b) shall consider any such report obtained by it or by the Court passing sentence.

(5) A "**pre-sentence report**" in this Sub-Part means a report in writing which is made by a probation officer with a view to assisting the Court in determining the most suitable method of dealing with an offender.

1099. ADDITIONAL REQUIREMENTS IN THE CASE OF MENTALLY DISORDERED OFFENDERS

(1) Subject to subsection (2), in any case where section 1098 applies and where the offender is, or appears to be mentally disordered, the Court shall obtain and consider a medical report before passing a custodial sentence other than one fixed by law.

(2) Subsection (1) does not apply if, in the circumstances of the case, the Court is of opinion that it is unnecessary to obtain a medical report.

(3) Before passing a custodial sentence other than one fixed by law on an offender who is or appears to be mentally disordered, a Court shall consider—

(a) any information before it which relates to the offender's mental condition (whether given in a medical report, a pre-sentence report or otherwise); and

(b) the likely effect of such a sentence on that condition and on any treatment which may be available for it.

(4) A custodial sentence which is passed in a case to which subsection (1) applies is not invalidated by the failure of the Court passing sentence to comply with that subsection, but any Court, on an appeal against such a sentence—

(a) shall obtain a medical report if none was obtained by the Court; and

(b) shall consider any such report obtained by it or by the Court passing sentence.

(5) In this section—

"**medical report**" means a report as to an offender's mental condition made or submitted orally or in writing by a qualified registered medical practitioner;

"**qualified**" in relation to a registered medical practitioner, means appearing to the Court to have special knowledge and experience of cases of mental disorder.

(6) Nothing in this section prejudices the generality of section 1098.

1100. SAVING FOR MITIGATION AND MENTALLY DISORDERED OFFENDERS

(1) Nothing in this Code prevents a Court from mitigating an offender's sentence by taking into account any such matters as, in the opinion of the Court, are relevant in mitigation.

(2) Without prejudice to the generality of subsection (1), nothing in this Code prevents a Court—

(a) from mitigating any penalty included in an offender's sentence by taking into account any other penalty included in that sentence; or

(b) in the case of an offender who is convicted of more than one offence, from mitigating the offender's sentence by applying any rule of law as to the totality of sentences.

(3) Nothing in this Code—

(a) requires a Court to pass a custodial sentence, or any particular custodial sentence, on a mentally disordered offender; or

(b) restricts any power which enables a Court to deal with a mentally disordered offender in the manner the Court considers to be most appropriate in all the circumstances.

1101. EFFECT OF PREVIOUS CONVICTIONS ETC.

(1) An offence shall not be regarded as more serious for the purposes of any provision of this Code by reason of any previous convictions of the offender or any failure on the part of the offender to respond to previous sentences.

(2) Where any aggravating factors of an offence are disclosed by the circumstances of other offences committed by the offender, nothing in this Code prevents the Court from taking those factors into account for the purpose of forming an opinion as to the seriousness of the offence.

1102. GENERAL JUDICIAL GUIDELINES

(1) Without prejudice to sections 1096 to 1101, a Court in sentencing an offender convicted by or before the Court, shall observe the general guidelines set forth in subsection (2).

(2) The guidelines referred to in subsection (1) are as follows—

(a) the rehabilitation of the offender is one of the aims of sentencing;

(b) the gravity of a punishment must be commensurate with the gravity of the offence;

(c) an offender shall only not be sentenced for an offence of which the offender has been convicted or for another offence or other offences which the offender has asked the Court to take into consideration in passing sentence;

(d) where a fine is imposed, the Court in fixing the amount of the fine must take into account, among other relevant considerations, the means of the offender so far as these are known to the Court, regardless of whether this will increase or reduce the amount of the fine.

SUB-PART C
Sentencing and Orders in General

1103. SENTENCING GUIDELINES

(1) Subject to section 1104 the Chief Justice may, from time to time, after consultation with the Attorney General, the Director of Public Prosecutions and any other relevant person or body, issue to the district courts, Sentencing Guidelines with respect to such offences as he or she may consider appropriate, and these Guidelines shall be complied with by every magistrate.

(2) The guidelines may be issued by way of regulations.

(3) Where a magistrate does not comply with any such Guidelines when passing a sentence in respect of any offence to which the Guidelines relate, he or she shall state in writing and in open Court, why the Guidelines were not followed in the particular case.

1104. PUNISHMENT MAY NOT BE LESS THAN MINIMUM

Where a mandatory minimum punishment is prescribed in respect of any offence by this Code or any other enactment, a Court may not sentence an offender to any less punishment than that prescribed.

1105. PRONOUNCEMENT OF SENTENCE

Every sentence, unless otherwise provided, shall be pronounced in open Court in the presence of the offender, but it is not necessary that the sentence is written out or signed in his or her presence.

1106. MODIFICATION OF SENTENCE

(1) The Court which sentenced the offender, may at any time before imprisonment, require the attendance of the offender, unless sentence was pronounced in his or her absence, and to alter or modify the sentence, but shall not impose a higher sentence than that originally pronounced.

(2) The signature of the magistrate, or proper officer of the Court to any sentence is sufficient to authenticate the sentence.

1107. RUNNING OF SENTENCES

Where a person after conviction for a crime is convicted of another crime, either before sentence is passed on him or her for the first conviction or before the expiration of that sentence, any sentence (other than sentence of death) which is passed on him or her for the second conviction, shall be executed after the expiration of the first sentence, unless the Court directs that it is executed *in lieu* of the first sentence or of any part of the first sentence.

Terms of Orders in Cases other than for Payment of Money

1108. ORDERS OF COURT IN CASES OTHER THAN FOR PAYMENT OF MONEY WHERE NO MODE OF ENFORCEMENT PRESCRIBED

(1) Where the Court has power under any enactment—

(a) to require any person to do or to abstain from doing any act or thing other than the payment of money;

(b) to require any act or thing to be done or left undone, other than the payment of money,

and no mode is prescribed for exercising the power , the Court may exercise its power by—

(i) making an order with such conditions as to time or mode of action as the Court may think just to impose,

(ii) suspending or rescinding any order it makes subject to any undertaking or condition as the Court may think just to impose, and generally by giving directions for giving effect to such power as the Court may deem fit.

(2) Any person who defaults in complying with an order of the Court in relation to any matter under any enactment other than the payment of money, shall be punished in the manner prescribed by the enactment, or, if no punishment is prescribed, may, in the discretion of the Court, be ordered to pay a sum not exceeding $500 for every day during which he or she is in default or to be imprisoned until he or she has remedied his or her default.

(3) A person in default of compliance with any conditions or directions of the Court to do or to abstain from doing any act or thing, is not liable under this section to the payment of sums amounting in the aggregate to more than $500 or to imprisonment for a term amounting in the aggregate to more than 3 months.

(4) In making any order the Court under this section, may stipulate that, in default of the performance of the particular act enjoined by such order to be done, the defendant shall pay to the complainant the sum as the Court may award as a fair compensation to him or her for the default and direct that, in default of the payment of the sum, the defendant shall be imprisoned for any term not exceeding the term prescribed by this Code in respect of a like sum in the scale of imprisonment in default of payment of fines for summary offences.

Terms of Orders in Usual Cases

1109. TERMS OF ORDERS IN USUAL CASES

(1) Where the Court has power under any enactment to make an order in respect of the contravention of any of the provisions of

the enactment, the following general provisions of this section with respect to the nature of the order which may be so made in different cases, shall, unless the contrary is expressly provided by the particular enactment or by necessary implication, have effect.

(2) Where in an enactment it is provided that a person who commits any contravention of the enactment shall be liable to a fine, the Court may, when any such order is made, order that the sum adjudged to be paid by the defendant be paid forthwith or within a specified time, and that, in default of such payment, the defendant be imprisoned.

(3) Where in an enactment it is provided that a person who commits any contravention is liable to a penalty, or commits an offence and, on being convicted, is liable to a fine or by words to that effect, the Court may, where any such order is made, order that the sum adjudged to be paid by the defendant be paid forthwith or within a specified time, and that, in default of such payment, the defendant be imprisoned.

(4) Where in an enactment it is provided that a person who commits any contravention of the enactment commits an offence and on being convicted is liable to a fine or to imprisonment, or to both such fine and imprisonment, or by words to that effect, the Court may, in passing sentence either—

(a) order as stated in subsection (2) of this section;

(b) order that the defendant be imprisoned;

(c) in the case of both fine and imprisonment being imposed, order in terms of paragraphs (a) and (b).

(5) Where in an enactment it is provided that a person who commits any contravention of the enactment commits an offence, and on being convicted is liable to imprisonment, or words to that effect, the Court shall, when any such order is made, order that the defendant be imprisoned accordingly.

PART 2
TYPES OF PUNISHMENTS
SUB-PART A
Capital Punishment

1110. CONVICTION ON VERDICT, CONFESSION OR PLEA

A person who is indicted for any capital offence under any enactment, shall be liable to the same punishment, whether or not that person is convicted by verdict, or on confession, or plea.

1111. TERMS OF DEATH SENTENCE

The sentence to be pronounced upon a person who is convicted of an offence punishable with death, is that he or she be hanged by the neck until he or she is dead.

1112. STATEMENT OF TIME OR PLACE OF EXECUTION IN SENTENCE IMMATERIAL

Nothing in any law or usage in this State with respect to either the time or the place of execution shall constitute an essential part of any sentence of death pronounced by the Court on the person, so as to render the sentence void by reason that the person was not executed at the time or place stated by the Court.

1113. COURT NOT TO FIX DATE FOR EXECUTION. JUDGE'S REPORT TO GOVERNOR GENERAL

The Court shall not fix the date for the execution of any sentence of death, but as soon as conveniently possible after the sentence has been pronounced, the presiding judge shall forward to the Governor General his or her notes of the evidence taken at the trial, with a report in writing containing any recommendations or observations on the case which he or she may think fit to make.

1114. PLACE AND TIME OF EXECUTION

(1) The execution of a sentence of death passed on any person by the Court shall be carried out within the walls of the

correctional facility in which the person is confined at the time of execution on such date as the Governor General may by a warrant signed by him or her fix.

(2) Cabinet may make rules to guard against any abuse in the execution of any sentence of death so as to give greater solemnity to the execution.

1115. THE MINISTER TO APPOINT BURIAL PLACE

(1) The Minister responsible for Correctional Services shall, by writing under his or her hand, appoint a fit place for the burial of offenders who are executed, and the body of every offender executed shall be buried in that place.

(2) For purposes of this section and sections 1116, 1117 and 1129 "**Minister**" means the Minister responsible for correctional services.

1116. OFFICERS TO DIRECT AND BE PRESENT AT EXECUTION

(1) A sentence of death shall be executed under the direction of the Commissioner of Police or such other officer as the Commissioner may authorise.

(2) A correctional officer, medical officer and such other officers of the correctional facility, as well as a minister of religion approved by the Minister responsible for Correctional Services, shall be present at the execution.

1117. PRESENCE OF JUSTICE AND RELATIVES OF INMATE

A justice of the peace, and such relatives of the inmate or other persons as the Minister may deem proper to admit within the correctional facility for the purpose, may also be present at the execution.

1118. PROCEEDINGS AFTER EXECUTION OF DEATH SENTENCE

(1) As soon as may be after sentence of death has been executed on the offender, the medical officer of the correctional facility shall examine the body of the offender to ascertain the fact of death

and shall sign a certificate of death which he or she shall deliver to the Commissioner of Police.

(2) The Commissioner of Police, the correctional officer, and such other persons present, if any, as the Commissioner of Police may require or allow, shall also sign a declaration to the effect that the sentence of death has been executed on the offender.

1119. INQUEST AND DUTIES OF THE CORONER

(1) Without prejudice to the provisions of the Coroner's Act or any enactment replacing it, the coroner in charge of the district in which the correctional facility is situated wherein the sentence of death was executed shall, within 48 hours after the execution, hold an inquest on the body of the offender, to inquire into and ascertain the identity of the body, and whether the sentence of death was duly executed on the offender.

(2) The inquisition shall be recorded in duplicate and the coroner shall deliver one of the originals to the Commissioner of Police.

1120. DOCUMENTS TO BE FORWARDED TO MINISTER

Every certificate and declaration as well as the duplicate of the inquisition required to be made under sections 1118 and 1119 shall, in each case, be sent with all convenient speed by the Commissioner of Police to the Minister responsible for Correctional Services, and printed copies of these documents shall as soon as possible be exhibited, at least for 24 hours, on or near the main entrance of the correctional facility within which the sentence of death was executed.

1121. FALSE CERTIFICATE OR DECLARATION

A person who signs a certificate or declaration required under this Sub-Part which he or she knows is false is liable on summary conviction to imprisonment for 2 years.

1122. OMISSIONS NOT TO INVALIDATE EXECUTION

An omission on the part of any person to comply with any provision of this Sub-Part shall not render the execution of a sentence of death illegal in any case where it would otherwise have been legal.

SUB-PART B
Imprisonment

1123. IMPRISONMENT NOT TO BE LESS THAN MINIMUM

(1) Subject to the provisions of this Code or of any other enactment relating to any offence, the High Court before which any person is convicted of any offence may, in its discretion, sentence the person to any less term of imprisonment than that prescribed by this Code, or such other enactment, for such offence.

(2) Despite subsection (1) where in this Code or any other enactment relating to any offence, a minimum sentence is prescribed, the High Court before which any person is convicted of any offence shall not sentence the person to any less term of imprisonment than the minimum prescribed by this Code or other enactment, for the offence.

1124. COMMENCEMENT OF IMPRISONMENT ON CONVICTION BEFORE HIGH COURT

Subject to section 1104 or any other provision, a sentence of imprisonment upon conviction before the High Court takes effect from the day on which sentence is passed unless the sentence is suspended under the provisions of this Code, or the offender is not in custody or is released on bail, pending the decision of the Court of Appeal on a question reserved, and in such cases, the sentence shall take effect from the date on which he or she surrenders or is taken into custody to undergo his or her sentence.

1125. COMMENCEMENT OF IMPRISONMENT ON SUMMARY CONVICTION

A sentence of imprisonment upon a summary conviction takes effect from the date the offender is taken into custody upon his or her conviction.

1126. COMPUTATION OF IMPRISONMENT

When any person is brought by any police officer to a correctional facility to be imprisoned by virtue of a commitment, the police officer shall endorse on the commitment the day on which that person was arrested, and the imprisonment shall be computed as from that day.

1127. COMPUTATION OF IMPRISONMENT IN CASE OF ESCAPE

An inmate who escapes from lawful custody while undergoing a sentence of imprisonment is liable upon recapture to undergo the punishment which he or she was undergoing at the time of his or her escape and in addition for a further term equal to the period during which he or she was absent from the correctional facility after the escape and before the expiration of the term of his or her original sentence whether or not at the time of his or her recapture the term of the original sentence, has expired.

1128. REDUCTION OF IMPRISONMENT ON PART PAYMENT

(1) Where a term of imprisonment is imposed in respect of the non-payment of any sum of money adjudged to be paid by virtue of a conviction or an order, the term of imprisonment shall, on payment to a person authorised to receive it, or a part of such sum, be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days of the term of imprisonment as the sum paid bears to the sum adjudged to be paid, subject to the provisions of subsections (2) to (5) of this section.

(2) Fractions of a dollar shall be omitted.

(3) The sum tendered must secure one day's reduction of the sentence or some multiple thereof, and when a warrant of distress or commitment has been issued, no part payment shall be accepted until the fee, if any, payable under such warrant has been discharged.

(4) The first day of a term of imprisonment or detention shall not be counted, as a person is not entitled to be discharged on the first day of his or her imprisonment or detention, except upon payment in full of the sum adjudged to be paid by the person.

(5) Subject to any express provision or direction to the contrary, the proper officer of the Court shall apply any sum paid and received in part payment towards the payment in full or in part, firstly, of any costs adjudged to be paid to the person, secondly, of any damages or compensation adjudged to be paid to any person and thirdly, in the manner in which fines are applied.

1129. TERMINATION OF IMPRISONMENT ON PAYMENT OR LEVY

Subject to any other provision, any term of imprisonment imposed in default of payment of a sum adjudged to be paid, shall terminate whenever that sum is paid or levied by process of law.

1130. COMMITMENT IMPLIED ON PRONOUNCEMENT OF SENTENCE

When in any Court, imprisonment including imprisonment for non-payment of money forms part of any sentence, there is implied by such sentence, without more, the power of the Court to issue a warrant for the arrest, detention and commitment of the accused or for the imprisonment of any other person.

1131. ORDER OR EXTRACT THEREOF SUFFICIENT WARRANT

Where imprisonment is authorised, the making of the order as well as an extract of the order shall be a sufficient warrant for the arrest and commitment of the accused, and no such extract shall be void or liable to be set aside on account of any error or defect in form.

1132. POWER TO ISSUE WARRANT OF COMMITMENT ON DEFAULT OF PAYMENT

Where an order is made against any person for the payment of a sum of money, and the person is liable to be imprisoned, for a specified time, unless such sum is sooner paid, if the person does not pay the sum, together with costs, if awarded, forthwith or at the time specified in such order, the Court may issue a warrant of commitment, under the hand of the Court—

(a) requiring the police officer to whom the warrant is directed to take the person to the correctional facility and deliver him or her to the correctional officer; and

(b) requiring the correctional officer to receive the person into the correctional facility and there to imprison him or her or to imprison and commit him or her to hard labour, as the case may be, for such time as may be directed and appointed by the warrant of commitment, unless the sum adjudged to be paid, and also all costs and charges, are sooner paid.

1133. DELIVERY OF WARRANT AND PERSON NAMED THEREIN TO CORRECTIONAL OFFICER

(1) The police officer to whom the warrant of commitment is directed shall convey the person named in the warrant to a correctional facility and deliver him or her together with such warrant, to the correctional officer, who shall then give the police officer a receipt in respect of the person, which shall set forth the condition in which the person was when he or she was delivered into the custody of the correctional officer.

(2) It is not necessary to address any warrant of committal under this or any other section of this Code to the correctional officer, but upon delivery of any warrant to the correctional officer by the person charged with the execution thereof, such correctional officer shall receive and detain the person named in the warrant, or detain him or her, if he or she is already in his or her custody, for such period and for such purpose as the warrant directs.

Places of Detention other than Correctional Facilities

1134. DETENTION IN APPROVED PLACES

(1) Where a person is liable to be sentenced to imprisonment, the Court may, if any suitable place provided and certified in the manner stated in subsection (3) is available for the purpose, order that the person be detained in such a place for such period not exceeding 14 days as the Court thinks fit, and a copy or an extract of the order shall be a sufficient authority for his or her detention in that place in accordance with the tenor of the order.

(2) The expenses in respect of the maintenance of persons detained under this section may be defrayed in like manner as the

expenses for the maintenance of inmates in a correctional facility.

(3) The Cabinet may certify any police cells or other places to be suitable places for the detention of persons sentenced to detention under this section, and may give directions or make regulations for the inspection of such places, the treatment of persons detained there, and generally for giving effect to this section.

(4) A place certified under subsection (3) for the detention of persons shall not be used for the detention of females unless provision is made for their supervision by female officers or persons.

(5) The period of detention under subsection (1) may be extended, upon application, by the Court for a further period not exceeding 14 days.

(6) The provisions of subsections (3) and (4) are not in derogation of the provisions of the Correctional Services Act.

SUB-PART C
Disqualification from Office on Conviction or Indictable Offence

1135. CONSEQUENCES ON SENTENCE FOR 3 YEARS OR MORE

(1) Where a person convicted of an indictable offence is sentenced to imprisonment for 3 years or more, the following provisions shall be applicable to him or her unless the Court otherwise orders, namely—

(a) any public office held by him or her within the jurisdiction of the Courts shall forthwith become vacant;

(b) he or she shall, during his or her lifetime, be incapable of acting as a justice of the peace, and of holding any public office within the jurisdiction of the Courts;

(c) any pension, superannuation allowance, or emolument payable to him or her out of the revenues of this State or any public fund or chargeable on any tax and any accrued right to any such pension, allowance, or emolument, shall be determined and shall be forfeited as from the time of the commission of the crime.

(2) The provisions of subsection (1) shall not be applicable in the case of a person who, at the time of committing the crime of which he or she is convicted, was a minor.

(3) Where a person has been granted a pardon, he or she shall, unless the pardon otherwise directs, be relieved from all the consequences stated under subsection (1), except with respect to any office or employment which, having been vacated under the provisions of this section, has been filled before the person received the pardon.

SUB-PART D
Parole

1136. DEFINITION

In this Sub-Part—

"**Board**" means the Parole Board established under section 1137;

"**Chairman**" means the Chairman of the Board;

"**Committee**" means the Parole Committee appointed under section 1138;

"**Minister**" means the Minister responsible for correctional services;

"**parole**" means the authority granted to release an inmate under this Sub-Part from the correctional facility in which he or she is serving a sentence and to place him or her under the supervision of a parole officer whereby he or she is permitted to spend the remainder of the sentence out of the correctional facility;

"**parole officer**" means the person assigned to perform the duties of parole officer under section 1153;

"**parole order**" means the person to whom parole is granted under this Sub-Part;

"**parolee**" means the person to whom parole is granted under this Sub-Part;

"**sentence**" means any sentence of imprisonment but does not include a sentence of preventive detention whether or not the person is serving the sentence in the correctional facility.

1137. ESTABLISHMENT OF PAROLE BOARD

(1) For the purposes of this Sub-Part there is established a Board to be called the Parole Board.

(2) Schedule 3 shall apply with respect to the constitution of the Board.

1138. FUNCTIONS OF THE BOARD

(1) Subject to this Sub-Part, the functions of the Board are—

(a) to receive and consider applications for parole and to grant or reject such applications;

(b) to issue summons requiring the appearance before the Board of any parolee or applicant for parole or such witnesses as the Board may consider necessary for the purposes of this Sub-Part;

(c) to revoke or suspend parole in respect of any parolee;

(d) to review the cases of inmates serving life sentences or inmates in respect of whom a sentence of death has been commuted to life imprisonment, for the purpose of determining whether or not to grant parole to such inmates;

(e) to make reports to the Minister, at such intervals as the Minister may prescribe, on the operation of the provisions of this Sub-Part; and

(f) to carry out such other functions as the Minister may direct as being, in his or her opinion, necessary for the purposes of this Sub-Part.

1139. PAROLE COMMITTEE

(1) For the purposes of this Sub-Part, the Minister may appoint a Parole Committee in each judicial district.

(2) Subject to this Sub-Part, the functions of each Committee are—

(a) to carry out investigations into any matter referred to it by the Board in connection with any matter being dealt with by the Board and to report its findings to the Board;

(b) to make such recommendations to the Board as the Committee may consider necessary as a result of any investigation carried out by it under paragraph (a); and

(c) to carry out such other functions as the Minister may direct as being, in his or her opinion, necessary for the purposes of this Sub-Part.

(3) Schedule 4 shall apply with respect to the constitution of the Committee for each judicial district and related matters.

1140. ELIGIBILITY OF PAROLE

(1) Subject to this section, every inmate serving a sentence of more than 12 months is eligible for parole after having served a period of $^1/_3$ of such sentence or 12 months, whichever is the greater.

(2) Where concurrent sentences have been imposed on an inmate, the inmate is eligible for parole in respect of the longest of such sentences, after having served $^1/_3$ of the period of that sentence or 12 months, whichever is the greater.

(3) Where consecutive sentences have been imposed on an inmate, the inmate is eligible for parole after having served $^1/_3$ of the aggregate of such sentences or 12 months, which ever is the greater.

(4) Subject to subsection (5), an inmate who has been sentenced to imprisonment for life or, in respect of whom a sentence of death has been commuted to imprisonment for life, is eligible for parole after having served a period of not less than 15 years.

(5) At the end of every period of 15 years, the Board shall review the cases of all such inmates as are referred to in subsection (4) for the purpose of deciding whether or not to grant any of them parole.

1141. GRANT OF PAROLE

(1) An inmate eligible for parole under section 1140 may make a written application to the Board for the grant of parole and may make such written representations in support of the grant to him or her of parole as he or she thinks fit.

(2) Every application shall be forwarded to the Board by the Director of Correctional Services and shall state—

(a) the full name and age of the applicant;

(b) the nature of the offence of which the applicant was convicted and sentenced;

(c) any other information on which the applicant relies in support of his or her application; and

(d) such other information as may be prescribed.

(3) The Director of Correctional Services shall furnish the Board with—

(a) a case history of the applicant; and

(b) a copy of a report by the correctional officer on the conduct of the applicant while in the correctional facility;

(c) a copy of a report containing an opinion by a psychiatrist or psychologist or such other person as may be designated by the Minister, as to whether the applicant is, at the time of his or her application, fit to be released on parole.

(4) The Board shall, for the purposes of this section—

(a) if it thinks necessary, direct the appropriate Parole Committee to carry out investigations in relation to the application;

(b) fix a time and place for the hearing of the applicant; and

(c) send to members of the appropriate Parole Committee, not less than 7 days before the date of such hearing, written notice of the hearing together with copies of the case history of, and reports on the applicant.

(5) Hearings by the Board shall be held in camera and the Board shall allow an applicant to appear before it, where it considers it necessary.

(6) The Board shall, for the purpose of deciding whether or not to grant parole to an applicant, take into account the following—

(a) the nature and circumstances of the offence for which the applicant was convicted and sentenced;

(b) remarks, if any, made by the judge or magistrate at the time of sentencing;

(c) the information contained in the reports mentioned in subsection (3); and

(d) any report made by a Parole Committee.

(7) The Board shall grant parole to an applicant if the Board is satisfied that—

(a) he or she has derived maximum benefit from his or her imprisonment and he or she is, at the time of his or her application for parole, fit to be released from the correctional facility on parole;

(b) the reform and rehabilitation of the applicant will be aided by parole; and

(c) the grant of parole to the applicant will not, in the opinion of the Board, constitute a danger to society.

(8) Where the Board decides to grant parole to an applicant, the Board shall, within 10 days of the date of such decision—

(a) give written notice of the decision to the applicant and the Superintendent; and

(b) make a parole order in respect of the applicant and send a copy of the parole order to the Superintendent.

(9) In this section and in section 1143 "**appropriate Parole Committee**" means the Parole Committee appointed under section 1139 which, in the opinion of the Board, is likely to have the closest connection with the applicant if he or she is released on parole.

1142. PAROLE ORDER

A parole order shall have effect for the parole period which shall be specified in it, and shall require the parolee to submit during that period to the supervision of a parole officer appointed for or assigned to the area in which the parolee will reside during the parole period,

and shall contain such requirements as the Board considers necessary for securing the supervision of the parolee, and such additional requirements as to residence and other matters as the Board considers necessary for securing the reform and rehabilitation of the parolee.

1143. SUSPENSION OF PAROLE

(1) The Board shall suspend parole in respect of any parolee if during the parole period the parolee is convicted of any offence punishable by imprisonment for a period which involves forfeiture of parole under section 1147.

(2) The Board may suspend parole in respect of a parolee for any period during which investigations are being carried out into—

(a) an indictable offence which the parolee is alleged to have committed; or

(b) any breach by the parolee of any of the conditions of the parole.

(3) For the purposes of subsections (1) and (2), the Board may carry out such investigations as it may consider necessary.

(4) Where the Board intends to suspend parole, the Board shall within a reasonable time, give written notice of its intention to—

(a) the appropriate Parole Committee;

(b) the parolee in respect of whom an order for the suspension of parole is to be made; and

(c) the Superintendent.

(5) The Court before which the parolee mentioned in subsection (1) is convicted shall, in passing sentence, state whether the sentence in respect of the offence mentioned in that subsection shall be concurrent with or consecutive to the sentence in respect of which parole was granted.

1144. REVOCATION OF PAROLE

(1) Where a parolee commits a breach of the conditions of his or her parole order, the Board may, after investigating the circumstances surrounding such breach, revoke the parole granted to the parolee.

(2) The Board may revoke the parole granted to a parolee if the Board is of the opinion that such revocation is in the interest of the parolee or in the public interest.

(3) Where the Board decides to revoke the parole granted to a parolee, the Board shall give written notice of such decision to the parolee.

1145. EFFECT OF SUSPENSION OR REVOCATION OF PAROLE

(1) Where the parole granted to a parolee is suspended or revoked, the parole order in respect of such parolee shall cease to have effect and the parolee shall forthwith, upon being notified of such revocation or suspension , as the case may be, return to the correctional facility from which he or she was released on parole and if the parolee fails to do so, the Chairman shall issue a warrant addressed to any police officer for the arrest of the parolee who shall, under such arrest, be returned to the correctional facility from which he or she was released on parole.

(2) Where a parolee is returned to a correctional facility in accordance with subsection (1), the period spent by that parolee in the correctional facility after his or her parole is suspended or revoked, as the case may be, shall be counted as a part of the sentence in respect of which parole was granted and shall be taken into account together with any remission earned by the parolee for the purpose of determining the date of the expiration of such sentence.

1146. CHAIRMAN TO ISSUE WARRANT RECALLING PAROLEE, IN THE PUBLIC INTEREST

(1) Where at any time during the parole period it appears to the Chairman that the immediate recall of a parolee is necessary in the public interest, the Chairman may, despite any provision of this Sub-Part, issue a warrant directed to any police officer for the arrest of the parolee who shall, upon his or her arrest, be returned to the correctional facility from which he or she was released on parole.

(2) Where a parolee is arrested under subsection (1)—

(a) subject to paragraph (c), the parole shall be revoked;

(b) section 1145(2) shall apply in like manner as it applies to a parolee returned to the correctional facility under subsection (1) of that section; and

(c) the Chairman shall, as soon as practicable, make a report to the Board indicating the circumstances of the case.

(3) Nothing in subsection (1) shall be deemed to prevent the Board from exercising any of its powers under this Sub-Part.

1147. FORFEITURE OF PAROLE

(1) A parolee who, during the parole period, is convicted of an offence punishable by imprisonment forfeits his or her parole and the forfeiture shall take effect from the date of the conviction.

(2) If the parolee appeals against the conviction and the conviction is quashed, the forfeiture shall be set aside.

(3) The Court, before which the parolee mentioned in subsection (1) is convicted, shall state whether the sentence in respect of the offence mentioned in that subsection shall be concurrent with or consecutive to the sentence in respect of which parole is being forfeited.

1148. CERTIFICATE TO BE SENT TO BOARD

Where a parolee is convicted of an offence during the parole period, the Court before which he or she is tried or the Court of Appeal, as the case may be, shall send to the Board a certificate stating the details of the offence and sentence.

1149. RE-APPLICATION

(1) An inmate whose application for parole has been refused may re-apply for parole after the expiration of 6 months from the date of the refusal or such lesser period as may be determined by the Board.

(2) A parolee in respect of whom parole has been suspended or revoked, may re-apply for parole after the expiration of 6

months from the date of such suspension or revocation, as the case may be, or such lesser period as may be determined by the Board.

(3) A parolee who forfeits his or her parole shall not be entitled to re-apply for parole in relation to the sentence in respect of which parole is forfeited.

1150. PAROLE AND REMISSION OF SENTENCE

(1) Subject to subsection (2), the grant of parole shall not affect any remission of sentence to which the parolee is entitled under the Correctional Services Act or any enactment replacing it or rules made under it.

(2) Subsection (1) shall not prevent the making of rules under the Correctional Services Act to provide that a parolee who forfeits parole or whose parole is suspended or revoked shall also forfeit the whole or any prescribed part of remission under that Act.

1151. COMPUTATION OF SENTENCE

The parole period shall count as a part of the sentence in respect of which parole was granted and shall be taken into account together with any remission earned by the parolee for the purpose of determining the date of the expiration of the sentence.

1152. TERMINATION OF PAROLE

Parole shall be terminated in the following cases—

(a) upon the expiration of the parole period;

(b) upon revocation under section 1144 or 1146;

(c) upon forfeiture under section 1147.

1153. ASSIGNMENT OF PAROLE OFFICERS

The Minster shall assign a sufficient number of officers qualified by character and experience to be parole officers for the purpose of this Sub-Part.

1154. OFFENCES

A person who—

(a) interferes with or hinders or attempts to interfere with or hinder or incites or aids any other person to do anything which will in any way interfere with or hinder the Board in the exercise of its functions;

(b) offers or attempts to offer any money or other inducement to any member of the Board with intent to influence a decision of the Board in favour of that person or any other person;

(c) makes any false representation to the Board or knowingly or wilfully gives any false evidence to the Board in respect of any matter being dealt with by the Board;

(d) fails to attend before the Board in accordance with a summons issued by the Board under this Part or refuses to give evidence pursuant to such summons;

(e) without lawful excuse, refuses to answer any lawful question put to him or her by the Board in connection with any matter being dealt with by the Board;

(f) publishes or attempts to publish without the prior permission of the Board, a report on the proceedings of the Board or on any matter being dealt with by the Board,

commits an offence and is liable on summary conviction to a fine not exceeding $2,000 or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

1155. REGULATIONS

The Minister may make regulations prescribing—

(a) after-care programmes to be conducted for the purposes of this Sub-Part;

(b) the duties of a parole officer;

(c) the form of reports required by this Sub-Part to be made;

(d) the conditions which may be included in a parole order;

(e) the procedure for revocation of parole by the Board;

(f) generally, for the effective implementation of this Sub-Part.

SUB-PART E
Probation

1156. DEFINITION

(1) In this Sub-Part—

"**institution**" means a probation hostel, a probation home or any other institution in which a person may be required by a probation order to reside;

"**probation case committee**" means a probation case committee appointed under this Sub-Part;

"**probationer**" means a person under supervision by virtue of a probation order;

"**probation officer**" means a person appointed as a probation officer under this Sub-Part, and, in relation to a probationer, means the person responsible for his or her supervision.

"**probation order**" means an order made under section 1157 placing a person under the supervision of a probation order;

"**sum adjudged to be paid by a conviction**" includes any costs, damages or compensation adjudged to be paid by the conviction, of which the amount is ascertained by the conviction;

"**supervising Court**" means the district court of the district named in the probation order in which the probationer resides or will reside.

(2) For the purposes of this Sub-Part, except sections 1158(4) and 1158(5) where a probation order has been made on appeal, the order shall be deemed to have been made by the Court from which the appeal was brought.

1157. PROBATION ORDERS

(1) Subject to subsection (2), where a Court by which a person is convicted of an offence (not being an offence the sentence for

which is fixed by law) is of opinion that having regard to the circumstances including the nature of the offence and the character of the offender, it is expedient to do so, the Court may, instead of sentencing him or her, make a probation order.

(2) The Court shall, before making a probation order, explain to the offender in ordinary language the effect of the order and that, if he or she fails in any respect to comply with the order or commits another offence, he or she will be liable to be sentenced for the original offence; and if the offender is not less than 14 years of age the Court shall not make the probation order unless he or she expresses his or her willingness to comply with the conditions of the order.

1158. DURATION AND REQUIREMENT OF PROBATION ORDER

(1) A probation order shall have effect for such period not less than one year from the date of the order as may be specified in the order and shall require the probationer to—

(a) submit during that period to the supervision of a probation officer appointed for, or assigned to the district specified in the order, in which the probationer will reside during the probation period; and

(b) shall contain such conditions as the Court considers necessary for securing the supervision of the offender; and

(c) such additional conditions as to residence; and

(d) other matters (including submission by the probationer to medical treatment) as the Court, having regard to the circumstances of the case, considers necessary for securing the good conduct of the offender or for preventing a repetition of the same offence or the commission of other offences.

(2) Without prejudice to the power of the Court to make an order under section 1159(1), the payment of sums by way of damages for injury or compensation for loss shall not be included among the conditions of a probation order.

(3) Before making a probation order containing a condition as to residence, the Court shall consider the home surroundings of

the offender; and where the order requires the offender to reside in an institution—

(a) the institution shall be an institution which is subject to inspection by a Government department;

(b) the name of the institution and the period for which he or she is so required to reside shall, be specified in the order, and such period shall not extend beyond 12 months from the date of the order; and

(c) the Court shall forthwith give notice of the terms of the order to an administrator.

(4) The Court by which a probation order is made shall forthwith give a copy of the order to the probationer, the probation officer under whose supervision he or she is placed, and the person in charge of any institution in which the probationer is required by the order to reside.

(5) The Court shall, except where it is itself the supervising Court, send to the district named in the order in which the probationer will reside during the probation period, a copy of the order together with such documents and information relating to the case as it considers likely to be of assistance to the supervising Court.

1159. DAMAGES AND COMPENSATION

(1) A Court, on making a probation order, may, without prejudice to its power of awarding costs against him or her, order the offender to pay such damages for injury or compensation for loss as the Court thinks reasonable; but in the case of an order made by a district Court the damages and compensation together shall not exceed $100 except where such greater sum is allowed by any other enactment.

(2) An order for the payment of damages or compensation may be enforced in like manner as an order for the payment of costs by the offender.

(3) Where the Court, in addition to making an order for the payment of damages or compensation to the person, orders the offender to pay to that person any costs, the order for the payment of damages or compensation and the order for the

payment of costs may be enforced as if they constituted a single order for the payment of costs.

1160. SECURITY FOR GOOD BEHAVIOUR

Without prejudice to the provisions of section 1162 (2) which enables a Court to order the parent or guardian of a child or young person charged with an offence to give security for his or her good behaviour, the Court may, on making a probation order, if it thinks it expedient for the purpose of the reformation of the offender, allow any person who consents to do so to give security for the good behaviour of the offender.

1161. BREACH OF REQUIREMENT OF PROBATION ORDER

(1) Subject to subsection (2), if at any time during the probation period it appears to a judge or any magistrate, that a probationer has failed to comply with any of the conditions of the probation order, he or she may issue a summons requiring the probationer to appear at the place and time specified in the summons or may issue a warrant for his or her arrest.

(2) A magistrate shall not issue such summons or warrant, except on information in writing and on oath.

(3) A summons or warrant issued under this section shall direct the probationer to appear or to be brought before the supervising Court.

(4) If it is proved to the satisfaction of the supervising Court that the probationer has failed to comply with any of the conditions of the probation order, the Court may, without prejudice to the continuance of the probation order, impose on him or her a fine not exceeding $1,000, or may—

(a) if the probation order was made by a district court, deal with the probationer, for the offence in respect of which the probation order was made, in any manner in which the Court could deal with him or her if it had just convicted him or her of that offence;

(b) if the probation order was made by the High Court commit him or her to custody or release him or her on

bail (with or without sureties) until he or she can be brought or appear before the High Court.

(5) Where the supervising Court deals with the case as provided in section 1161(4)(b)—

(a) the supervising Court shall send to the High Court a certificate signed by the magistrate certifying that the probationer has failed to comply with such of the conditions of the probation order as may be specified in the certificate, together with such other particulars of the case as may be desirable; and a certificate purporting to be so signed shall be admissible before the High Court as evidence of the failure of the probationer to comply with conditions of the probation order; and

(b) where the probationer is brought or appears before the High Court, and it is proved to the satisfaction of the High Court that he or she has failed to comply with any of the conditions of the probation order, the High Court may deal with him or her, for the offence in respect of which the probation order was made in any manner in which the High Court could deal with him or her if he or she had been convicted by the High Court of that offence.

(6) A fine imposed under this section in respect of a failure to comply with the conditions of a probation order—

(a) shall be deemed for the purposes of any enactment to be a sum adjudged to be paid on a conviction;

(b) shall be taken into account when fixing any subsequent sentence passed on the probationer under the provisions of this section or of section 1162.

(7) A probationer who is required by the probation order to submit to treatment for his or her mental condition shall not be treated for the purposes of this section as having failed to comply with that condition on the ground only that he or she has refused to undergo any surgical, electrical or other treatment if, in the opinion of the Court, his or her refusal was reasonable having regard to all the circumstances.

(8) Without prejudice to the provisions of section 1163, a probationer who is convicted of an offence committed during the probation period shall not on that account be liable to be

dealt with under this section for failing to comply with any condition of the probation order.

1162. COMMISSION OF FURTHER OFFENCE

(1) Subject to subsection (2), if it appears to a judge or magistrate that a probationer has been convicted of an offence committed during the probation period and has been dealt with in respect of that offence, he or she may issue a summons requiring the probationer to appear at the place and time specified in the summons or may issue a warrant for his or her arrest.

(2) A magistrate shall not issue such summons or warrant, except upon information in writing and on oath.

(3) A summons or warrant issued under this section shall direct the probationer to appear or to be brought before the Court by which the probation order was made, or before the supervising Court.

(4) Where a warrant is issued requiring the probationer to be brought before the High Court, if he or she cannot forthwith be brought before the Court because the Court is not sitting, the warrant shall have effect as if it directed him or her to be brought before the magistrate of the district where he or she is arrested, and the magistrate shall commit him or her to custody or release him or her on bail (with or without sureties) until he or she can be brought or appear before the High Court.

(5) If a person in respect of whom a probation order has been made by the High Court is convicted and dealt with by a district court in respect of an offence committed during the probation period, the magistrate may commit him or her to custody or release him or her on bail (with or without sureties) until he or she can be brought to appear before the High Court; and if he or she does so, the magistrate shall send to the High Court a copy of the minute or memorandum of the conviction entered in the Court register signed by the clerk of the Court together with such other particulars of the case as may be desirable.

(6) Where it is proved to the satisfaction of the Court by which a probation order was made, or to the satisfaction of the supervising Court, that the person in whose case that order was made has been convicted and dealt with in respect of an offence

committed during the probation period, the Court may deal with him or her as if he or she had been convicted by that Court of that offence.

(7) If a person in respect of whom a probation order has been made by a district court is convicted before the High Court of an offence committed during the probation period, or is dealt with by the High Court for an offence so committed in respect of which he or she was committed for sentence to the High Court, the High Court may deal with him or her for the offence for which the order was made in any manner in which the district court could deal with him or her if it had convicted him or her of that offence.

(8) If a person in respect of whom a probation order has been made by a district court is convicted by another district court of any offence committed during the probation period, the Court may, with the consent of the Court which made the order or of the supervising Court, deal with him or her, for the offence for which the order was made, in any manner in which the Court could deal with him or her if it had convicted him or her of that offence.

1163. EFFECTS OF PROBATION

(1) Subject to the provisions of this section, a conviction of an offence for which an order is made under this Sub-Part, placing the offender on probation shall be deemed not to be a conviction for any purpose other than the purposes of the proceedings in which the order is made and of any subsequent proceedings which may be taken against the offender under the provisions of this Sub-Part.

(2) Where an offender, who is not less than 16 years of age at the time of his or her conviction for an offence for which he or she is placed on probation, is subsequently sentenced under this Sub-Part for that offence, the provisions of subsection (1) shall cease to apply to the conviction.

(3) Without prejudice to subsection (1), the conviction of an offender who is placed on probation shall in any event be disregarded for the purposes of any enactment which imposes any disqualification or disability upon convicted persons, or

authorises or requires the imposition of any such disqualification or disability.

(4) The provisions of subsections (1), (2) and (3) of this section shall not affect—

(a) any right of an offender to appeal against his or her conviction, or to rely on the conviction as a bar to any subsequent proceedings for the same offence;

(b) the revesting or restoration of any property in consequence of the conviction of any such offender.

Amendment, Review, and Discharge of Probation Orders

1164. AMENDMENT OF PROBATION ORDER

(1) If the supervising Court is satisfied that a probationer proposes to change, or has changed, his or her residence from the district stated in the probation order to another district the supervising Court may, and if an application in that behalf is made by the probation officer shall, by order amend the probation order by substituting for the district named therein the district where the probationer proposes to reside or is residing.

(2) If the probation order contains conditions that, in the opinion of the supervising Court cannot be complied with unless the probationer continues to reside in the district originally stated in the probation order, the supervising Court shall not amend the order unless, in accordance with the provisions of this Sub-Part, those conditions are cancelled or replaced by other conditions which can be complied with by the probationer.

(3) Where a probation order is amended under subsection (1) the supervising Court shall send to the district court for the new district named in the order a copy of the order, together with such documents and information relating to the case as it considers likely to be of assistance to that Court.

(4) Without prejudice to subsection (1), the supervising Court may, upon application made by the probation officer or by the probationer, by order, amend the probation order by cancelling any of the conditions of the order or by inserting (either in

addition to or in substitution for any such condition) any condition which could be included in the order if it were then being made by that Court in accordance with the provisions of sections 1159 or 1160.

(5) The Court shall not amend a probation order by reducing the probation period, or by extending that period beyond the end of 3 years from the date of the original order.

(6) The Court shall not amend a probation order that requires the probationer to reside in an institution, or to submit to treatment for his or her mental condition, for any period exceeding 12 months in all.

1165. REVIEW OF PROBATION ORDER

(1) Where a probation order, whether as originally made or as amended requires the probationer to reside in an institution otherwise than for the purpose of submitting to treatment for his or her mental condition as a voluntary or resident patient for a period exceeding 6 months from the date of the order as originally made or of the amended order, as the case may be, the probation officer shall, as soon as may be after the expiration of the 6 months, report on the case to the supervising Court.

(2) On receipt of any such report, the supervising Court shall review the probation order for the purpose of considering whether to cancel the condition as to residence or reduce the period thereof, and may, if it thinks fit, amend the order accordingly without the necessity of any application in that behalf.

1166. DISCHARGE OF PROBATION ORDER

(1) The Court by which a probation order is made may, upon application made by the probation officer or by the probationer, discharge the order, and, where the application is made by the probation officer, the Court may deal with it without summoning the probationer.

(2) Where a probationer is sentenced under section 1161 or 1162 for the offence for which he or she was placed on probation, the probation order shall cease to have effect.

1167. WHEN PROBATIONER MUST APPEAR

(1) Where the supervising Court proposes to amend a probation order under section 1162, otherwise than on the application of the probationer, it shall summon the probationer to appear before it; and if the probationer is not less than 12 years of age, the supervising Court shall not amend a probation order unless the probationer expresses his or her willingness to comply with the conditions of the order as amended.

(2) This section does not apply to an order cancelling a condition of the probation order or reducing the period of any requirement, or substituting a new district for the district originally named in the probation order.

1168. COPIES OF AMENDING AND DISCHARGING ORDERS

(1) On the making of an order discharging or amending a probation order, the clerk to the Court shall forthwith give copies of the discharging or amending order to the probation officer, and the probation officer shall give a copy to the probationer and to the person in charge of any institution in which the probationer is or was required by the order to reside.

(2) Where an order, is made amending, inserting, or cancelling a condition that a probationer shall reside in an institution, the Court shall forthwith give notice of the terms of the order to an administrator of the institution.

Arrangements for Probation

1169. SUPERVISING PROBATION OFFICER

(1) The probation, officer who is to be responsible for the supervision of a probationer, shall be the officer for the district named in the order in which the probationer resides, or will reside, and if that probation officer dies or is unable for any

reason to carry out his or her duties, or if the Probation Case Committee dealing with the case thinks it desirable that another officer takes his or her place, another probation officer shall be selected by the supervising Court.

(2) The probation officer under whose supervision a woman or girl is placed shall be a woman.

1170. DUTIES OF PROBATION OFFICERS

It is the duty of the probation officer—

(a) to supervise the probationers and other persons placed under his or her supervision;

(b) to advise, assist and befriend them;

(c) to inquire, in accordance with any directions of the Court, into the circumstances or home surroundings of the person with a view to assisting the Court in determining the most suitable method of dealing with his or her case;

(d) to advise, assist and befriend, in such cases and in such manner as may be prescribed, persons who have been released from custody; and

(e) to perform such other duties as may be prescribed by rules made under section 1173 or may be imposed by any other enactment.

1171. CONTRIBUTIONS TOWARDS INSTITUTIONS

Such funds may be paid out of the general revenue of the State towards the establishment or maintenance of institutions for the reception of probationers as Cabinet may approve.

1172. APPOINTMENTS

The Public Service Commission shall appoint—

(a) a principal officer, who shall organize and supervise the probation service in accordance with rules made under section 1173;

(b) a sufficient number of probation officers, qualified by character and experience to be probation officers, who

shall perform such duties as may be prescribed by section 1173;

(c) a Probation Case Committee or Probation Case Committees, consisting of the persons as the Commission shall think fit, who shall review the work of probation officers in individual cases and perform such other duties in connection with probation as may be prescribed by rules under section 1173.

1173. RULES

Cabinet may make rules prescribing—

(a) the duties of a principal probation officer;

(b) the duties of probation officers;

(c) the constitution and duties of a probation case committee;

(d) the regulation, management, and inspection of institutions;

(e) the form of records to be kept under this Sub-Part;

(f) the remuneration of the person appointed to carry out any duties under this Sub-Part and the fees and charges to be made for any act, matter or thing under this Sub-Part to be done or observed;

(g) generally for carrying into effect the purposes of this Sub-Part.

SUB-PART F
Extra Mural Sentences

1174. PERSONS ELIGIBLE TO SERVE EXTRA MURAL SENTENCE

Despite any enactment to the contrary, any of the following persons namely —

(a) any person sentenced by a Court to imprisonment for a term not exceeding 12 months;

(b) a female convicted and sentenced to imprisonment for an offence which in the opinion of the Court is not a grave offence;

(c) any person liable to be committed to the correctional facility for non-payment of a fine or of a sum of money ordered to be paid in respect of any maintenance, affiliation, small debt proceedings, or by a summary Court,

may be ordered by the Court, on the advice of the Director of Correctional Services, either at the time of or after the passing of sentence, to be employed, *in lieu* of imprisonment, in public work outside the correctional facility under the supervision and control of a public authority.

1175. EXTRA MURAL SENTENCE TO BE SERVED DURING WORKING HOURS UNDER CONTROL OF DIRECTOR OF CORRECTIONAL SERVICES

(1) Every person referred to in section 1174 shall be employed on a daily task which shall be such as can normally be completed in the usual working day and at the usual working hours and shall be eligible to receive when so employed the normal correctional facility ration and while not so employed, shall not be subject to any correctional facility rules.

(2) Every person employed on such work shall be required to report daily during the term of his or her sentence to the Director of Correctional Services, or to the person as he or she shall nominate.

(3) Every order made by the Court under section 1174 shall specify—

(a) the date of commencement of the extra-mural sentence;

(b) the time and place at which the person sentenced must report daily.

1176. DIRECTOR OF CORRECTIONAL SERVICES TO REPORT DEFAULTERS TO THE COURT

(1) If any person fails to present himself or herself at the appointed time and place or absents himself or herself from his or her task without permission or works or conducts himself or herself in a manner which the Director of Correctional Services considers

unsatisfactory, the Director of Correctional Services shall immediately report the fact to the Court.

(2) On receipt of such report, the Court shall cause the person to be brought before it and shall inquire into the facts reported.

(3) Upon such inquiry the Court may either—

(a) order that the person serve his or her sentence in a correctional facility, due allowance being made for the number of days on which he or she has completed his or her daily task, and he or she shall be committed to the correctional facility accordingly, or

(b) confirm or vary the terms of the Order made under section 1173 with respect to the person and order that the person continues to be employed on a daily task in accordance with the Order as confirmed or varied by the Court.

SUB-PART G
Curfew Orders and Combination Orders

1177. CURFEW ORDERS

(1) Where a person of 16 years of age or over is convicted of an offence (not being an offence for which the sentence is fixed by law), the Court by or before which the offender is convicted, may impose a curfew order.

(2) A "**curfew order**" in this Sub-Part is an order requiring the offender to remain, for periods specified in the order, at a place so specified.

(3) A curfew order may specify different places or different periods for different days, but shall not specify—

(a) periods which fall outside the period of 6 months beginning with the day on which it is made; or

(b) periods which amount to less than 2 hours or more than 12 hours in any one day.

(4) The requirements in a curfew order shall, as far as practicable, be such as to avoid—

(a) any conflict with the offender's religious beliefs, or with the requirements of any other community order to which the offender may be subject;

(b) any interference with the times, if any, at which the offender normally works or attends a school or other educational establishment.

(5) A curfew order shall include provision for making a probation officer responsible for monitoring the offender's whereabouts during the curfew periods specified in the order (the "curfew periods").

(6) A Court shall not make a curfew order in respect of an offender unless it has first explained to the offender in ordinary language the matters specified in subsection (7) and the offender has consented to the making of the order.

(7) The matters that the Court must explain, referred to in subsection (6) are—

(a) the purpose and effect of the order (including any additional requirements proposed to be included in the order in accordance with section 1178);

(b) the consequences which may follow under Schedule 7 if the offender fails to comply with any of the requirements of the order; and

(c) that the order may be reviewed by the Court in accordance with that Schedule.

(8) Before making a curfew order, the Court shall obtain and consider information about the place proposed to be specified in the order (the "curfew premises"), including information as to the attitude of persons likely to be affected by the enforced presence of the offender there.

(9) The Minister may by order—

(a) amend subsection (3) by substituting, for any period specified in that subsection such periods as may be specified in the order;

(b) direct that subsection (4) shall have effect with such additional restrictions as may be specified in the order.

1178. ELECTRONIC MONITORING OF CURFEW ORDERS

(1) Subject to subsection (2), a curfew order may, in addition, include requirements for securing the electronic monitoring of the offender's whereabouts during the curfew periods ("electronic monitoring requirements").

(2) A Court shall not make a curfew order which includes electronic monitoring requirements unless the Court—

(a) has been notified by the Minister that arrangements for electronic monitoring are available at the curfew premises; and

(b) is satisfied that the necessary provision can be made under those arrangements.

(3) Such arrangements may include arrangements whereby the monitoring of persons' whereabouts is done by persons acting under contract.

Combination Orders

1179. ORDERS COMBINING PROBATION WITH EXTRA MURAL ORDER, OR PROBATION WITH CURFEW

(1) Where a Court by or before which a person of 16 years of age or over is convicted of an offence punishable with imprisonment (not being an offence for which the sentence is fixed by law) is of the opinion mentioned in subsection (3), the Court may make a combination order.

(2) A "**combination order**" in this Sub-Part is an order which requires an offender either—

(a) both—

(i) to be under the supervision of a probation officer for a period specified in the order, being not less than 12 months nor more than 3 years, and

(ii) to perform unpaid work for a number of hours so specified, in accordance with the provisions regarding extra-mural sentences;

(b) both—

(i) to be under the supervision of a probation officer for a period specified in the order, being not less than 12 months nor more than 3 years, and

(ii) to remain at a specified place or specified places for specified periods within the limits set forth at section 1177(3).

(3) The opinion referred to in subsection (1) is that the making of a combination order is desirable in the interests of—

(a) securing the rehabilitation of the offender; or

(b) protecting the public from harm from the offender or preventing the commission of further offences by the offender.

1180. APPLICATION OF RELEVANT LAW TO CONSTITUENT PARTS OF COMBINATION ORDERS

(1) Subject to section 1179, this Sub-Part applies in relation to a combination order, in so far as the order imposes a requirement such as is mentioned in sub-paragraph (ii) of paragraph (a) or (b) of section 1179(2), as if the order were a probation order.

(2) Subject to section 1179, this Sub-Part applies in relation to a combination order, in so far as the order imposes a requirement such as is mentioned in section 1179(2)(a)(ii), as if the order were an extra mural order.

(3) Subject to section 1179, this Sub-Part applies in relation to a combination order, in so far as the order imposes a requirement such as is mentioned in section 1179(2)(a)(i) or 1179(2)(b)(i), as if the order were a curfew order.

SUB-PART H
Discharge and Binding Over and Suspended Sentence

1181. DISMISSAL WITH REPRIMAND

A Court may, in its discretion, if such course appears to meet the justice of the case, dismiss, with a reprimand only, any person convicted of any offence not punishable with death.

1182. ABSOLUTE AND CONDITIONAL DISCHARGE

(1) Where a Court by or before which a person is convicted of an offence (not being an offence the sentence for which is fixed by law) is of opinion, having regard to the circumstances, including the nature of the offence and the character of the offender, that it is inexpedient to inflict punishment and that a probation order is not appropriate, the Court may make an order discharging the offender.

(2) Such an order may discharge the offender absolutely or, if the Court thinks fit, may discharge the offender subject to the condition that the offender commits no offence during such period, not exceeding 3 years from the date of the order, as may be specified in the order; and in this Sub-Part an order of the latter is referred to as an "order for conditional discharge" and the period specified in the order for conditional discharge is referred to as "the period of conditional discharge".

(3) Before making an order for conditional discharge the Court shall explain to the offender in ordinary language that, if the offender commits another offence during the period of conditional discharge, the offender will be liable to be sentenced for the original offence.

(4) Where, under the provisions of this Sub-Part, a person conditionally discharged under this section is sentenced for the offence in respect of which the order for conditional discharge was made, the order for conditional discharge ceases to have effect.

(5) The Minister may, by order, amend subsection (2) by substituting, for the maximum period specified in that subsection as originally enacted or as previously amended under this subsection, such period as may be specified in the order.

1183. COMMISSION OF FURTHER OFFENCE BY PERSON CONDITIONALLY DISCHARGED

(1) If it appears to a judge or a magistrate that a person in whose case an order for conditional discharge has been made, has been convicted in Saint Lucia of an offence committed during the period of conditional discharge and has been dealt with in

respect of that offence, then, subject to subsection (2), the judge or magistrate may issue a summons requiring that person to appear at the time and place specified in the summons, or may issue a warrant for that person's arrest.

(2) A magistrate shall not issue such a summons except on information, and shall not issue such a warrant except on information in writing and on oath.

(3) A summons or warrant issued under subsection (1) shall direct that the person to whom it relates appear or be brought before the Court that made the order for conditional discharge.

(4) If a person in whose case an order for conditional discharge has been made by the High Court is convicted in a magistrate's court of an offence committed during the period of conditional discharge, the magistrate may either commit the offender to custody, or may release the offender on bail, until the offender can be brought before the High Court; and if the magistrate does so, the magistrate shall send to the High Court a copy of the record of the conviction entered in the register of the magistrate's court, signed by the clerk of that Court.

(5) Where it is proved to the satisfaction of the Court that made an order for conditional discharge that the offender in whose case the order was made has been convicted of an offence committed during the period of conditional discharge, the Court may deal with the offender, for the offence for which the order was made, in any manner in which it could deal with the offender if the offender had just been convicted of that offence by or before that Court.

(6) If a person in whose case an order for conditional discharge has been made by a magistrate's court—

(a) is convicted before the High Court of an offence committed during the period of "conditional discharge"; or

(b) is dealt with by the High Court for any such offence in respect of which the offender was committed for sentence to the High Court, the High Court may deal with the offender, for the offence for which the order was made, in any manner in which the magistrate's court could deal

with the offender if it had just convicted the offender of that offence.

1184. SUSPENDED SENTENCES

(1) A Court which passes a sentence of imprisonment on an offender for a term of not more than 3 years for an offence, may suspend the sentence by ordering that the sentence shall not take effect unless—

(a) during a period specified in the order, being not less than 12 months nor more than 3 years from the date of the order, (in this Sub-Part referred to as "the operational period") the offender commits in Saint Lucia another offence punishable with imprisonment for a period exceeding 6 months (hereafter in this section and sections 1185 and 1186 referred to as "subsequent offence"); and

(b) thereafter, a Court having power to do so, orders under section 1185 that the original sentence shall take effect.

(2) A sentence shall not be suspended under subsection (1) if the offence involved the illegal use or possession of a firearm or the offence was in furtherance of drug trafficking or other drug related offence.

(3) A Court shall not deal with an offender by means of a suspended sentence unless the case appears to the Court to be one in respect of which a sentence of imprisonment would have been appropriate in the absence of power to suspend such a sentence by an order under subsection (1).

(4) A Court which passes a suspended sentence on an offender for an offence shall not make a probation order in the offender's case in respect of another offence of which the offender is convicted by or before the Court.

(5) Where a Court passes a suspended sentence on an offender in respect of an offence and also a term of imprisonment in respect of another offence, the Court shall direct that the suspended sentence be concurrent with the term of imprisonment.

(6) On passing a suspended sentence, the Court shall explain to the offender in ordinary language the offender's liability under

section 1185, should the offender commit a subsequent offence during the operational period.

1185. SUBSEQUENT OFFENCE DURING OPERATIONAL PERIOD

(1) Subject to subsection (3), where an offender is convicted of a subsequent offence committed during the operational period of a suspended sentence, the Court by or before which the offender is convicted of the subsequent offence may order that the suspended sentence shall take effect with the original term unaltered, or the Court may substitute a lesser term of imprisonment for the original term.

(2) Where a Court deals with an offender in respect of a suspended sentence passed by another Court, the former Court shall notify the latter Court of the manner in which the offender was dealt with.

(3) Where an offender in respect of whom a suspended sentence passed by the High Court is in operation is convicted of an offence by a magistrate's court, the magistrate's court shall forward to the Registrar of the High Court a Certificate signed by the magistrate and under the seal of the magistrate's court certifying that the offender has been convicted of a subsequent offence, together with such other particulars of the case as the magistrate may consider desirable.

(4) On receipt of the certificate, a Judge of the High Court before whom the offender is brought may, without prejudice to the order of the magistrate with respect to the subsequent offence, order that the suspended sentence shall take effect with the original term unaltered or with the substitution of a lesser term for the original term.

1186. DISCOVERY OF FURTHER OFFENCE

(1) Where a person has been convicted by, or before a Court, of a subsequent offence committed during the operational period of a suspended sentence, but that Court was not at the time aware of the suspended sentence or of some feature affecting the operation of that sentence, any Court may, on receipt of information relating to that suspended sentence, or that feature,

as well as the conviction of the subsequent offence, issue a summons requiring that person to appear at the place and time specified in the summons, or may issue a warrant for that person's arrest.

(2) A summons or warrant issued under subsection (1) shall direct that the person appear, or be brought before the Court by or before which the person was convicted in respect of the subsequent offence and, upon that person so appearing or being so brought, the Court shall proceed to exercise its powers under section 1185 in respect of the suspended sentence.

SUB-PART I
Fines, Forfeitures, Compensation Etc.

1187. APPROPRIATION OF FINES AND OTHER MONEY TO USE OF STATE

Subject to the provisions of this Code or any other enactment, every fine recovered in the Court in respect of a contravention of any of the provisions of any enactment, and also the proceeds of any seizure or forfeiture made or incurred subject to the process of the Court, shall be paid into the Treasury for the use of the State.

1188. POWER TO SELL OR DISPOSE OF NON-PECUNIARY FORFEITURES

Subject to the express provisions of any enactment, all forfeitures not of a pecuniary nature which are incurred in respect of an offence triable by the Court, or which may be enforced by the Court, may be sold or disposed of in such a manner as the Court may direct, and the proceeds of such sale shall be applied in the same manner as if the proceeds were a fine imposed under the enactment on which the proceeding for the forfeiture is founded.

1189. LEVY AS IN CIVIL ACTIONS ON CONVICTION FOR DEFAMATION

When any person is convicted of the unlawful publication of any defamatory matter, the prosecutor may elect to levy the fine, if any, and costs out of any property of the offender in like manner as in civil

actions, in which case all further criminal proceedings in execution or recovery or otherwise in respect of the fine and costs, if any, shall cease, and a registration of a certificate of the proceedings in such case shall have the same effect as the registration of a judgment in a civil case.

General Powers as to Payments of Money

1190. ALTERNATIVE POWERS IN GENERAL

(1) The Court, by whose order any sum of money is adjudged to be paid, may exercise all or any of the following powers, namely—

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

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

(c) direct that the person liable to pay the sum may give, to the satisfaction of the Court security, with or without a surety or sureties, for the payment of the sum or of any instalment thereof, and such security may be given and enforced in the manner provided in subsection (2);

(d) order a garnishee of the person's income;

(e) use any other power which the Court thinks fit to ensure payment of the sum adjudged.

(2) Where the Court directs that the sum be paid by instalments, if the person liable to make such payments defaults in the payment of any one instalment, the same proceedings may be taken for recovery of the whole sum as if he or she is in default of payment of all the instalments then remaining unpaid.

1191. EXTENSION OF TIME FOR PAYMENT OF ADJUDGED SUM

Where time has been allowed by the Court for the payment of the sum adjudged to be paid by the offender on an application by, or on behalf of the offender, the Court shall allow further time for the payment of the sum by instalments.

1192. PERIODICAL PAYMENTS THROUGH OFFICE OF COURT OR SPECIFIED PERSON

(1) Where a Court orders money to be paid periodically by one person to another, the Court may, if it thinks fit, order that the payment shall be made through an officer of the Court or any other person or officer specified in the order.

(2) An order made for the periodical payment of money may, upon cause being shown upon fresh evidence to the satisfaction of the Court, be revoked, revived, or varied by a subsequent order of the Court.

(3) Any order made by the Court under this section, shall be subject to such directions as to remuneration to be paid to any officer or person as well as any fund from which remuneration may be paid, or to such other directions as may be given by the Court.

(4) The provisions of this section are, in addition to, and not in derogation of the provisions of any enactment relating to affiliation or bastardy or otherwise.

1193. POSTPONEMENT OF ISSUE OF WARRANT OF COMMITMENT FOR NON-PAYMENT

Where an application is made to the Court to issue a warrant for committing a person to a correctional facility for non-payment of money adjudged to be paid by an order, the Court may, if it deems it expedient so to do, postpone the issue of such warrant until such time and on such conditions, if any, as the Court may consider just.

1194. SEARCHING PERSON ORDERED TO PAY MONEY

(1) Where a person has been adjudged to pay a sum—

(a) by a conviction of a Court, or

(b) in proceedings in any Court for enforcing an order in any matter of bastardy, or an order under which weekly sums are made payable towards the maintenance of a wife, the Court may order him or her to be searched and any money found on him or her, or which may be found on him or her when taken to the correctional facility in default of payment of the sum adjudged to be paid by him or her, may, if the Court so directs, be applied towards the

payment of such sum, and the balance, if any, shall be returned to him or her.

(2) Any money found on the person shall not be applied in the manner stated in subsection (1) if the Court is satisfied that the money does not belong to the person, or that the forfeiture of the money will be more injurious to his or her family than his or her imprisonment or for other sufficient cause.

1195. FINE OR PENALTY MAY NOT BE LESS THAN MINIMUM

Subject to the provisions of this Code or any other enactment relating to any offence, a Court may not sentence the person convicted before it of an offence punishable by penalty or fine, to any less penalty or fine, than the mandatory minimum penalty or fine prescribed by this Code, or such other enactment for such offence.

Fines in Indictable Cases

1196. ADDITIONAL FINES IN INDICTABLE CASES

(1) Where a person is convicted of any indictable offence, the Court may, in its discretion, sentence him or her to a fine in addition to any other punishment to which he or she is sentenced.

(2) Where the amount of such fine is not expressly limited, the amount of fine to which the person may be sentenced shall be in the discretion of the Court, but shall not exceed $2,000.

(3) Where a person convicted of any indictable offence is sentenced to pay a fine, the Court may direct that, if he or she fails to pay the fine at the time appointed for the payment, he or she shall be liable to imprisonment until the fine is paid.

(4) Any imprisonment imposed under subsection (3) shall be in addition to any imprisonment, if any, to which the person is sentenced for the offence, and shall not in any case exceed 12 months.

1197. SUBSTITUTIONAL FINES IN INDICTABLE CASES

(1) In the case of any indictable offence punishable with imprisonment, the Court may substitute a fine and impose in default of payment of the fine imprisonment not exceeding the term of imprisonment which may otherwise be imposed as a punishment for the offence.

(2) Subject to the provisions of any enactment, such fine shall not exceed $8,000.

1198. HIGH COURT TO FINE OR COMMIT FOR CONTEMPT

If any person commits any contempt of Court before the judge sitting in Court or in chambers, it shall be lawful for the judge to punish the person in a summary manner by a fine not exceeding $500, or by commitment to the correctional facility for any period not exceeding 3 months.

1199. IMPRISONMENT FOR NON-PAYMENT OF FINE, ETC.

(1) The Commissioner of Police shall, without further warrant or authority, arrest and detain in custody in the correctional facility any person upon whom, at any criminal sittings of the High Court any fine has been imposed by the Court, or by whom any forfeiture has been incurred and who has been adjudged to pay such forfeiture by the Court, until the fine or forfeiture has been paid and satisfied, together with all costs and expenses in consequence of such arrest and detention.

(2) No such imprisonment shall exceed 12 months in duration, and the judge may, at any time, order the discharge of any such inmate.

(3) The return of the Commissioner of Police or the correctional officer to any writ of habeas corpus of an arrest or detention under any judgment or order of the Court for non-payment of any fine or forfeiture imposed or incurred, shall be deemed sufficient in law, if it contains or has attached to it a certificate by the Registrar, setting forth the judgment or order by virtue of which such arrest or detention was made.

Fines in Summary Cases

1200. FIXING AMOUNT OF FINE

In fixing the amount of a fine, a Court of summary jurisdiction shall take into consideration, among other things, the means of the person on whom the fine is imposed so far as they appear or are known to the Court.

1201. RESTRICTIONS ON POWER TO IMPOSE IMPRISONMENT ON CONVICTION

(1) A District Court on adjudging a person to pay a sum of money upon a conviction shall, subject to subsection (2) allow him or her at least 7 days to pay the sum or the first instalment of the sum if he or she is to pay by instalments.

(2) If the offender fails to pay the sum at the time of his or her conviction and—

(a) when asked by the Court whether he or she wishes to have time for payment does not ask for time;

(b) he or she fails to satisfy the Court that he or she has a fixed abode; or

(c) there is some other special circumstance appearing to the Court to justify his or her immediate committal,

the Court may issue a warrant of commitment under this Sub-Part and if it does so, shall state in the warrant the reasons for not allowing the offender time to pay.

1202. SCALE OF IMPRISONMENT FOR NON-PAYMENT OF SUMS ADJUDGED

Subject in every case to the provisions of the enactment under which any order is made, the term of imprisonment, which a Court may impose in respect of the non-payment of any sum of money adjudged to be paid by any such order, shall be such as, in the opinion of the Court, will satisfy the justice of the case and shall be in accordance with the following scale, that is to say—

Where the sum of money adjudged to be paid by an order —	The period shall not exceed —
does not exceed $250	1 month
exceeds $250 but does not exceed $500	2 months
exceeds $500 but does not exceed $600	3 months
exceeds $600	6 months

1203. WARRANT TO ARREST PERSON ETC. ABOUT TO LEAVE STATE

(1) If upon the oath of any credible witness, it appears to the judge or magistrate that any person who has been allowed time for the payment of any penalty, or who has been directed to pay any penalty by instalments, is about to leave the State, the judge or magistrate may issue a warrant to arrest and bring the person before him or her.

(2) The judge or magistrate may, unless the person satisfies him or her that he or she does not intend to leave the State, rescind so much of the order as allows time for payment or for payment by instalments, and issue such warrant of commitment or other process as might have been issued at the hearing but for the order allowing time for payment or payment by instalments.

Costs and Compensation

1204. PROCEDURE TO DETERMINE COMPENSATION OR LIABILITY

For the purpose of determining the amount of compensation or the liability of an offender, the Court may refer to the proceedings and evidence at the trial, or hear further evidence either upon affidavit or orally.

1205. COMPENSATION AND COSTS WHERE SEVERAL PERSONS ARE CONVICTED

When several persons join in the commission of the same offence, and upon conviction each of them is adjudged to pay a penalty including the value of the property or the amount of the injury done, no further sum shall be paid to the person aggrieved than such

amount or value and costs, if any, and the remainder of the penalties imposed shall be applied in the same manner as other penalties are directed to be applied.

1206. RECOVERY OF AMOUNT OF COSTS OR COMPENSATION

(1) The sum allowed for costs, or costs and compensation, shall, in every case, be specified in the order or order of dismissal, and shall be recoverable in the same manner as any fine or sum of money adjudged to be paid by such order is recoverable.

(2) Where there is no fine or sum of money to be recovered by the order, such costs, or costs and compensation, shall be recoverable in the same manner as any fine or sum of money adjudged to be paid by an order of the Court is recoverable, as the Court may direct.

1207. EFFECT OF SATISFACTION OR COMPENSATION

Where any person who is injured by any offence punishable under this Code, or under any other enactment, receives compensation for such injury under the order of the Court, or where the offender, having been ordered to make such compensation, suffers imprisonment for non-payment of such compensation, the receipt of such compensation or the undergoing of such imprisonment, as the case may be, shall be a bar to any action for the same injury.

1208. SAVING OF RIGHT OF CIVIL ACTION

Except as otherwise provided in section 1207, nothing in this Code, shall bar the action of any person in respect of any injury sustained by him or her or his or her property.

1209. REFERRING CLAIMANT TO CIVIL REMEDY

In all cases, the Court may, at any stage of the proceedings, inform the injured party claiming such compensation as to his or her right to civil remedy by civil action.

1210. ORDER FOR COMPENSATION ON CONVICTION FOR INDICTABLE OFFENCE

A person who is convicted of an indictable offence may be adjudged by the Court to make compensation to any other person injured by his or her offence, and any sum so adjudged may be recovered by such process, including imprisonment in default of payment, not exceeding 12 months, as directed by the Court.

1211. ORDER FOR COSTS ON CONVICTION FOR INDICTABLE OFFENCE

Where an accused person is convicted of the offence with which he or she is charged, he or she may be ordered by the Court to pay the costs and expenses of his or her prosecution, and any sum so adjudged may be recovered by such process, including imprisonment in default of payment, not exceeding 12 months, as directed by the Court.

1212. ORDER OF COSTS AGAINST PRIVATE PROSECUTOR ON CHARGE OF DEFAMATION

In the case of prosecution of any person on the complaint of a private prosecutor on a charge of the unlawful publication of a defamatory matter, if the accused is indicted and acquitted, he or she is entitled to recover from the private prosecutor his or her costs of defence, as allowed by the Court, unless the Court otherwise orders, and in such case, the provisions of section 1189 shall apply with the necessary modifications.

1213. ORDER AGAINST COMPLAINANT TO PAY COSTS OR COMPENSATION

Where a complaint is dismissed, the Court may order that the complainant shall pay to the defendant such costs as the Court may consider just and reasonable, and if in the opinion of the Court the complaint was frivolous or vexatious, it may, in addition, order the complainant to pay to the defendant a reasonable sum as compensation for the inconvenience and expense to which the defendant may have been put by reason of such complaint.

1214. IMPRISONMENT OF COMPLAINANT IN DEFAULT OF PAYMENT OF COMPENSATION OR COSTS

Where any complaint is dismissed with costs, or with costs and compensation, if the sum awarded for costs or for costs and compensation, as the case may be, in the order of dismissal, is not paid forth with or within such time as may be specified in the order, the complainant may be committed to a correctional facility for any term not exceeding the term prescribed in relation to a like sum under section 1201 of this Code.

1215. ORDER AGAINST DEFENDANT TO PAY COMPENSATION

A person who is convicted of a summary offence punishable under this Code may be adjudged by the Court to pay compensation not exceeding $5,000, to any person injured by his or her offence, and any sum so adjudged may be recovered by such process, including imprisonment in default of payment of a fine prescribed in section 1202 of this Code as the Court may direct.

1216. ORDER FOR COSTS AGAINST DEFENDANT

In every case where an order is made against a defendant, the Court may order that the defendant shall pay to the complainant such costs as the Court may consider just and reasonable.

1217. IMPRISONMENT OF DEFENDANT FOR NON-PAYMENT OF COSTS

Where by any order a sum for costs is adjudged to be paid by the defendant to the complainant, if such sum is not paid forthwith or within such time as may be specified in the order, the defendant may be committed to the correctional facility for any term not exceeding the term prescribed in relation to a like sum under section 1202 of this Code.

1218. REMISSION OF FEES

(1) A Court of summary jurisdiction may, on the ground of poverty or for other reasonable cause remit in whole or in part any fee payable in proceedings before the Court.

(2) Where a Court of summary jurisdiction adjudges an offender to pay a fine it shall, if the fine does not exceed $500, remit all fees payable by the complainant and direct all fees already paid by him or her to be refunded to him or her, unless, in either case, there is a special reason for not doing so.

1219. COSTS ON APPLICATION FOR ORDER FOR PERIODICAL PAYMENT OF MONEY

A Court of summary jurisdiction to which an application is made for an order for the periodical payment of money, or for the variation, revocation, revival, or enforcement of such an order, may make an order for the payment by an applicant or the defendant, or both of them, of the costs of the Court and such reasonable costs of either of the parties as the Court thinks fit.

1220. RETURN OF COSTS FROM TREASURY IN CERTAIN CASES

Where a defendant is convicted and ordered to be imprisoned, or to repay any fees and costs to the complainant as part of the costs and is imprisoned in default of payment thereof, or where the magistrate otherwise considers it proper so to do, the magistrate may, in his or her discretion, direct that the Treasury refund to the complainant, the whole or part of the fees and costs paid by the complainant, if in his or her opinion the complainant's pecuniary position or lack of means renders such refund just and necessary in the circumstances.

SUB- PART J
Distress

1221. CASES IN WHICH DISTRESS LEVIABLE

Subject to the provisions of this Sub-Part, any sum of money adjudged to be paid by an order shall, if the enactment under which the order is made so directs and in the discretion of the Court may be levied upon the movable property of the offender by distress and sale thereof.

1222. ISSUE AND FORMALITIES OF WARRANT OF DISTRESS

For purposes of levying any distress, the Court shall issue in writing signed by the judge or magistrate as the case may be, a warrant of distress.

1223. CASES IN WHICH DISTRESS MAY BE REFUSED

When an application is made to the Court for a warrant of distress and it appears to the Court—

(a) that the offender has no movable property on which to levy the distress;

(b) that in the event of a warrant of distress being issued, his or her movable property will be insufficient to satisfy the sum of money adjudged to be paid by the order;

(c) that the levy of the distress will be more injurious to him or her or his or her family than imprisonment,

or for any other sufficient reason, the Court may, if it thinks fit, instead of issuing the warrant of distress, order the offender, on non-payment of the adjudged sum, to be imprisoned, for any term not exceeding the term prescribed in relation to a like sum under section 1202.

1224. DETENTION OR RELEASE OF OFFENDER DURING DISTRESS PROCEEDINGS

Where a warrant of distress is issued, the Court may either allow the offender to go at large or, by a warrant in that behalf, order him or her to be kept and detained in safe custody until return has been made to the warrant, unless the offender gives sufficient security by recognizance or otherwise to the satisfaction of the Court, for his or her appearance before the Court at the time or extended time and place appointed for the return of the warrant.

1225. PERSONS AUTHORISED TO EXECUTE DISTRESS

(1) A warrant of distress issued by the High Court may be executed anywhere within the State by a sheriff's officer or by any other person, so directed.

(2) If a warrant of distress is issued by a magistrate, it shall authorise the distress and sale of the movable property of the offender within the local limits of the magistrate's jurisdiction and also outside such limits by the bailiff or other proper officer of any such jurisdiction, or any person so directed.

1226. POWER OF ENTRY TO EXECUTE DISTRESS

(1) If a person charged with the execution of a warrant of distress is prevented from executing the warrant by the fastening of doors, or otherwise, he or she may open the doors by all necessary means using such force as may be required, in the presence of 2 witnesses, one of whom must be a police officer, if possible, the sergeant or other officer in charge of the police station in the district.

(2) Any action taken under subsection (1) is without prejudice to any imprisonment or other punishment or penalty to which a person is otherwise liable for obstructing by refusal, violence or other physical impediment the execution of any warrant of distress.

1227. PROPERTY AVAILABLE FOR DISTRESS

Where a warrant of distress is issued by the Court, it shall authorise the person charged with the execution of the warrant, to take any money as well as any goods of the person against whom the distress is levied, and any money so taken shall be treated as if it were the proceeds of sale of goods taken under the warrant.

1228. PROPERTY EXEMPTED FROM DISTRESS

The wearing apparel and bedding of a person and his or her family, as well as the tools and implements of his or her trade to the value of $1,000 shall not be taken under a warrant of distress.

1229. SALE OF DISTRESS

(1) Except where the person upon whose movable property the distress is levied otherwise consents in writing , the property

shall be sold at public auction, after at least 3 days interval between the making of the distress and the sale.

(2) Where such consent has been given under subsection (1) the property may be sold in accordance with such consent.

1230. TIME WITHIN WHICH DISTRESS TO BE SOLD

Subject to section 1231, the property shall be sold within the time fixed by the warrant, and, if no time is so fixed, within the period of 14 days (unless the time is enlarged), from the date of the making of the distress; provided the sum for which the warrant was issued, and also the charges in respect of taking and keeping the property, are sooner paid.

1231. DUTIES OF PERSON EXECUTING WARRANT

A person charged with the execution of any warrant of distress shall sell the property or cause it to be sold, and may deduct out of the amount realised by such sale all costs and charges actually incurred in effecting the sale, and shall pay to the proper officer of the Court or to the person specified by him or her, the remainder of the amount which may be applied in payment of the sum for which the warrant was issued, including the proper costs and charges incurred in respect of the execution of the warrant, and the balance, if any, may be paid to the person upon whose movable property the distress was levied, or to such other person as the Court may order or direct.

1232. ACCOUNT OF COSTS AND CHARGES OF DISTRESS

(1) A written account of the costs and charges incurred in respect of the execution of any warrant of distress shall, as soon as practicable, be delivered to the Court by the person charged with the execution of the warrant.

(2) The person upon whose movable property the distress was levied may, at any time within one month after the making of the distress, inspect such account, without fee, at any time during office hours and may make a copy of such account.

1233. PENALTY

If any person charged with the execution of any warrant of distress wilfully retains from the proceeds of any property sold to satisfy the distress, or otherwise extracts, any greater costs or charges than those to which he or she is for the time being entitled by law, or makes any improper charge, he or she shall, on summary conviction, be liable to a fine not exceeding $500, but nothing in this section shall affect the liability of the person to be prosecuted and punished for extortion.

1234. OPPOSITION TO LEVY OR ON PROCEEDS OF SALE

All objections to the levy as well as all claims or objections to the proceeds of sale must be made and filed with the person charged with the execution at any time before the day of sale, unless the Court allows a further time for that purpose, in which case the Court may give such directions with respect to the sale, including the postponement of the sale as it may consider just.

1235. RANKING AND DISTRIBUTION OF CLAIMS

The amount to be levied shall rank by privilege on the proceeds of the distress and sale after the expenses and costs thereof in case no adverse claim or opposition has been duly filed, but if there is any such claim or opposition, the proceeds shall be distributed as in civil proceedings, subject in the case of dispute to the decision or direction of the Court.

1236. SATISFACTION OF DISTRESS

Where any person, against whom a warrant of distress is issued, pays or tenders to the person charged with the execution of the warrant, the sum stated in the warrant or produces to him or her, the receipt for payment of such sum issued by the proper officer of the Court, and also pays the amount of the costs and charges of such distress up to the time of payment or tender of payment, the person so charged shall cease to execute the warrant.

1237. DECISION OF DISPUTES RESPECTING DISTRESS OR SALE

If any question arises with respect to, or in the course of, such distress or sale, the matter shall be referred to the judge or magistrate, as the case may be, who shall decide the matter and give any directions he or she considers just, or necessary.

1238. POWER TO ORDER IMPRISONMENT IF DISTRESS INSUFFICIENT

Where a return is made by the person charged with the execution of the warrant to the effect that no sufficient movable property of the offender can be found on which to levy the distress, or where the amount levied on the property is insufficient, the Court may order the offender, on non-payment of the sum of money adjudged to be paid by the order as well as all costs and charges of the distress and of the commitment, to be imprisoned, for any term not exceeding the term prescribed in relation to a like sum under section 1202 of this Code.

SUB-PART K
Bonds

1239. POWERS OF DISTRICT COURT TO BIND PERSONS FOR GOOD BEHAVIOUR

(1) The power of a Court of summary jurisdiction, to adjudge any person to enter into a recognizance with or without sureties to keep the peace or to be of good behaviour towards another person shall be exercised by an order made upon a complaint laid by that other person and the provisions of this Code shall apply accordingly.

(2) The complainant and the defendant and witnesses may be called and examined and cross-examined, and the complainant and the defendant shall respectively be subject to costs, as in the case of any other complaint.

(3) Where a complaint is made by any person against another person to the effect that the defendant has incited any other person or persons to commit a breach of the peace, the Magistrate may, if the complaint is established and he or she is satisfied that the defendant intends to persevere in such

incitement, order him or her to enter into a recognizance with or without a surety or sureties, to keep the peace and to be of good behaviour for a period not exceeding 6 months.

(4) The magistrate may make such an order although it has not been established that the defendant caused any individual person to be in fear of bodily harm.

(5) The Court may order the defendant, in default of compliance with the order, to be imprisoned for a term not exceeding one year.

1240. BINDING PARTIES TO BE OF GOOD BEHAVIOUR

A Court of summary jurisdiction shall have power in relation to any complaint made for a summary offence, whether the defendant is convicted or the complaint is dismissed, to bind both the complainant and the defendant, or either of them to be of good behaviour, and may order the complainant or the defendant, in default of compliance with the order, to be imprisoned for a term not exceeding 3 months.

1241. POWER OF COURT TO ORDER PERSON CONVICTED TO ENTER INTO RECOGNIZANCE TO KEEP THE PEACE

Where a Court convicts a person of any crime it may, if it thinks just, according to the circumstances of the case, order in lieu of or in addition to any other punishment, that the person enters into his or her own recognizance, with or without sureties, for keeping the peace and to be of good behaviour, and that, in default of such recognizance or sureties, he or she be imprisoned, in addition to the term of imprisonment if any, to which he or she is sentenced, for a term not exceeding 6 months nor exceeding the term for which he or she is liable to be imprisoned for the crime of which he or she is convicted.

1242. IMPRISONMENT IN DEFAULT

Where an order is made for the payment of money by a person, if the money is not paid forthwith, the Court may require the person ordered to make such payment, to enter into a recognizance with or without sureties for the payment of the money and in default of his or her doing so, may be sentenced forthwith to imprisonment as if the money had not been recovered.

1243. DEPOSIT *IN LIEU* OF SURETY

The Court may accept a deposit of money from any person *in lieu* of a surety or sureties, and, on any breach of the condition of his or her recognizance, the deposit shall be forfeited, and shall be paid over and accounted for in the manner in which fines imposed by the Court are paid over and accounted for.

1244. FORFEITURE AND ENFORCEMENT OF RECOGNIZANCE IN THE DISTRICT COURT

(1) Where a recognizance is conditioned for the appearance of the person before a Court of summary jurisdiction or for his or her doing some other thing to be done in connection with the Court or in proceedings in the Court, the Court may, if the recognizance appears to the Court to be forfeited, declare the recognizance to be forfeited, and enforce payment of the sum due under recognizance in the same manner as if the sum were a fine adjudged by the Court to be paid, with imprisonment in default of payment, and were ascertained by an order of the Court.

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

(3) Where a recognizance to keep the peace, or to be of good behaviour or to refrain from doing any act is entered into by the person as principal or surety before the Court, the Court may, upon proof of the conviction of the person bound as principal by such recognizance of any offence which is by law a breach of the condition of the recognizance, by order, adjudge such recognizance to be forfeited, and adjudge the persons bound by it, whether as principal or sureties, or any of the persons, to pay the sums for which they are respectively bound, and such recognizance shall be dealt with in the manner provided by this section.

(4) All sums paid or recovered in respect of any recognizance declared or adjudged by the Court under this section to be

forfeited, shall be paid to the clerk of the Court, and shall be paid over and accounted for by him or her in the manner in which fines imposed by the Court are paid over and accounted for.

1245. REGISTRAR'S DUTY AS TO RECOGNIZANCE ON DEFAULT

The Registrar shall, before the close of the last day's sitting of the High Court on each occasion of its sitting in exercise of its criminal jurisdiction, make out a list of all persons bound by recognizance to appear or to do any other thing, or who have been bound for the appearance of any other person, or for his or her doing any other thing, at the Court, and who have made default, or whose principal, or other person for whom they are so bound, has made default to appear or to do such other thing at the Court.

1246. SHERIFF TO SUMMON DEFAULTERS

The list referred to in section 1245 shall be signed by the judge and delivered to the sheriff, who shall forthwith summon all persons whose names appear on the list to appear before the Court, on the day specified in the summons, to show cause why the penalty of their recognizances should not be enforced.

1247. HEARING AND POWER TO REMIT OR ENFORCE

(1) The sheriff shall forthwith make a return to the summons of all persons who have been summoned, and the Court shall then proceed to hear and determine in a summary manner the merits of each case, and shall remit, wholly or in part, the amount in which the party may stand bound, or to enforce the same in the manner directed.

(2) Where any person summoned under section 1246 to appear before the Court refuses or neglects so to do, the Court may, upon due proof of service of the summons, proceed to hear and determine the merits of the case, and to give judgment as if the person were present.

1248. WRIT OF EXECUTION AND PROCEEDINGS THEREON

When judgment has been given against any person in respect of a forfeited recognizance, the Registrar shall issue a writ of execution against the person which shall be delivered to the sheriff, and shall be the authority for the sheriff to levy and recover such forfeited recognizance, and to take the person into custody, in case sufficient movable and immovable property is not found on which to levy execution.

1249. CUSTODY OF PERSON ARRESTED

(1) Any person who is arrested under section 1248 shall be kept in the correctional facility until the next criminal sitting of the Court, there to abide the decision of the Court, unless the Court deals with the matter before such sitting.

(2) If any person so arrested and imprisoned, gives to the sheriff good and sufficient bail for his or her appearance at the next criminal sitting of the Court to abide the decision of the Court, or when called upon to appear, and also for the payment of such forfeited recognizance or a sum of money *in lieu* or satisfaction thereof, together with such costs as may be awarded by the Court, then it shall be lawful for the sheriff, forthwith to discharge the person from custody.

1250. EXECUTION AGAINST SURETY OF PERSON BAILED AND FAILING TO APPEAR

(1) If the person referred to in section 1249 fails to appear at the next criminal sitting of the Court, or when called upon to appear, in pursuance of his or her undertaking in that respect, the Court may order that a writ of execution be issued from the office of the Registrar against the surety or sureties of the person so bound, and such writ shall be delivered to the sheriff who shall proceed to take action as directed in the writ.

(2) The Court may, in its discretion, order the discharge of the whole or any part of the forfeited recognizance, or of the sum of money paid or to be paid *in lieu* thereof.

1251. REVISION OF ORDERS IN CASES OF COMMITTAL FOR WANT OF SURETIES

Where a person has been committed to the correctional facility by a Court for default in finding a surety or sureties, the Court may, on application made to it by the person or by another person acting on his or her behalf, inquire into the case of the person and if, upon fresh evidence produced to the Court, or proof of a change of circumstances, the Court thinks, having regard to all the circumstances of the case, that it is just to do so, the Court may reduce the amount for which the surety or sureties were bound, or dispense with the surety or sureties, or otherwise deal with the case as the Court may think just.

PART 3
PARDON, REMISSION, REWARD, ETC., PARDON AND REMISSION BY HIGH COURT AND GOVERNOR GENERAL

1252. REMISSION BY GOVERNOR GENERAL

(1) It shall be lawful for the Governor General to extend the Royal Mercy to any person who may be imprisoned for non-payment of any sum of money so imposed, although such sum may be payable, in whole or in part, into the Treasury for the use of the State, or to some party other than the Crown.

(2) When a person is sentenced to death, or to any other punishment, and the Royal Mercy is extended to him or her, on condition of his or her undergoing a lawful punishment other than death, or other than that imposed upon him or her, as the case may be, it shall be lawful for the Governor General to give all directions and to do all things necessary to enforce such other punishment.

1253. REMISSION BY HIGH COURT

The High Court or the judge shall have power to reduce or remit any fine, penalty, or forfeiture imposed by the Court, or incurred by the person in respect of the Court, at any time within 3 months after such

fine, penalty or forfeiture has been imposed or incurred; provided such fine, penalty or forfeiture has not been already paid or satisfied.

1254. REMISSION BY CABINET

It shall be lawful for the Cabinet to remit, in whole or in part, any sum of money which, under any enactment, may be imposed as a fine on any convicted offender, although such money may be payable in whole or in part into the Treasury for the use of the State, or to a party other than the Crown.

Discharge and Release

1255. DISCHARGE OF PERSON IMPRISONED ON PAYMENT OF FINE

(1) Where any person is imprisoned for non-payment of any fine or other sum of money, the person may pay or cause to be paid to the correctional officer the sum stated in the warrant of commitment together with the amount of the costs, charges, and expenses, if any, in full or in part, subject to any provision as to part payment.

(2) After he or she has received such sum, the correctional officer shall discharge the person in accordance with the terms of the warrant, unless the person is in his or her custody in connection with some other matter.

(3) The correctional officer shall forthwith pay to the proper officer of the Court any such money received by him or her.

1256. RELEASE FROM FURTHER CRIMINAL PROCEEDINGS ON PAYMENT, DISCHARGE OR SATISFACTION OTHERWISE

Where the defendant having been convicted of the offence with which he or she was charged, has paid the sum adjudged by the order and costs, or has been discharged therefrom by the Crown, or has undergone imprisonment for non-payment of such sum or imprisonment adjudged in the first instance, or has been discharged from his or her conviction under section 1252 or 1254, he or she shall be released from all other criminal proceedings for the same cause.

Protection of Magistrates etc.

1257. PROTECTION OF CERTAIN PERSONS FROM DAMAGES FOR ACTS DONE OR OTHER PROCEEDINGS UNDER CODE

(1) No magistrate, clerk of the Court, or prosecutor in the public interest shall be liable to pay or be found liable by any Court in damages for or in respect of any proceedings taken, acts done, or judgment, decree, or sentence pronounced under this Code, unless—

(a) the person suing has suffered imprisonment in consequence thereof, and such proceedings, act, judgment, decree, or sentence has been quashed; and

(b) the person specifically avers and proves that such proceedings, act, judgment, decree or sentence were taken, done, or pronounced maliciously and without probable cause.

(2) No such liability shall be incurred or found where the magistrate, clerk of the Court, or prosecutor establishes that the person suing was guilty of the offence in respect of which he or she was convicted or, on account of which he or she was arrested or had otherwise suffered any penalty, and that he or she had undergone no greater punishment than was prescribed by law for such offence.

(3) Every such action or proceeding shall, unless a shorter period is fixed by the enactment under which proceedings may be taken, be commenced within 2 months after the proceedings, act, judgment, decree, or sentence in respect of which the action or proceeding is instituted.

(4) The provisions of this section are without prejudice to any other privileges and immunities conferred by law.

Rewards By Cabinet

1258. POWER OF CABINET TO AWARD PART OF FINE

Cabinet may award a portion of any penalty or fine imposed or from monies paid into the Treasury under this Code to any person through whose instrumentality a conviction may have been obtained in respect of any offence committed under this Code or any other enactment.

PART 4
MISCELLANEOUS PROVISIONS

1259. ORDER AGAINST PARENT OR GUARDIAN ON CONVICTION OF CHILD

(1) Where a child is convicted of a summary offence, the Court may order, with or without any other punishment, that any fine, compensation, or costs awarded be paid by the parent or guardian of the child instead of by the child, unless the Court is satisfied that the parent or guardian cannot be found, or has not consented to the commission of the offence by neglecting to exercise due care of the child.

(2) Where a child is charged with a summary offence, the Court may order his or her parent or guardian to give security by way of recognizance for his or her good behaviour.

(3) Where the Court thinks that a charge against a child is proved, the Court may make an order on the parent or guardian under this section for the payment of compensation or costs or requiring him or her to give security by way of recognizance for good behaviour, without proceeding to the conviction of the child.

(4) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so, but, save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(5) Any sums imposed and ordered to be paid by a parent or guardian under this section, or on forfeiture of any such security as aforesaid, may be recovered from him or her in like manner as if the order had been made on the conviction of the parent or guardian of the offence with which the child was charged.

(6) Where a child is arrested, the constable by whom he or she is arrested or the officer of police in charge of the police station to which he or she is brought shall cause the parent or guardian of the child, if he or she can be found, to be warned to attend the Court before which the child will appear.

(7) For the purpose of enforcing the attendance of a parent or guardian and enabling him or her to take part in the proceedings and enabling an order to be made against him or her, a summons or warrant may be issued by the Court to enforce his or her attendance in the same manner as if an information were laid or a complaint made, upon which a summons or warrant could be issued against the defendant, and a summons to a child may include a summons to a parent or guardian to enforce his or her attendance for the said purpose.

(8) A warrant committing a parent or guardian to a correctional facility in respect of any sum adjudged to be paid under this section shall not be issued less than 7 clear days from the date of the conviction or order, unless the Court is of opinion that the interests of justice require it to be issued earlier.

(9) A parent or guardian may appeal against an order made under this section.

1260. SAVING OF CERTAIN LAWS AND POWERS

Nothing in this Code shall affect—

(a) the liability of a person, or the punishment of a person, under any sentence passed or to be passed in respect of any act done or commenced before the commencement of this Code;

(b) the power of any Court to punish a person for contempt of such Court;

(c) any of the laws, regulations or articles for the time being in force with respect to Her Majesty's military or naval forces;

(d) the liability, trial, or punishment of a person for an offence against any enactment other than this Code;

(e) the liability of a person to be tried or punished for an offence under the provisions of any enactment relating to the jurisdiction of the Court, in respect of acts done beyond the ordinary jurisdiction of the Court.

1261. PUNISHMENT NOT TO BE DOUBLE

If a person does an act which is punishable under this Code, and is also punishable under any law of the kind referred to in section 1260, that person shall not be punished for that act both under that law and also under this Code.

1262. SAVING OF ROYAL PREROGATIVES

Nothing in this Code shall affect any power of Her Majesty to grant a pardon, or to remit or commute in whole or in part, or to respite the execution of any sentence passed or to be passed.

1263. SAVING OF CIVIL REMEDIES

Except as otherwise expressly provided in this Code or any other enactment, the prosecution or conviction of a person for an offence does not affect any civil remedy which the person aggrieved by the offence may have against the offender.

1264. REPEALS

(1) The Criminal Code Chapter 250 is repealed.

(2) The following enactments are repealed—

(a) The Prison (Extra Mural Sentences) Ordinance, (Chapter 40).

(b) The Probation Ordinance (No 11 of 1960).

(c) The Parole Act, (No 12 of 1997).

(d) Noise Abatement (Loudspeaker) Restriction Act No. 27 of 1965

SCHEDULE 1

(Section 553)

PERMIT TO OPERATE A LOUDSPEAKER

Permission is hereby granted to

of to operate a loudspeaker in the of on the under mentioned conditions—

1. Name of Applicant .....

2. On whose behalf.....

3. Date of operation.....

4. Hours of operation.....

5. Purpose .....

.....

.....

6. Route (if applicable)

.....

.....

7. Other conditions.

Dated this day of ,

Commissioner of Police,

Police Headquarters,

Castries.

SCHEDULE 2

(Section 557)

EXEMPTED BODIES

Religious Organisations

St. Lucia Banana Grower's Association

SCHEDULE 3

(Section 1137)

THE PAROLE BOARD

CONSTITUTION OF BOARD

(1) The Board shall consist of such number of persons, not being less than 5 nor more than 7, as the Minister may appoint from time to time.

(2) At least one member of the Board shall be appointed from each of the 5 following categories—

(a) persons who hold or have held judicial office as—

(i) a judge, or

(ii) a magistrate;

(b) the Director of Correctional Services or any person connected with the administration of correctional facilities;

(c) persons appearing to the Minister to be interested in the rehabilitation of inmates, being—

(i) a psychiatrist or psychologist,

(ii) a social worker or criminologist,

(iii) a representative of the Saint Lucia Christian Council,

(iv) the chairman of the Correctional Facility Visiting Board of Justices, or

(v) the Chairman, Correctional Facility After-care Committee;

(d) a serving or retired police officer;

(e) an ex-inmate who in the opinion of the Minister has been rehabilitated.

SEAL

(1) The Board shall have a seal which shall be kept in the custody of the Chairman or the Secretary and shall be affixed to instruments pursuant to a resolution of the Board in the

presence of the Chairman or any other member of the Board and the Secretary.

(2) The seal of the Board shall be authenticated by the signature of the Chairman or a member of the Board authorised to act in that behalf and such seal shall be officially and judicially noticed.

(3) All documents, other than those required by law to be under seal, and all decisions of the Board may be signified under the hand of the Chairman or any other member authorised to act in that behalf or the Secretary.

TENURE OF OFFICE OF MEMBERS

Subject to the other provisions of this Schedule, the appointment of members of the Board shall be for a period not exceeding 3 years and each member shall be eligible for reappointment.

CHAIRMAN

(1) The Minister shall appoint a member appointed under paragraph (2)(a) to be the Chairman of the Board.

(2) In case of the absence or inability of the Chairman to perform his or her duties, the Minster may appoint any other member to perform the functions of Chairman.

TEMPORARY APPOINTMENTS

The Minister may appoint any person to act temporarily in the place of any member in case of absence or inability of that member to act.

FILLING OF VACANCIES

(1) If any vacancy occurs among the members of the Board, such vacancy shall be filled by the appointment of another member who shall, subject to the other provisions of this Schedule, hold office for the remainder of the period for which the previous member was appointed.

(2) In the making of appointments under this paragraph regard shall be made to the requirements of paragraph (2).

RESIGNATIONS

(1) The Chairman may at any time resign his or her office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date the Minister receives the instrument.

(2) Any member other than the Chairman or a person appointed under paragraph (2)(b), may at any time resign his or her office by instrument in writing addressed to the Minister and transmitted through the Chairman and from the date the Minster receives such instrument, that member shall cease to be a member of the Board.

REVOCATION OF APPOINTMENT

The Minister may at any time revoke the appointment of any member of the Board.

PUBLICATION OF MEMBERSHIP

The names of all members of the Board as first constituted and every change in membership shall be published in the Gazette.

PROCEDURES MEETINGS

(1) The Board shall meet at such times as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times as the Board shall determine.

(2) Minutes in proper form, of each meeting of the Board shall be kept.

(3) The decisions of the Board shall be by a majority vote and shall be in writing.

(4) The Chairman or the person appointed or elected to act as Chairman in accordance with paragraph 4(2) and 4(3) (as the case may be), shall preside at the meetings of the Board, and

when so presiding shall, in addition to an original vote, have a casting vote in any case in which the voting is equal.

(5) The quorum of the Board shall be 3.

(6) Subject to the other provisions of this Schedule, and any rules made by the Minister, the Board may regulate its own proceedings.

(7) The validity of any proceedings of the Board shall not be affected by any vacancy in the membership or by any defect in the appointment of a member.

REMUNERATION OF MEMBERS

There shall be paid to the Chairman and members such remuneration, whether by way of honorarium, salary or fees, and such allowances as the Minister may determine.

PROTECTION OF MEMBERS

No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Board in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act.

SCHEDULE 4

(Section 1213)

PAROLE COMMITTEE

CONSTITUTION OF REGIONAL PAROLE COMMITTEE

A Parole Committee shall consist of such number of persons, not being less than 5 or more than 7 as the Minister may from time to time appoint, who are in the opinion of the Minister, persons who appear to be interested in the rehabilitation of inmates.

TENURE OF OFFICE OF MEMBERS

(1) The appointment of a member of the Committee shall, subject to the other provisions of this Schedule be for a period not exceeding 3 years, and such member shall be eligible for re-appointment.

(2) The Minister may at any time revoke the appointment of any member of the Committee.

TEMPORARY APPOINTMENTS

The Minister may appoint any person to act temporarily in the place of any member of the Committee in case of the absence or inability of a member to act.

CHAIRMAN

The Minister shall appoint one of the members of the Committee to be Chairman.

RESIGNATIONS

(1) Any member of the Committee other than the Chairman may at any time resign his or her office by instrument in writing addressed to the Minister and transmitted through the Chairman

and from the date the Minister receives such instrument the member shall cease to be a member of the Committee.

(2) The Chairman may at any time resign his or her office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date the Minister receives such instrument.

FILLING OF VACANCIES

If any vacancy occurs in the membership of the Committee, such vacancy shall be filled by the appointment of another member.

PUBLICATION OF MEMBERSHIP

The names of all members of the Committee as first constituted, and every change in the membership shall be published in the Gazette.

PROCEDURE AND MEETINGS

(1) The Committee shall meet at such times as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places as the Committee may determine.

(2) The Chairman may, at any time, call a special meeting of the Committee and shall call a special meeting within 14 days of the receipt of a written request for that purpose addressed to him by any 2 members of the Committee.

(3) The Chairman shall preside at meetings of the Committee and in the absence of the Chairman from a meeting, the members present, and constituting a quorum, shall elect one of their number to preside at that meeting.

(4) The quorum of the Committee shall be 2.

(5) The decision of the Committee shall be by a majority of votes, and, in addition to an original vote, the Chairman or other person presiding at a meeting shall have a casting vote in any case in which the voting is equal.

(6) Minutes in proper form of each meeting of the Committee shall be kept.

(7) The validity of the proceedings of the Committee shall not be affected by any vacancy in the membership of the Committee or by any defect in the appointment of a member.

REMUNERATION OF MEMBERS

There shall be paid to the Chairman and other members of the Committee such remuneration, whether by way of honorarium, salary or fees and such allowances as the Minister may determine.

PROTECTION OF MEMBERS

No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Committee in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act.

SCHEDULE 5

(Section 931)

FORMS

NOTE—

BLANK FORMS

In printed blank forms, it is advisable to indicate thereon the number, letter, or other marks of identification, the title or description of the form and the sections of the relevant enactment so as to facilitate reference.

Such printed blanks can be prepared from the forms in this Schedule, the necessary adaptation being made when required. See ss. 1083,1084

Alternatives for blanks may be suggested in the margins or other part of the form.

NAMES AND DESCRIPTIONS

In all proceedings there should be given the names and surnames, occupation or profession (if any), and the place of residence of persons mentioned or referred to therein.

Persons, places, or things should be so named or described as to be clearly identifiable.

ARREST, BAIL, REMAND AND COMMITMENT GENERALLY.
BAIL AND RECOGNIZANCE IN GENERAL

1.

Recognizance to Appear. -s. 603

SAINT LUCIA.

I, the undersigned accused namely, (name, etc.) Charged with having on [state charge] hereby bind myself to forfeit to the Crown the sum of dollars to perform the following obligation, namely-

To attend at the District Court at on , and at every time and place to which during the course of the proceedings the hearing is adjourned, or at an earlier time if so required, unless otherwise directed.

Dated at this day of , 20

[Signed]

Accused.

[Signed] Magistrate of the said District.

[or] Police Officer in charge of Station at [state place].

Obligation of Sureties, if any.

[I or We] the undersigned suret [y or ies], namely [name, etc.] hereby severally acknowledge being bound to forfeit to the Crown the sum of $ in case the said accused fails to perform the said obligation.

Dated at this day of , 20 .

[Signed]

Surety.

Dated at this day of , 20 .

[Signed] Magistrate of the said District.

[or] Police Officer in charge of Station at [state place].

Surety.

Note._The recognizance of a surety may be taken separately and either before or after the recognizance of the principal. -s 603. The extent of the liability of a surety is as stated in ss.603, 604

2.

Bail and Recognizance Book - s. 596.

Date	Party Name and Residence	Sureties Name and Residence	Condition or Obligation	Whether by recognizance, deposit of money, or of articles, in which case describe articles		Constable in Charge	Remarks
				Amount			

3.

Recognizance before Police to Prosecute -s. 594

SAINT LUCIA

I [name, etc.] do hereby bind myself to attend at the District Court at on day the day of 20 , at , to prosecute a charge of against [Name, etc., of accused] and in case of default I bind myself to forfeit to the Crown the sum of $.

Dated at this day of , 20

[Signed]

Party Bound.

[Signed]

Police Officer in charge of Station at

[*state place*.]

4.

Warrant of Commitment of Person on Bail under Penalty absconding-ss. 606, 607 (Heading as in No. 7)

To all Police Officers

The accused who was charged [etc., as in No. 29]

And whereas the said accused was released under a penalty to appear [etc., as in No. 29.]

And whereas the said penalty has been forfeited.

This is to command you to convey the accused to the Correctional Facility there to be imprisoned for [state period] unless the said sum of $ shall be sooner paid.

Dated [etc., as in No. 8.]

REMAND IN GENERAL

_____

5.

Warrant of Commitment on further Remand of Person in Custody unable to Appear through illness or otherwise.-s.614

(Heading as in No. 7.)

To the Correctional Officer.

The Court being satisfied that by reason of [illness or accident] the accused is unable to appear personally before the Court as required by the warrant of commitment of the [state date] remanding the accused to this day.

You are therefore hereby commanded to keep the accused until the [date] unless the accused shall have been bailed in the meantime, and on that day to convey the accused before the said Court sitting at at the hour of in the noon, unless you shall be otherwise directed in the meantime.

Dated [etc., as in No. 8]

WARRANTS OF COMMITMENT IN GENERAL

6.

Receipt for Inmate. -s. 794

SAINT LUCIA

I hereby certify that I have received from [Name, rank, etc.,] of the body of [person's name], together with a warrant under the hand of [name], Esquire, Magistrate for the District, and the said inmate was [sober, or as the case may be] at the time he or she was delivered into my custody.

Dated this day of , 20

[Signed]

Correctional Officer.

INDICTABLE OFFENCES - PROCEEDINGS BEFORE A MAGISTRATE

7.

(Heading)

SAINT LUCIA

IN THE DISTRICT COURT.

[name, residence, and occupation]

Complainant.

v

[name, residence, and occupation]

Accused.

8.

Dated this day of , 20

[Signed]

Magistrate of the said District.

Note-If it is a Form which can be signed by the clerk of the court or a justice of the peace it can be signed by the clerk as suggested in No. 9.

_____

9.

Dated this day of , 20

[Signed] Magistrate of the said District.

[or] Clerk of the

Magistrate of the said District.

[or] Justice of the Peace.

[or] [as the case may be.]

10.

Dated this day of , 20

[Signed] Magistrate of the said District.

[or] Clerk of the

Magistrate of the said District.

[or] Justice of the Peace.

[or] [as the case may be.]

_____

11.

Taken and sworn this day of , 20

[Signed] Magistrate of the said District.

[or] Clerk of the

Magistrate of the said District.

[or] Justice of the Peace.

[or] [as the case may be.]

JURISDICTION TO HOLD INQUIRIES AND TO TRANSFER PROCEEDINGS

12.

Summons to Witness in Case of Suspected Offence.-s. 779

SAINT LUCIA

IN THE DISTRICT COURT

To [Name, Address, and Occupation of Witness]

Whereas there is reason to believe that [state the charge] and you are capable of giving material evidence concerning the same.

You are hereby summoned to appear before the said District Court, at on day, the day of , 20 , at to be examined then on oath concerning such offence.

Dated this day of , 20

[Signed]

Magistrate of the said District

Affidavit of Service

[I or We] the undermentioned officer make oath and say that the particulars of service hereunder are true—

When Served	Upon Whom Served	Where Served	Signature of Officer serving & making Oath	When service proved	Signature of Justice taking proof of service

---

13.

Recognizance of Witness Examined in Case of Suspected Offence. s.779

SAINT LUCIA

IN THE DISTRICT COURT

I the undersigned [Name, Address, and Occupation of Witness] (hereinafter called the witness) was examined before the said Court as a witness under section 779 of the Criminal Code and I hereby bind myself to appear and give evidence before any Magistrate or before the Supreme Court in its Criminal Jurisdiction, if called upon for that purpose at any time within 6 months ensuing: And I hereby acknowledge myself bound to forfeit to the Crown the sum of $ on failure to perform the said obligation.

[Signed]

Witness.

Taken [etc., as in No. 10.]

14.

Warrant to Convey before the Magistrate of another District.-s. 782

(Heading as in No. 7)

To all Police Officers

Whereas complaint was made that the accused on [state the charge] And whereas I have taken the deposition of [name of witness] as to the said offence.

And whereas the charge is of an offence committed in the District.

This is to command you to convey the said accused before the Magistrate of the last-mentioned District, and to deliver to him or her this warrant and the deposition.

Dated [etc., as in No. 132]

PROCEEDINGS TO COMPEL APPEARANCE OF ACCUSED

15.

Complaint and Information without Oath.-ss. 784,785

(Heading as in No. 7)

The complainant states that the accused on [state charge, with time, place and district] contrary to section of the Criminal Code, [or other statute or law, as the case may be.]

The complainant prays for a summons.

[Signed]

Complainant.

[or] Counsel, or Solicitor or agent for Complainant

[or] [as the case may be.]

Taken [etc., as in No. 10.]

16.

Complaint and Information on Oath.-ss.784,789

(Heading as in No. 7)

The complainant [or name, etc., if a witness make oath] on oath states that the accused on [state charge, with time, place and district] contrary to section of the Criminal Code, [or other statute or law as the case may be.]

The complainant prays for a warrant of arrest.

[Signed]

[etc., as in No. 16.]

Taken and sworn [etc., as in No. 11.]

17.

Order for Production of an Inmate to Answer Charge.-s.783

(Heading as in No. 7.)

It is hereby ordered that the Correctional Officer do cause the accused who is now confined in a correctional facility for some other cause to be brought before the said District Court in at the hour of in the Noon on day the day of 20 , and as often as may be required for the purpose to answer to a charge of [state charge]

Dated

[etc., as in No. 8.]

18.

Summons to Person Charged.-ss. 784, 785

(Heading as in No. 7)

To the Accused.

Complaint has been made that you on [state charge] contrary to section of the Criminal Code, [or other statute or law as the case may be.]

You are hereby summoned to appear before the said District Court sitting at on day, the day of 20 , at , to answer the said charge.

Dated [etc., as in No. 8]

Affidavit of Service.-s. 788

(Same as in No. 12.)

19.

Warrant to Arrest accused in First Instance.-s.795

(Heading as in No. 7)

To all Police Officers

Whereas complaint has been made upon oath that the accused on [state charge]

This is to command you to arrest the said accused and to bring him or her before the said

District Court at to answer the said charge.

Dated [etc., as in No. 8]

20.

Warrant to Arrest after Summons.-s.789

(Heading as in No.7.)

To all Police Officers

Whereas complaint has been made upon oath that the accused on [state charge]

And whereas a summons has been issued to the accused, who has neglected to appear in obedience thereto and oath has been made of the service of the summons.

This is to command [etc., as in preceding Form No.20]

Dated [as in No. 8.]

POWER TO BAIL AND REMAND ACCUSED

21.

Recognizance to Appear.-s. 610

(Heading as in No.7)

I the undersigned [etc., as in No.1.]

[To be taken by the Magistrate, or as the case may be.]

_____

22.

For form of Recognizance after Committal to Appear for Trial at Sessions.-s. 609 See No. 49.

_____

23.

For form of Warrant to discharge from Correctional Facility Accused entering into Recognizance after Committal-s. 609. See No. 53.

_____

24.

Warrant to Arrest where Accused Person on Bail has Absconded.-ss.606, 607 (Heading as in No. 7)

To all Police Officers

The accused who stands charged before the said District Court having been admitted to bail was to appear before the said Court at on day, the , 20 , at and has made default therein.

This is to command you to arrest the said accused and to bring him or her before the said District Court at

Dated [etc., as in No.8.]

_____

25.

Warrant to Detain in Custody during Remand.-s. 611

(Heading as in No. 7.)For

To all Police Officers

Whereas a charge was made that the accused on [state charge with time and place]

And whereas the said charge is to be [heard [or] further heard] on the day of ,20 , at

This is to command you to convey the said accused to the Correctional Facility, there to be kept in custody until the above time of hearing or such earlier day as required.

Dated [etc., as in No. 8]

26.

Warrant of Commitment on further Remand of Person in Custody unable to Appear through Illness or otherwise.-s.614

(See No.5.)

27.

Application for Arrest of Person Bailed.-s. 607

(Hearing as in No.7.)

Complaint is hereby made that there is reason to believe that the accused is about to abscond for the purpose of evading justice, because [state grounds of belief.]

The arrest of the accused is applied for.

[Signed]

Surety of Accused.

[or] other description as the case may be.

Taken and Sworn [etc., as in No. 11.]

28.

Warrant to Arrest Accused Person on Bail.-s. 607

(Heading as in No. 7.)

Whereas the accused stands charged for having on [state charge]

And whereas the said accused was admitted to bail to appear at the said District Court in on day, the day of 20 , at .m.

And whereas application on oath has been made by [Name, address and Occupation and description of Applicant or Surety, or as the case may be] that the accused should be arrested.

This is to command you

[etc., as in No. 25.]

Dated [etc., as in No. 8.]

29.

Warrant of Commitment on Arrest of Accused on Bail.-s. 607

(Heading as in No. 7.)

To all Police Officers

Whereas the accused [etc., as in preceding Form No. 29]

And whereas [etc., as in preceding Form No. 29]

And whereas the said accused has been arrested lest he or she should abscond.

And whereas the said accused has not produced other sufficient security.

This is to command you to convey the accused to the Correctional Facility there to be kept in custody until the said time of hearing, unless otherwise directed in the meantime.

Dated [etc., as in No. 8]

30.

Order on Correctional Officer to Produce Accused during Remand-s. 584

(Heading as in No 7.)

To the Correctional Officer.

Whereas the accused stands charged for having on [state charge]

And whereas the accused has been committed to your custody by warrant dated the day of , 20 , at in the noon.

It is hereby nevertheless ordered that you do cause the accused before the said Court at in the noon, on day the day of , 20 .

Dated [etc., as in No. 8]

31.

Summons to Accused on Bail to Appear during Remand.-s. 584

(Heading as in No. 7.)

To the Accused.

Whereas you stand charged that you on [etc., as in No. 29]

And whereas you have been released to appear before the said District Court at [etc., as in No. 31]

Nevertheless you are hereby summoned [etc., as in No. 29]

Dated [etc., as in No. 8]

32.

Warrant to arrest Accused on Bail Disobeying Summons to Appear during Remand.-s. 607

(Heading as in No. 7)

To all Police Officers

Whereas the accused stands charged [etc. As in No. 29]

And whereas the accused having been released on bail, a summons to appear during the remand period was issued to the accused who has neglected to appear in obedience thereto, and oath has been made of the service of the summons.

This is to command you to arrest the said accused and to bring him or her before the said District Court at to answer to the said charge.

Dated [etc., as in No. 8.]

PROCEEDINGS TO COMPEL ATTENDANCE OF WITNESS

33.

Order for Production of an Inmate Witness.-s. 791

(Heading as in No.7)

It is hereby ordered that the Correctional Officer do cause [name of witness] who is now confined in the correctional facility to be brought [etc., as in No. 18, down to purpose] of giving evidence for the [Complainant (or) Accused].

Dated [etc., as in No. 8.]

34.

Summons to Witness.-s.792

(Heading as in No. 7.)

To [Name, Address, and Occupation of Witness.]

Complaint has been made that the accused on [state charge.]

You are hereby summoned to appear before the District Court sitting at on day, the day of , 20 , at , to give

evidence for the [complainant or accused]. [or] [and] to produce to the Court, books, plans, papers, documents, articles, goods and things likely to be material evidence on the hearing of the said charge [and especially] or [as the case may be.]

Dated [etc., as in No. 8.]

Affidavit of Service.-s 788

(As in No. 12.]

35.

Warrant to Arrest in First Instance.-s.795

(Heading as in No. 7)

To all Police Officers.

Whereas complaint has been made that the accused on [state charge].

And whereas oath has been made that [Name, Address, and Occupation of Witness] hereinafter called the witness, can give material evidence [but will not attend voluntarily].

[or] is keeping out of way of personal service of a summons.

This is to command you to arrest and to bring the said witness before the said District Court at

Dated [etc., as in No. 8.]

36.

Warrant to Arrest Witness after Summons.-s.794

(Heading as in No. 7)

To all Police Officers

Whereas complaint [etc., as in preceding Form No. 36.]

And whereas a summons herein has been issued to [Name, Address and Occupation of

Witness] hereinafter called the witness, who has neglected to appear in obedience thereto and oath has been made of the service of the summons.

This is [etc., as in preceding Form No. 36.]

Dated [etc., as in No.8.]

37.

Warrant to Commit Refractory Witness.-s.907

(Heading as in No. 7.)

To all Police Officers

Whereas a charge has been made that the accused on [state charge].

And whereas [Name of Witness] a material witness, has, without just excuse, refuse to do as required, namely, to [state what witness was required to do]

This is to command you to convey the said witness to the Correctional Facility, there to be detained until the trial of the said accused, unless the witness shall in the meantime consent to do as required, or is discharged by due course of law.

Dated [etc., as in No. 8.]

38.

Warrant to Discharge Refractory Witness from the Correctional Facility.-s.

907

(Heading as in No. 7)

To the Correctional Officer.

Whereas [Name of Witness] a witness, was committed to a correctional facility herein for the reason stated in the warrant so committing the witness.

This is to command you nevertheless to discharge the said witness unless he or she shall be in your custody for some other cause.

Dated [etc., as in No. 8.]

PROCEEDINGS AT PRELIMINARY INQUIRY - CONDUCT OF INQUIRY

39.

Deposition of Witness.-s. 978

(Heading as in No. 7.)

The deposition of [Name, residence and occupation of witness] taken in the presence and hearing of the accused, who stands charged [or], after notice to the accused, who stands committed for that he on [state charge].

The said deponent on oath states as follows:- [Deposition as nearly as possible in the words of the witness, to be signed by the witness and by the Magistrate].

[If depositions of several witnesses are taken at the same time, they may be taken and signed as follows:-]

The depositions of [name, residence and occupation], of [name, residence and occupation], of [name, residence and occupation], etc., taken in the presence and hearing of the accused, who stands charged that he or she on [state charge, with time and place].

The deponent [name of witness] on oath states as follows:-

The deponent [name of witness] on oath states as follows:-

The deponent [name of witness] on oath, etc.

[The signature of the Magistrate may be appended as follows:-]

The depositions of [names of the different witnesses, etc.] written on the several sheets of paper, to the last of which my signature is annexed, were taken before me in the presence and hearing of the accused and signed by the said witness respectively in the presence of the accused.

In witness whereof I have, in the presence of the said accused signed my name at

[Signed]

Magistrate of the said District.

_____

40

Warrant to commit Witness refusing to sign Depositions.-s. 798
(See No.38, and adapt.)

41.

Notice of Magistrate's Intention to take or cause to be taken Evidence of Witness Dangerously Ill.-s. 783
(Heading as in No. 7.)

To the [Complainant [or] Accused.]

I hereby give you notice that I intend on the day of , 20 , at to [take] [or] to cause [name and no. of district of other Magistrate] to take] the deposition of [name, residence and occupation of witness] who is there dangerously ill, and that you will be at liberty to attend and cross-examine such deponent.

Dated [etc., as in No. 8.]

42.

Order to convey an Inmate to Place of taking Deposition of a Witness Ill.-s.783
(Heading as in No. 7.)

To the Correctional Officer

Whereas the accused is now in your custody charged with having on [state charge].

And whereas I intend [etc., as in No. 42 down to "ill"].

It is hereby directed that you convey or cause to be conveyed the said accused to the place and at the time notified.

Dated [etc., as in No. 8.]

43.

List of Exhibits.-s. 804

(Heading as in No.7)

Number or other identifying mark on Exhibit	Short description of Exhibit	Produced by Prosecution or Accused	Custody, (See s.804 and note below)
1. 2.	Letter dated From To Cattle Skin.	Prosecution	Police.

[Signed]

Magistrate of the said District.

Note.-Above entries are Examples, By s.804 exhibits other than documents are to be taken charge of by the Police unless the Magistrate directs otherwise.

44.

Question to and Statement by Accused as to Committal for trial.-s.799

(Heading as in No. 7.)

To the Accused.

You having [stated or admitted] that you are guilty of the charge, do you wish the witnesses again to appear to give evidence against you at your trial? If you do not, you will now be committed for trial.

Whereupon the accused states as follows-

Dated this day of , 20 , at in the said District.

[Signed]

Magistrate of the said District..

45.

Warrant of Committal for Sentence.-s. 801

(Heading as in No. 7)

To all Police Officers

Whereas a charge was made that the accused on [state charge].

And whereas the accused has been committed to be sentenced by the High Court.

This is to command you to convey the accused to the Correctional Facility there to be kept in custody accordingly unless discharged by due course of law in the meantime.

Dated [etc., as in No. 8]

46.

Order to bring before the Court Accused committed for Sentence, or committed for Trial and desirous of being Sentenced.-s.797

SAINT LUCIA.

IN THE HIGH COURT OF JUSTICE

(Criminal Jurisdiction.)

FROM THE DISTRICT COURT.

[Name]

vs.

Complainant.

[Name]

Accused.

It is hereby ordered that the Correctional Officer do cause the accused who is now confined in the correctional facility to be brought before the High Court at in the noon on day of , 20 , and as often as may be required for the purpose of being sentenced.

Dated the day of , 20 .

Chief Justice.

47.

Recognizance after Committal to Appeal for Trial at Sessions.-s. 803

(Heading as in No. 7)

I, the undersigned accused, namely [namely, etc., as in No.1]

To surrender myself and plead to any indictment against me and take my trial for the same, accepting service of all documents upon me in that behalf at the [house or office] of [name] in Street, in the city of Castries [number of street is to be given if possible or such description as to render place of service clearly identifiable.]

Taken [etc., as in No. 10.]

48.

Warrant of Committal for Trial.-s. 801

(Heading as in No. 7)

To all Police Officers

Whereas a charge [as in No. 47.]

And whereas the accused has been committed for trial at the next practicable criminal sitting of the High Court.

This is to command you [as in No. 47.]

Dated [etc., as in No. 8.]

49.

Certificate of Consent to Bail by Committing Magistrate indorsed on Commitment.-s. 803

I hereby certify that I consent to the within-named accused being bailed by recognizance, of the accused in $ and of [one or 2] suret [y or ies], severally in $.

Dated [etc., as in No. 8]

50.

The Like on a separate Paper.-s.803

(Heading as in No. 7)

Whereas the accused was, on the day of , 20 , committed to the Correctional Facility charged with having on [state charge] I hereby certify that I consent to the said accused being bailed by recognizance of the said accused [etc., as in preceding form No. 50.]

Dated [etc., as in No. 8]

51.

Warrant to Discharge from Correctional Facility Accused entering into Recognizance after Committal .-s. 803

(Heading as in No. 7)

To The Correctional Officer

A charge was made that the Accused on [state charge] And whereas the said Accused was committed for trial, but has now duly entered into recognizance to appear for that purpose.

This is to commend you to take the recognizance of the said accused in the sum of $ with suretyship to appear for that purpose, and then to discharge the said accused unless he or she shall be in your custody for some other cause.

Dated [etc., as in No. 8]

52.

Order for production of an Inmate in a remitted Case.-s.807

(Heading as in No. 7)

The Director of Public Prosecutions having remitted this case to be dealt with by the District Court it is hereby ordered that the Correctional Officer do cause the accused who has been committed for trial [or sentence] to be brought before the District Court in at the hour of in the noon on day the day of , 20 , and as often as may be required for the purpose.

Dated [etc., as in No. 8]

53.

Summons to Accused in a remitted Case.-s 807.

(Heading as in No. 7.)

To the Accused.

Complaint was made that you on [state charge] contrary to section of the Criminal Code, and you were committed for trial in consequence.

And whereas the Director of Public Prosecutions has remitted this case to be dealt with by the District Court.

You are hereby summoned to appear before the District Court sitting at on day, the day of , 20 , at , to answer the charge as directed.

Dated [etc., as in No. 8]

54.

Warrant to arrest Accused in a remitted Case.-s.807

(Heading as in No. 7.)

To all Police Officers

Complaint was made that the accused on [state charge]

And whereas the Director of Public Prosecutions [etc., as in preceding form No. 54.]

And whereas a summons [etc., as in No. 21.]

This is to command you [etc., as in No. 21.]

Dated [etc. as in No. 8.]

55.

Director of Public Prosecution's Request for Depositions on Discharge of Accused by Magistrate.-ss.649, 808

(Heading as in No. 7.)

To the Magistrate of the District.

You are required to send to me [the depositions taken in this case [or] a copy of the depositions taken in this case], and any other documents or things in the case [or] the following documents or things, namely:-

Dated, etc.

Director of Public Prosecutions.

56.

Directions by the Director of Public Prosecutions to the Magistrate to commit for Trial.-ss.649, 808

(Heading as in No. 7)

You are hereby required to commit the accused for trial.

Directions (if any)

Dated, etc.

Director of Public Prosecutions

INDICTABLE OFFENCES.-PROCEEDINGS AS TO JURIES AND JURORS.

JURIES AND JURORS IN GENERAL AND IN THE SUPREME COURT

57.

Preliminary Jury List.-s. 931

SAINT LUCIA.

JURY LIST FOR THE DISTRICT FOR THE YEAR 20 .

Juror's Name: Surname Christian Name	Place of Abode	Calling	Nature or Qualification	Remarks

Note.-No person whose name is in Juror's Book as a Juror is entitled, when summoned to attend the High Court, to be excused from attendance on the ground of any disqualification or exemption, other than illness, not claimed by him or her at or before the revision of the list, unless otherwise expressly provided.

All objections to the foregoing list will be heard and determined at the sitting of the District Court to be held at on day, the day of , 20 , at .

Dated [etc., as in No. 8]

Certificate of Magistrate on Revised Jury List.-s.934

I hereby certify that the foregoing is a fair copy of the jury list as revised, and that it is to the best of my knowledge and belief, a true and proper list of the juror within the district.

Dated [etc., as in No. 8]

_____

58.

Jury Panel.-s. 934

JURY LIST FOR *(First day and Month of] Sessions, 20*

Nos.	Juror's Names	Place of Abode	Calling	Nature of Qualification

[Date.] *Sheriff.*

59.

Summons to Juror.-ss. 937, 953

SAINT LUCIA.

IN THE HIGH COURT OF JUSTICE

(CRIMINAL JURISDICTION).

To [Juror's Name, etc.]

You are hereby summoned to appear at the High Court House in the City of Castries, on day, the day of , 20 , at .m., there to serve as a Juror, and not to depart without leave of the Court or in due course of law. Herein fall not, under a penalty not exceeding $24.

Dated, etc.

[Signed]

Sheriff.

Note.-The return of service may be indorsed on the above summons, which should be in duplicate, or may be on a separate return sheet.

60.

Return of Summonses to Jurors.-s. 942

SAINT LUCIA.

IN THE HIGH COURT (CRIMINAL JURISDICTION).

[First day and Month of] SESSIONS, 20 .

SUMMONSES TO JURORS

returnable at a Court to be held at Castries

Name of Juror	On whom and where served	When served	By whom served

---

61.

Oaths of Jury Collectively.-ss. 949, 950

You shall well and truly try the issues joined between the Prosecution the Accused and a true verdict give according to the evidence: So help you God.

Each juror with uplifted hand shall say after the oath is administered "I so swear, so help me God."

62.

Oath in case of Juror objecting to be sworn Collectively.-s. 949

I shall well and truly try the issue joined between the Prosecution and the Accused and a true verdict give according to the evidence: So help me God.

NOTE.- This oath will be taken in the ordinary way with testament or crucifix in uplifted hand or otherwise as may be allowed by the Court.

63.

Affirmation of Juror.-s. 949

I solemnly affirm that I will well and truly try the issue joined between the Prosecution and the Accused and a true verdict give according to the evidence.

_____

64.

Election of Foreman by Jury.-s 952

After the jury have been sworn the proper officer will say to them: Ladies and Gentleman, choose your foreperson.

_____

65.

(Heading)

SAINT LUCIA.

IN THE HIGH COURT OF JUSTICE

(CRIMINAL JURISDICTION).

The Crown

vs.

[Name]

Accused.

_____

66.

Challenge to Panel.-s. 954

(Heading as in No. 65)

The Director of Public Prosecutions [or the said prosecutor or accused as the case may be], challenges the panel on the ground that it was returned by [name of sheriff] Sheriff of the State. [or [name] Deputy of [name] Sheriff of the said State, as the case may be] and that the said Sheriff [or Deputy Sheriff as the case may be] was guilty of partiality [or fraud, or wilful misconduct] in returning the said panel.

Dated this day of , 20 .

67.

Challenge to Poll for Cause.-s. 956

(Heading as in No. 65.)

The Director of Public Prosecutions [or the said prosecutor or accused as the case may be] challenges [name of Juror] on the ground that his or her name does not appear in the Jurors' Book [or that he or she is not indifferent between the Crown and the said [name of accused or as the case may be].

Dated, etc.

[Signed] Director of Prosecutions

[or] Prosecutor [or] Accused.

68.

Denial of Challenge.-s. 955

(Heading as in No. 65.)

I, Director of Public Prosecutions [or the accused] [or as the case may be] deny the truth of the matters alleged as cause of challenge of [Juror's Name].

Dated, etc.

[Signed]

[As in preceding Form No. 67.]

69.

(a)

Oath to Officer in Charge of Juror going Out.

You shall attend this juror during his or her absence from Court and shall not suffer any person to speak to him or her, neither shall you speak to him or her yourself, unless it be to require him or her to return to Court.

So help me God.

(b)

Oath to Officer in of Jury on Adjournment or Retirement to consider Verdict.-ss. 973, 976

You shall keep this Jury in the place provided for the purpose and shall not suffer any person other than an officer of the Court to speak to them, neither shall you speak to them yourself touching or concerning this trial.

So help you God.

70.

(a)

Oath on the voir dire.-s. 958

I swear by Almighty God that I will truly answer all such questions as the Court shall demand of me.

(b)

Oath of Person Trying Challenge.-s. 958

I swear by Almighty God that I will well and truly try whether (Name of Juror), one of the jurors, stands indifferent between the prosecution and the accused and a true verdict give according to the evidence.

(c)

Oath of Witness on Trial of Challenge.-s. 958

I swear by Almighty God that the evidence which I shall give to the Court and Triers shall be the truth.

71.

Indictment by the Director of Public Prosecutions.-ss. 809, 847

SAINT LUCIA.

IN THE HIGH COURT OF JUSTICE

(CRIMINAL JURISDICTION).

(Date of first day and Month of the Sitting)

SESSIONS, 20 .

The Crown

Prosecutor.

vs.

(Name, etc. of the Accused)

Accused.

The Director of Public Prosecutions, presents that the accused on [date] at [place] in this State [state charge] contrary to section of the Criminal Code [or other statute as the case may be].

[Where there are more counts than one, add]:

SECOND COUNT

And the Director of Public Prosecutions further presents that the accused at the time and place aforesaid [or any other day or place as the case may be, and state charge].

THIRD COUNT

And the Director of Public Prosecutions further presents that [etc., as in Second Count, and similarly for any other additional counts].

[Signed]

Director of Public Prosecutions.

Note.-An indictment may conveniently be prepared on a double sheet of foolscap printed or written right across the double sheet with a margin of at least ¼ on the left hand side, and after being folded double it may be endorsed across as follows-

(Heading as in No. 65.)

CHARGE.

[State nature of offence charged in each count, e.g., stealing, wounding, or as the case may be, each offence in a separate line with a number before it if more than one].

[Month] SESSIONS, 20 .

Accused [in correctional facility or bail].

Witnesses for the Crown.

1. Name and residence.

2. Name and residence

And similarly for any other.

Return of Service of Indictments.-s. 847

Same Form as No.60 except that "Service of Indictments" is to be substituted for "Summonses to Jurors" in the heading, and "Accused" for "Juror" in first column.

72.

Indictment by Private Prosecutor

SAINT LUCIA.

IN THE HIGH COURT OF JUSTICE

(CRIMINAL JURISDICTION).

(Date of first day and Month of the Sitting)

SESSIONS, 20 .

The Crown

Prosecutor.

vs.

(Name, etc. of the Accused)

Accused.

The said prosecutor presents that the accused on [etc. As in No. 71.]

[Signed]

Prosecutor.

[or] Counsel for the Prosecutor.

Note.-See Note to No. 71 as to preparing and endorsing.

Director of Public Prosecution's Certificate of Refusal to Prosecute to be Indorsed on Indictment by Private Prosecutor.-s. 843

This is to certify that I have seen the within indictment and decline to prosecute at the public instance.

Dated, etc.

[Signed]

Director of Public Prosecutions

73.

Charge: Examples of the Manner of stating Offences.-ss. 809, 847

Causing Harm with Intent.

The [etc.] presents that the accused on [time and place] with intent to hinder the lawful arrest or detention of A., [or C.] cause harm to B. [or D.], contrary to section , etc.

Libel.

The [etc.] presents that the accused [time and place] published a defamatory libel concerning W.Y., in the form of a letter addressed to J.B., which said letter contained the following defamatory matters concerning the said W.Y., contrary to section , etc.-

1. Do you know that about the year 1886 your friend W.Y. was in the employ of L. and J. and that his or her accounts were found to be all wrong? [meaning thereby that W.Y. was guilty of acts of dishonesty and falsification of accounts whilst he or she was in the employ of L. and J.

2. As soon as his or her defalcations were discovered and a warrant was applied for he or she fled to [meaning thereby that the said W.Y. was a fugitive from justice].

3. Sometime after this he or she appears to have returned to for he or she was found to be keeping a disorderly house in the [meaning thereby that he or she said W.Y. had committed the criminal offence of keeping a disorderly house].

(See Form No. 78 for Notice of Plea of Justification to the foregoing Form for Libel.)

Or,

The [etc.] presents that the accused on the day of , 20 , at published an international libel on B, in a certain newspaper called which libel was contained in an article headed or commencing [describe with so much detail as is sufficient to give the accused reasonable information as to the part of the publication to be relied on against him or her] and which libel was written in the sense of imputing that the said B. was [as the case may be], contrary to section , etc.

Murder.

The [etc.] presents that the accused on the [time and place] murdered B., contrary to section of the Criminal Code.

Obtaining Goods by false Pretences.

The [etc.] presents that the accused on [time and place] obtained by false pretences from B. a horse, a cart, and the harness of a horse, contrary to section etc.

Perjury.

The [etc.] presents that the accused on the day of , 20 , on the trial of B. for the robbery of C. at the sitting of the Supreme Court (Criminal Jurisdiction) held at Castries, with intent to procure the conviction of B. for an offence punishable with imprisonment for more than 3 years, namely, robbery, by swearing, first, that the accused saw B. at Dennery on the day of 20 ; secondly, that B. asked the accused to lend B. money on a watch belonging to C.; thirdly, etc., committed perjury, contrary to section , etc.

Or,

The [etc.] presents that the accused on the day of , 20 , on the trial of B. at a District Court held at Vieux Fort on the day of , 20 , for an assault alleged to have been committed by the said B. on C. at Micoud, by swearing to the effect that the said C. at Micoud by swearing, first, that the accused saw B. asked the accused to lend B. money on a watch belonging to C.; thirdly, etc., committed perjury, contrary to section , etc.

Stealing.

The [etc.] presents that the accused on the [time and place] stole a sack of flour from the ship called the , contrary to section , etc.

74.

Recognizance by Private Prosecutor.-s. 843

SAINT LUCIA.

I [name, etc.] do hereby bind myself to attend at the Supreme Court in its criminal jurisdiction at Castries on day the day of , 20 , at , to prosecute by indictment a charge of against [name, etc., of accused] and to pay such costs as may be ordered by the

Court, and in case of default I bid myself to forfeit to the Crown the sum of $.

Dated at this day of , 20 .

[Signed]

Prosecutor.

[Signed]

Registrar of the High Court.

Obligation of Sureties, if Any.

Same as in No. 1, except that "prosecutor" is to be substituted for "accused" and to be signed before the Registrar or as the case may be.

PLEAS AND OBJECTIONS.

75.

Notice of Intention to apply to quash Indictment.-s. 855

(Heading as in No. 65.)

To the Director of Public Prosecutions

Take notice that the accused intends to apply at the trial to have the indictment herein quashed [state grounds, each to be stated separately and number or lettered if more than one.]

Dated, etc.

[Signed]

Accused.

[or] Counsel for the Accused.

76.

Notice of Intention to Object.-ss. 855, 862

(Heading as in No. 65.)

To the Director of Public Prosecutions

Take notice that the accused intends at the trial to object [state objection and grounds if any, each to be numbered or lettered].

Dated, etc.

[Signed]

Accused.

[o r] Counsel for the Accused.

77.

Notice of Intention to Plead Special Plea.-ss. 855, 865

(Heading as in No. 65)

To the Director of Public Prosecutions

Take notice that the accused intends at the trial to plead that the accused has already, namely on etc. at the Court at been lawfully [acquitted [or] convicted] of the offence with which charged [or] of [state the offence the accused has already been acquitted or convicted of so as show that the acquittal is a bar to a prosecution on the present charge] [or] that on [state date] the Crown [or] the Governor-General on behalf of the Crown [or as the case may be] granted the accused a free pardon for the offence with which charged.

[or] the alleged defamatory matter is true and was published for the public good.

PARTICULARS

1. On the day of , 20 , W.Y. received the sum of from T.S. and on the day of , 20 , W.Y. received the sum of $ from C.F., and the sum of $ from W.D., on behalf of his or her employers, L. and J., which he or she fraudulently omitted to enter in their books or to account for in any way.

2. On the day of , 20 , soon after W.Y.'s defalcations were discovered and a warrant was applied for against him or her upon charges of stealing his or her employers' money and falsifying their books , W.Y. left on a ship called bound for

3. On the day of and on other days in the year W.Y. kept a house at for the purpose of betting, contrary to

4. The accused says it was for the public good that the defamatory matters charged in the said indictment should be published by reason of the fact that W.Y. was at the time of the publication thereof a candidate for the public office of member of the Council.

Dated [etc., as in No. 75.]

78.

Notice of Plea of Special Defence.-s.864

(Heading as in No. 65)

To the Director of Public Prosecutions [as the case may be.]

Take notice that the accused intends at the trial to plead [state special defence], the particulars of which as to time, place and witnesses by which it is proposed to prove it being as follows-

Time.

Place.

Witnesses [name, address and occupation, numbering each].

Dated [etc., as in No. 75.]

79.

Special Plea.-ss. 865, 870, 891

(Heading as in No. 65)

The accused says that the Court ought not to take cognizance of the indictment herein because [state the matter of the plea, see Form 77] as stated in the notice of the plea given by the accused herein to the [Director of Public Prosecutions or Prosecutor] and dated etc.

[Signed]

Accused.

The above with the necessary variations may be adapted for a plea of *autrefois acquit or convict* or pardon.

A plea of justification may be as follows-

80.

Plea of Justification.-s. 891

(Heading as in No. 65)

The accused says that he or she is not guilty and for a further plea says that all the defamatory matters alleged in the indictment are true, and that the particulars thereof have been stated in the notice of plea given [etc. as in preceding Form No. 79.]

81.

Release by Director of Public Prosecutions.-ss. 650, 774, 775

(Heading as in No. 65)

To The Correctional Officer

I hereby direct the release of the accused.

Dated, etc.

Director of Public Prosecutions

82.

Stay of Proceedings.-s. 651

(Heading as in No. 65)

I hereby direct the Registrar to make in the Crown Book an entry that the proceedings herein are stayed by my direction.

Dated, etc.

Director of Public Prosecutions.

SUPREME COURT SITTINGS AND TRAILS.

TRIAL OF INDICTMENTS.

83.

Dated this day of , 20 .

[Signed]

Chief Justice

Note.- If signed by a proper officer of the Court by order it may be signed .

By order [or] By order of the

Chief Justice.

[Signed]

Registrar of the High Court.

_____

84.

Dated this day of , 20 .

[Signed]

Registrar of the High Court.

[or if by the Deputy]

Deputy Registrar of the High Court

_____

85.

Taken this day of , 20 .

[Signed]

Chief Justice

Note.- Same as to No. 84.

_____

86.

Taken and sworn this day of , 20 .

[Signed]

Chief Justice

Note.- Same as to No. 84.

87.

Bench Warrant.-s.876

(Heading as in No. 65.)

To all Police Officers

Whereas an indictment has been presented in this Court against the accused for having on [state charge].

And whereas the accused having been committed for trial and held to bail to appear before this Court to plead to any indictment against the accused and to be tried for the same does not appear.

This is to command you to arrest and bring the said accused before this Court, if sitting or, if not, before the Magistrate of the First District Court.

Dated [etc., as in No. 83].

88.

Certificate of Indictment having been Preferred.-s.876

(Heading as in No. 65.)

I hereby certify that a sitting of the High Court in its Criminal Jurisdiction held on the day of , 20 , an indictment was preferred by the Director of Public Prosecutions against the accused for that the accused on [state charge] and that the said accused has not appeared or pleaded to the said indictment.

[Signed] Registrar.

89.

Warrant to Arrest Indicted Accused.-s.876

(Heading as in No. 65.)

To all Police Officers

Whereas the Registrar of the High Court has certified that at a sitting [etc., as in preceding Form No. 88.]

This is to command you to arrest the accused and to bring him or her before the First District Court to be dealt with according to law.

Dated [etc. as in No. 8.]

90.

Proof of Identity of Arrested Indicted Accused.-s.876

(Heading as in No. 65.)

(Name, etc., of deponent) sworn states that the accused now here present is the same person who is charged and named in the indictment referred to in the certificate of the Registrar of the High Court herein.

Taken and Sworn [etc., as in No. 8]

91.

Warrant of Commitment on Arrest of Indicted Accused.-s.876

(Heading as in No. 66.)

To all Police Officers

Whereas the accused has been arrested for not appearing and pleading to an indictment in the High Court on the day of , 20 .

This is to command you to convey the accused to the Correctional Facility there to be kept in custody until trial or discharge by due course of law.

Dated [etc., as in No. 8]

Note.- If accused is bailed Form No. 1 can be adapted to appear before High Court.

92.

Warrant to Detain Indicted Accused in Custody has certified- s. 876 that at a sitting [etc., as in No. 88.]

(Heading as in No. 66.)

To the Correctional Officer

Whereas the Registrar of the High Court has certified that a sitting [etc., as in No. 88.]

And whereas [name, etc.] has made oath before me that the accused is confined in a correctional facility for some other offence.

This is to command you to detain the accused in custody until trial on the said indictment or discharge by due course of law.

Dated [etc., as in No. 8.]

93.

Order for Protection of an Inmate for Trial.-s.783

(Heading as in No. 65.)

It is hereby ordered that the Correctional Officer do cause the accused against whom an indictment for has been preferred in the said Court and who is now confined in the Correctional Facility for some other cause to be brought before the said Court in Castries, on day the day of , 20 , and as often as may be required for the purpose of the trial on the indictment.

Dated, [etc., as in No. 84.]

94.

Arraignment.-s. 887

The proper officer may address the accused as follows-

A.B. [and C.D.]. You stand charged for that you on [etc. stating charge in the indictment to the accused, using the second person plural instead of the third person and repeating the names of each accused as to anything alleged against such accused to the exclusion of others].

How say you, are you guilty or not guilty?

If more than one accused each is to be addressed-

How say you [name], are you guilty or not guilty?

And so on.

Previous Convictions.

Note.-A count charging a previous conviction is not to be stated to the accused, nor is he or she to be required to plea to it, nor is it to be mentioned when the accused is given in charge to the jury, except as provided by s. 889.

95.

Statement to Accused of Right to Challenge on Plea of Not Guilty. ss. 956, 964

The proper officer may address the accused as follows-

A.B. [and C.D.] These good men and women whom you will now hear called are the jurors to decide between the Crown [or the prosecutor as the case may be] and you upon your trial.

If therefore, you wish to challenge any other, you must do so before he or she takes his or her seat in the box but not afterwards.

96.

Direction to Jurors to take the Box.

Ladies and Gentlemen of the Jury, answer to your names and take the box as you are called.

97.

Oath to Jury to Try if the Accused is unfit to Plea or take his or her Trial.-ss. 1018, 1019

You shall diligently inquire and truly present, whether [name or accused] who stands indicted for be [capable of understanding the proceedings, or mentally ill] or not, and a true verdict give according to the best of your understanding.

So help you God.

98.

After the Oath has been taken the proper officer shall add: Ladies and Gentlemen, choose your foreperson.

99.

Order on Finding that Accused is Incapable or Mentally Ill or on Special Verdict.-s. 1019

(Heading as in No. 65.)

Whereas the accused having been indicted for having on [state charge] the jury empanelled to try [the capacity of the accused to understand the proceedings at trial , [or] the sanity of the accused [or] the indictment] have found that the accused [is not so capable [or] is mentally ill [or] committed the act [or] made the omission] charged, but was mentally ill at the time he or she [did [or] made the same].

It is, therefore, ordered that the accused be detained in custody in the until the Governor General's pleasure shall be known.

Dated [etc. as in No. 83].

100.

Oath to Jury or Oath or Affirmation of Juror to try Indictment.-ss. 949 – 951

(See Nos. 61-63 and No. 98.)

101.

Giving Accused in Charge to Jury.-s. 893

Gentlemen of the Jury, the inmate stands indicated by the name of for that he or she on the

Upon this indictment he or she has been arraigned, and upon his or her arraignment he or she has pleaded that he or she is not guilty:

Your charge, therefore, is to inquire whether he or she is guilty or not and to hearken to the evidence.

102.

Charging Previous Conviction on Conviction on other Part of Indictment.-s. 897

[Name of Accused], You have been convicted [in the case of a plea of guilty say on your own confession] of [state charge on which convicted] You are also charged that on [etc, state previous conviction] what say you, Have you been so convicted or not?

103.

Notice of Intention to Prove Previous Conviction.-s. 898

(Heading as in No. 65.)

To the Accused

Take notice that at the proper time in the event of your pleading guilty or being found guilty proof of the following previous conviction against you will be given if you deny the same, viz.

Conviction in the Court at on, etc., for [state charge and punishment.]

104.

Warrant to Detain Accused on Adjournment-s. 878

(Heading as in No. 65.)

To all Police Officers

Whereas an indictment has been presented that the accused on [etc. state charge]

And whereas the hearing of the said indictment has been adjourned to the day of , 20 , at m.

This is to command you [etc. as in No. 30.]

Dated [etc., as in No. 100].

105.

Recognizance for Appearance of Accused.-s.880

(Heading as in No. 65.)

I the undersigned accused [etc. as in No. 1].

To attend at the High Court at [etc. as in No.1]

Dated at Castries this, etc.

[Signed]

Accused.

[Signed]

Chief Justice

[or as the case may be]

Obligation of Surety, if any.

[I or We] [etc. as in No. 1]

Dated at [etc. as in No. 1].

[Signed]

Surety.

Dated at [etc. as in No. 1].

[Signed]

Surety.

[Signed]

Chief Justice

[or as in No.83.]

106.

Recognizance of Witness to Appear.-s.880

(Heading as in No. 65)

The accused stands charged with having on [etc. state charge]

And whereas the hearing of the said charge has been adjourned to the day hereinafter stated.

I, the undersigned witness, namely, [name, etc. of witness], hereby bind myself to [etc. as in No. 1].

To attend the sitting of the Supreme Court at [etc. as in No. 1]

Dated at [etc., as in No. 1].

[Signed]

Witness.

[Signed]

Chief Justice

[or as the case may be, see No.83.]

Obligation of Sureties, if Any.

[I or We] etc., as in preceding form No. 106 and in No. 1, but substituting "witness" for "accused."

107.

Order for Production of an Inmate as a Witness.-s. 791

(Heading as in No.65.)

It is hereby ordered that the Correctional Officer do cause [name of witness] who is now confined in the Correctional Facility to be brought before the said Court in at the hour , on day, the for purpose of evidence for the [Crown [or] Accused].

Dated [etc., as in No. 83].

108.

Summons to Witness in Criminal Case.-ss. 792, 793

(Heading as in No. 65.)

To [name, etc. of witness].

You are hereby summoned to appear before the High Court, at the Court House, in the City of Castries, on day, the day of , 20 , at the hour of 10:00 a.m. of the same day, then and there to testify the truth and give evidence on behalf of the upon an indictment against the accused for and, until you shall have so testified depart not the said Court without leave. And this, you are by no means to omit, under a penalty of $120.

Dated the day of , 20 .

Registrar of the High Court

Return of Service

Name of Witness	On whom and where	When served. By whom served

---

109.

Warrant to Arrest Witness in Criminal Case.-s. 907

(Heading as in No. 65.)

To all Police Officers

Whereas the accused stands indicted for having on [state charge].

And whereas it appears that [name, etc. of witness] a material witness entered at the preliminary inquiry into a recognizance to appear at the trial of the said indictment and has failed to appear [or remain in attendance].

[Or] And whereas a summons has been issued to [name of witness], a material witness to appear before this Court as a witness on the [date], and the said witness has neglected [to appear or to remain in attendance] in obedience to such summons, and oath has been made of the service of the said summons.

This is to command you to arrest and bring the witness before this Court.

Dated [etc., as in No. 83].

110.

Allocutus.-s. 999

[Name of Accused.] You have been convicted [in the case of a plea of guilty say, "on your confession"] of murder or stealing, or piracy, or forgery [or as the case may be, describing the offence by the name by which it is commonly known, or otherwise so as sufficiently to describe it]. Have you anything to say why judgment [in a capital case say "of death"] should not be pronounced upon you according to law?

SUMMARY TRIAL OF CHILD OR YOUNG PERSON.

111.

Notice to Parent or Guardian of Child charged with Indictable Offence.-s. 777

(Heading as in No. 7.)

To [Name, etc., of Parent or Guardian]

The accused has been charged with having on [etc., state charge], and has been remanded until the sitting of the said Court at on the day of , 20 : And it has been alleged that you are the [parent [or] guardian] of the accused: If you desire that the accused be tried by a Jury, and object to the case being dealt with summarily, you must attend at the hearing of the complaint before the said Court on that day.

Dated [etc., as in No. 8].

112.

Summary Conviction of Child for Indictable Offence.-s. 777

(Heading as in No. 7.)

The defendant, being a child within the meaning of the Criminal Code, and above the age of 8 years, and of sufficient capacity to commit crime, and having been charged with having on the [state charge].

And [name] the [parent or guardian of the defendant] having been informed by the Court of his or her right to have the defendant tried by a Jury, and not having objected to the case being dealt with summarily, and the Court thinking it expedient so to deal with the case [or "not having been present at the hearing of the charge, but the Court thinking it expedient that the case be dealt with summarily"], the defendant is this day convicted before the said Court of the said offence.

Dated [etc., as in No. 8].

113.

Order of Dismissal of Child dealt with Summarily for Indictable Offence.-s. 777

(Heading as in No. 7.)

The defendant, being a child within the meaning of the Criminal Code, and having been charged with having on [state charge].

And the Court, in the exercise of its jurisdiction, has dealt with the case summarily.

And the matter of the said charge having been duly considered by the Court, it manifestly appears to the Court that the said charge is not proved:-

Therefore the Court hereby dismisses the complaint.

[If compensation or costs be adjudged add]:

And it is ordered that the complaint do pay to the sum of for [compensation [or] costs [or] as the case may be], [forthwith [or] on or before the day of , 20 .]

And if default is made, it is ordered that the complainant be imprisoned for the term of

Dated [etc., as in No.8].

114.

Summary Conviction (by Consent) of Young Person for Indictable Offence.-s. 778

(Heading as in No. 7.)

The defendant, being a young person within the meaning of the Criminal Code, and having been charged with having on [state charge]: And having been informed by the Court of his or her right to be tried by a Jury, and having consented to be dealt with summarily, and the Court thinking it expedient so to deal with the case:- The defendant is this day convicted before the said Court of the said offence, and it is adjudged that the defendant [do [or] be] [state terms of punishment].

[If any alternative punishment is ordered, insert either in addition to or in substitution for any other punishment].

Dated [etc., as in No. 8].

115.

Order of Dismissal of Young Person dealt with Summarily for Indictable Offence.-s.778

(Heading as in No. 7.)

The defendant, being a young person within the meaning of the Criminal Code, and having been charged with having on the day of , 20 , at And having been informed by the Court of his or her right to be tried by a Jury, consented to be dealt with summarily, and the Court thought it expedient so to deal with the case: And the matter of the said complaint having been duly considered by the Court, it manifestly appears to the Court that the said charge is to proved: Therefore the Court hereby dismisses the said complaint.

[If compensation or costs be adjudged add]:

And it is ordered that the complainant do pay to the defendant the sum of for [compensation [or] costs] [or as the case may be], [forthwith [or] on or before the etc.].

And if default is made, it is ordered that the complainant be imprisoned for the term of

Dated [etc., as in No. 8].

SUMMARY OFFENCES. PROCEEDINGS BEFORE A MAGISTRATE.

TRANSFER OF CASE.

116.

(Heading)

SAINT LUCIA.

IN THE DISTRICT COURT (SUMMARY OFFENCES).

[name, residence, and occupation]

Complainant.

v.

[name, residence, and occupation]

Defendant.

NOTE.- By substituting "indictable" for "summary" in the heading, the Forms in this part for summary offences may be used in indictable cases instead of the corresponding forms for indictable offences, especially 4 to 38.

117.

Warrant to Convey before Magistrate of Another District.-ss. 660, 782

(Heading as in No. 116.)

To all Police Officers

Whereas complaint [etc., as in No. 14 but substituting 'defendant' for 'accused' wherever it occurs].

PROCEEDING TO COMPEL APPEARANCE OF DEFENDANT OR WITNESS.

118.

Complaint without Oath.-ss. 661-670

(Heading as in No. 116.)

The complainant states that the defendant [etc. as in No. 15.]

119.

Complaint upon Oath.-s. 661-670

(Heading as in No. 116.)

The complainant on oath [of name, etc., of witness if a witness make oath] states that the defendant on [etc., as in No. 16].

120.

Notice of Application for Order on Magistrate to Entertain Complaint.-s. 672

(Heading as in No. 116.)

To His or Her Worship the Magistrate of the said District

Take notice that application will be made to the judge in chambers on the day of at the hour of .m., on behalf of the complainant for an order on you to entertain, hear and determine the complaint herein which you have refused to do.

Dated, etc.

[Signed as in No. 15.]

121.

Order for Production of an Inmate to answer Charge.-s. 673

(Heading as in No. 116.)

It is hereby ordered that the Correctional Officer do cause the defendant [etc., as in No. 216.]

122.

Summons to Defendant.-s. 673

(Heading as in No. 116.)

To the Defendant.

Complaint has been made [etc., as in No. 18.]

123.

Warrant to Arrest Defendant in First Instance.-s. 676

(Heading as in No. 116.)

To all Police Officers

Whereas complaint [etc., as in No. 19, but substituting "defendant" for "accused" throughout].

NOTE.-For Recognizance to Appear, See No. 1.

124.

Warrant to Arrest Defendant after Summons.-ss. 688, 690

(Heading as in No. 116.)

To all Police Officers

Whereas complaint [etc., as in No. 20, but substituting "defendant" for "accused" throughout].

NOTE.-For Recognizance to Appear. - See No. 1. For Warrant to Arrest where Defendant on Bail has Absconded (See s. 606), heading as in No. 116 and form as in No. 24, but substituting "defendant" for "accused" throughout.

125.

Notice of Hearing to Complainant.-s.690

(Heading as in No. 116.)

To the Complainant.

Take notice that the defendant herein having been arrested, the hearing of the complaint herein has been fixed for day, the day of , 20 , in the noon.

Dated [etc., as in No. 8].

126.

Order for Production of an Inmate Witness.-s. 679

(Heading as in No. 116.)

It is hereby ordered [etc., as in No. 33, but substituting "defendant" for "accused."]

127.

Summons to Witness.-ss.792, 793

(Heading as in No, 116)

Complaint has been made [etc., as in No. 34 substituting "defendant" for "accused" throughout.]

128.

Warrant to Arrest Witness in First Instance.-s. 795

(Heading as in No. 116)

[Same form as No. 36 but substituting "defendant" for "accused" throughout.]

Note.- For recognizance of witness bailed [s. 606] adapt No. 106 heading as in No. 7. And form as in No. 107, but substituting "District" for "Supreme Court" throughout.

129.

Warrant to Arrest Witness after Summons.-s. 794

(Heading as in No. 116.) [Same form as No. 37, but substituting "defendant" for "accused" throughout.]

130.

Warrant to Commit Refractory Witness.-s. 907

(Heading as in No. 116.)

[Same form as No. 37, but substituting "defendant" for "accused" throughout.]

131.

Warrant to Discharge Refractory Witness from Correctional Facility.-s. 907

[Same Form as No. 34 but substituting "defendant" for "accused" throughout.]

132.

Recognizance for Appearance of Defendant where the Case is Adjourned.-s. 686

(Heading as in No. 116.)

The undersigned defendant [etc., as in No. 1, but substituting "defendant" for "accused" throughout.]

133.

Notification to be made to Defendant and Surety on Entering into Recognizance on Adjournment _s. 686.

(Heading as in No. 116.)

Take notice that you [defendant's name] are bound as principal in the sum of and you [name], as surety severally in the sum of that the defendant personally appear at m., on day the day of , , at before the said District Court, and at

every time and place to which during the course of the proceedings the hearing is adjourned or at an earlier time if so required, unless otherwise directed, to answer further to the complaint herein.

134.

Warrant of Commitment of Defendant for Safe Custody during an Adjournment. _ss. 686, 689

(Heading as in No. 116)

135.

Warrant of Commitment on Further Remand of Person in Custody unable to Appear through Illness or otherwise. __s. 689.

(Heading as in No. 116)

To the Correctional Officer [etc., as in No. 5, but substituting "defendant" for "accused" throughout]. Note. ___ For remand by proper officer in magistrate's absence form No. 135 may be used.

PROCEDURE ON PARTIES APPEARING.

136.

Notice of Special Defence _s. 864.

(Heading as in No. 116.)

To the Complainant.

Take notice that the defendant [etc., as in No. 78].

[Note.__If the plea is oral the like information must be given.]

PROCEEDINGS AS TO JUDGEMENTS AND ORDERS

137.

Minute of Order of Dismissal of Complaint.__s. 712.

[The magistrate may note the decision as follows, or otherwise as he or she thinks proper, and as the case may be, stating the terms concisely.]

Dismissed. [Adding such further minute as to compensation, costs or otherwise, if any, adjudged to be paid by either party, stating the amount, and if forthwith or by instalments, and the imprisonment in default or otherwise, as the case may be, e.g, complainant to pay to Defendant, etc., [or] Defendant to pay to Complainant, etc.]

138.

Certificate of Dismissal of Complaint.__s. 712.

(Heading as in No. 116.)

This is to certify that the charge against the defendant herein for having on [etc., state charge] was heard and determined by the said Court sitting at and dismissed on the [date]

[Signed]

[As in No. 8.]

139.

Minute of Order against Defendant.__s. 714

[If a penalty.] Convicted. To pay [state amount and whether for fine or for costs or for compensation or damages, and how to be paid, whether forthwith or by instalments, and the imprisonment in default.

[If any costs, add]. [Costs [amount] to be paid by [state by and to which party and how and when as indicated above] and in default additional imprisonment for [state period] or as the case may be].

[If imprisonment only.] Convicted. To be imprisonment for [state period].

PROCEEDINGS ON NOTICE OF APPEAL AND SUBSEQUENTLY IN THE DISTRICT COURT

140.

(Heading)

[Name, etc.]

Appellant.

vs

Respondent.

[Name, etc.]

141.

Notice of Appeal.__ss. 724, 727, 730

[And of Reasons for Appeal.]

(Heading as in No. 140.)

To the Clerk of the said Court.

I, [name , etc.] hereby give you notice of appeal to the Court of Appeal against the decision of the said District Court in the above cause pronounced on the day of 20 .

[If the reasons for appeal are embodied in the notice of appeal, add] And I hereby further give you notice that my reasons for appeal are as follows -

[Here set out the reasons for appeal, numbering them, if more than one.]

Dated. etc.

[Signed]

Appellant

[or] Counsel or Solicitor for

Appellant.

[If an appellant signs by a mark, the mark should be verified by at least one witness who must sign his or her, the witness's name.]

142.

Note. __ If the grounds for appeal are not in the notice of appeal they may be separate as follows__

Notice of grounds of Appeal.__ss. 727, 730. (Heading as in No. 140.)

To the Clerk of the said Court.

I, [name, etc.] having appealed from the decision in this cause, hereby give you notice that my grounds of appeal are as follows __

[Here set out the grounds of appeal, numbering them if more than one.]

Dated, etc.

[Signed]

[As in preceding Form No. 141.]

[If an appellant signs by a mark, the mark should be verified by at least one witness who must sign his or her, the witness's, name.]

143.

Notice of Special Grounds of Appeal. __s 730.

(Heading as in No. 140.)

To [name of respondent].

I hereby give you notice of the following special grounds of appeal, namely_

[Here set out the grounds, numbering them if more than one.]

Dated, etc.

[Signed] [As in No. 141]

144.

Notice by Clerk of District Court of Notice of Appeal

having been given.__s.726

(Heading as in No. 140.)

To [name of respondent].

I hereby give you notice that notice of appeal has been given in this cause by [state name of appellant].

Dated, etc.

Clerk of the said

District Court.

145.

Recognizance on Appeal to the Court of Appeal. ___s. 733.

(Heading as in No. 140.)

I, the undersigned [name], appellant hereby bind myself to prosecute an appeal to the High Court from the decision of the said District Court pronounced herein on the day of , and to satisfy any judgement which may be pronounced against me in the Court of Appeal in respect of the said appeal, including the payment of all costs and otherwise, and in all other respects to abide the result of the said appeal.

Dated at, etc.

[Signed]

Appellant

Obligation of Sureties, if Any.

As in No. 1, but substituting "appellant' for 'accused"

146.

Warrant to Release Appellant from custody on giving Security. __s. 765 .

(Heading as in No. 140.)

To the Correctional Officer

The appellant [name, etc.] who is now in your custody, having given satisfactory security for the prosecution of the appeal herein, you are hereby commanded to discharge the said appellant unless he or she shall be in your custody for some other cause.

Date [etc., as in No. 8].

147.

Transmission of Appeal Proceedings. __s 739 .

(Heading as in No. 140.)

Order appealed against dated the day of , 20 .

This is to certify that the record of the proceedings herein transmitted to the Supreme Court are as follows, and that such as are not originals are true copies or extracts, namely __

Complaint and plea.

Notes of evidence.

Adjudication [copy of minute or memorandum of conviction or order].

Judgement or memorandum of reasons.

Notice of appeal.

Notice of grounds of appeal.

Recognizance.

Other documents, viz.__

[enumerate and describe these].

List of Witnesses.

For complaint.	For Defendant.
1. [Name.]	1. [Name.]

[add numbers and names of any others.]

[add numbers and names of any others.]

Dated, etc.

[Signed]
Clerk of the said
District Court.

Note. __ This certificate can conveniently be on a page of foolscap to which the proceedings may be attached. If any document above indicated is not of record and "(none)" after it, e.g., if there is no recognizance the security being by deposit add " (none)" after "recognizance" or strike it out, if the certificate is a printed form.

148

Notice of Appeal Sitting. __ s. 736.

(Heading as in No. 140.)

To the Appellant and to the Respondent.

Take notice that the appeal herein will come on for hearing at the sitting of the Court of Appeal in Castries commencing on the [date].

Dated. etc.

[Signed]

Clerk of the said
District Court.

Return of Service.

Note. ___ This may be the same form as in No. 108, but substituting "party" for "Witness" in fist column.

SUMMARY OFFENCES. PROCEEDINGS IN THE COURT ON APPEAL.

PROCEEDINGS RESPECTING THE HEARING OF APPEALS.

149.

SAINT LUCIA

IN THE COURT OF APPEAL

(On Appeal from the District Court.)

[Name]

Appellant.

vs.

[Name]

Respondent.

150.

Notice of Intention to apply to Adduce Evidence at Appeal Hearing. __s. 748.

(Heading as in No. 149.)

To the [Appellant [or] Respondent.]

Take notice that the [appellant or respondent] intends to apply that [evidence [or] further evidence] be adduced at the hearing, because [state reasons].

[Signed]

Appellant [or] Respondent.

151.

Certificate of Appellant's Default in Prosecuting Appeal._s.759.

Heading as in No. 149.)

To the Clerk of the said District Court.

This is to certify that the appellant has made default in duly prosecuting the appeal.

Dated, etc. Registrar of the Supreme Court.

152.

Certificate of Costs in appeal. _ 757, 758.

(Heading as in No. 149.)

To the Clerk of the said District Court.

This is to certify that the [respondent [or] appellant [or] as the case may be] was ordered to pay costs [amounting to] to

Dated. etc.

Registrar of the High Court.

153.

Certificate of Judgement of the Court of Appeal. __s.760 .

(Heading as in No. 149)

At a sitting of the Court held the day of

20__, the Court in the matter of the above appeal, ordered that the Magistrate's judgement be [confirmed [or] reversed [or] varied as follows:]

And that the [respondent [or] appellant] do pay to the [respondent [or [appellant] the sum of for costs.

Registrar of the High Court.

154.

Application to state Case. __ ss. 763, 768 .

(Heading as in No. 116)

To the Magistrate of the said District.

You are hereby required to state a case for the opinion of the Court of Appeal on the following point of law, namely.

[state the point]

Dated, etc.

[Signed] Complainant [or] Defendant [or] Director of Public Prosecutions.

155.

Recognizance by Applicant for Case. __ s. 764.

Same form as in No. 145.

156.

Case Stated. __ No. 763.

(Heading as in No. 116)

IN THE DISTRICT COURT held at Case for the opinion of the Court of Appeal stated on the application of the [Complainant [or] Defendant [or] the Director of Public Prosecutions, or as the case may be].

(Heading as in No. 140.)

1. This is a case in which the defendant was charged with having on [etc., state charge.] Case.

2. Upon the hearing which took place on the [state date or dates] the following facts were [admitted [or] proved] before me. [Here set out in regular sequence and in numbered paragraphs, such facts as were admitted in or found by the District Court.]

3. For the complainant it was contended that. etc.

4. The complainant cited [Here state the authorities or cases with references.]

5. For the defendant it was contended that, etc.

6. The defendant cited [Here state the authorities or cases with references.]

Opinion.

7. I was of opinion [here set out the opinion formed by the magistrate either in convicting, making an order, or dismissing, or as the case may be].

Question.

8. The question submitted for the opinion of the Court of Appeal is, whether upon the above statement of facts the District Court came to a correct decision in point of law, and if not, what should be done in the premises.

Dated [etc., as in No. 8]

157.

Transmission of Case Stated. __s. 766.

(Heading as in No. 140.)

This is to certify that the accompanying case is a true record of the case stated herein by the magistrate of the said District.

List of documents forwarded [if none add [none], if any enumerate and describe them].

Dated, etc.

[Signed]

Clerk of the said District Court.

For Form of Notice of Appeal Sitting, see No. 148.

158.

Reference by Court of Appeal to District Court in

Case of Appeal. __ss.751, 769.

Appeal.__ss. 751, 769

(Heading as in No. 149)

At a sitting of the Court of Appeal held the [date] the Court in the matter of the above appeal, ordered [state directions].

Dated [etc., as in No. 151.]

EXTRAORDINARY REMEDIES

HABEAS CORPUS AND LIKE PROCEEDINGS.

159.

(a) Petition for a Writ of *Habeas Corpus*.___s. 1022

IN THE HIGH COURT OF JUSTICE

In the matter of [state name, etc., of person detained].

To the Honourable Puisne Judge, St. Lucia.

The petition of [state name of petitioner] shows that __

[Recite concisely by numbered paragraphs the facts in support of the application and showing the unlawful detention.]

Wherefore the premises and the annexed affidavit being considered, the petitioner prays that a writ of *habeas corpus* may issue herein, directed to the said [name of person detaining] commanding [him, her or them] to bring and produce the said [name of person detained] before the Supreme Court, or the judge in chambers, on such day and at such hour as may be appointed and that after due hearing the said [name of person detained] be at once released and restored to liberty, or for such other relief as may seem meet.

[Signed]

Petitioner.

[or] Solicitor for Petitioner.

Affidavit.

I, the undersigned [name, etc., of petitioner] being duly sworn make oath and say that all the allegations of the foregoing petition are true and correct.

[Signed]

Petitioner.

Sworn before me at this, etc.

[Signed]

Justice of the Peace.

[or as the case may be.]

If the Application is granted, the Order may be as follows__

Order.

Let it be as prayed for, the writ to be directed to [name persons] and to be made returnable [in the Supreme Court [or] before the Judge in Chambers] on [state day and hour].

Dated at [etc., as in No. 183].

(b) Writ of *Habeas Corpus*

SAINT LUCIA

IN THE HIGH COURT OF JUSTICE

In the matter, etc. [as in the petition].

To [name, etc., of person or persons to whom directed].

Greeting:

YOU ARE HEREBY COMMANDED in the name of the Crown, and the High Court of Justice to produce before [the said Court [or] the judge in chambers] in Castries on [state day and hour and the name of the person detained] and then and there to show cause why the said [name of person detained] is detained and why [he or she] should not be released [or turned over to the care and custody of, etc.] or as the case may be.]

Dated, etc.

By Order.

[Signed]

Registrar of the

Supreme Court.

Issued on the application of [state petitioner's name].

(c) Return of Respondent to Writ of *Habeas Corpus*.

(Heading as in preceding form No. 159 (a).)

Now into Court comes [name] the respondent herein, and for return to

The writ of *habeas corpus* herein served upon him or her produces as directed [name of person detained] named in the said writ.

Respondent denies that the said [name of person detained] is illegally detained by [him or her] and avers that [he or she] is by law entitled

to the care and custody of the said [name of person detained] for the following reasons, namely -

[state reasons by paragraphs, numbering each.]

[If the circumstances are such the following reasons may also be added] [his or her] own free will and consent and it is better for the said [name of person detained] physical as well as moral welfare that [he or she] should remain with this respondent].

Wherefore the respondent prays that the writ herein be discharged or set aside with costs and for such other relief as may seem meet.

Dated etc.

[Signed]

Respondent.

Affidavit.

Same as in No. 159 (a) but substituting "return" for "petition" and "respondent" for "petitioner."

(d) Correctional Officer's Certificate of Copy of Commitment.

(Heading as in No. 159 (a).)

(Set out copy of Commitment.)

I certify that the above is a true copy of the warrant by virtue of which [name of person detained] is detained in my custody [and that he [or] she is not detained for any other cause.

[Signed]

Keeper of the Correctional Facility.

See also 193(a).

SEARCH FOR PERSON OR PROPERTY. RESTITUTION.

SEARCH FOR PERSONS.

160.

(Heading.)

SAINT LUCIA.

IN THE DISTRICT COURT.

_____

161.

Complaint for a Search Warrant for Male or Female Suspected to be Detained for Immoral Purposes. ___s. 621.

(Heading as in No. 160.)

The complaint of [name, etc.], the [father or mother or uncle or other relative] or guardian or a person acting in the interest] of [name of male or female], hereinafter called the male or female, on oath states that there is reasonable cause to suspect that the said male or female is unlawfully detained for immoral purposes by [name, etc., of person detaining] at a certain house situate at [state No. and street of house, or describe place] in the said district.

[Signed]

[As in No. 15.]

Taken and Sworn [etc., as in No. 11]

NOTE. __ Complaint for search for person wrongfully confined [s. 620] may be adapted from the preceding form, substituting the name of such person for "male" or "female" throughout.

_____

162.

Search Warrant for Male or Female suspected to be

Detained for Immoral Purposes. __s. 621

(Heading as in No. 160)

To the Commissioner of Police or Police Officer

[Name. Etc., of Complainant] hereinafter called the complainant and in my opinion bona fide acting in the interest of [name of male or

female] hereinafter called the male or female having sworn that there is reasonable cause to suspect [etc., as in preceding Form No. 161.]

This is to command you in the name of the Crown (accompanied by the said complainant if so desiring to enter the said [describe place as in complaint] there to search for. And if found to take the said male or female to, and detain him or her in a place of safety until he or she can be brought before the magistrate to be delivered up to his or her parents or guardian or otherwise dealt with as circumstances may permit and require.

Dated [etc., as in No. 8].

Note. __ Search warrant for person wrongfully confined (s. 620) may be adapted from the preceding form, substituting the name of such person for "male" or "female" throughout.

163.

Warrant to Arrest Person Accused of Detaining Male or Female for Immoral Purposes. __s. 621

[This may be issued as a separate warrant in the general Form No. 19, or it may be included in the search warrant Form No. 162, by adding before dated, etc.. The following]

And this is further to command you if the said male or female is found in the place aforesaid to apprehend and bring the said [name of detained] before the said District Court.

SEARCH FOR AND SEIZURE OF PROPERTY

164.

Complaint to Ground a Search Warrant for Property. _ ss. 622, 623.

(Heading as in No. 160.)

[Name, etc., of Complaint] upon oath states that there is ground for believing that there is in [state in what and where], the following property, to wit [describe thing (s)]

And that the said property was or is suspected to have been [state offence, e.g., stolen, etc., or unlawfully obtained or as the case may

be], contrary to section of the Criminal Code [or other statute as the case may be].

Or

And that the same will afford evidence as to the commission of the following offence, namely [state offence] contrary to section [etc., as in the preceding paragraph].

Or

And that the same [is [or] are] intended to be used for the purpose of committing an offence against the person, namely [state offence] contrary to section [etc., as above]

Taken and sworn [etc., as in No. 11].

165.

Warrant to Search for Property. __ ss. 622, 623

(Heading as in No. 160.)

To all Police Officers.

Whereas it appears on the oath of [name, etc.] that there is reason to believe that [insert description of the things to be searched for, and of the offence in respect of which the search is made as in complaint] are in [state in what and where].

This is, therefore, to authorise and require you to enter, between the hours of and into the said premises, and to search for the said things. And to bring the same before the magistrate.

Dated [etc., as in No. 8].

NOTE.___ The warrant may be executed between 5 a.m. and 8 p.m., unless the Magistrate otherwise directs. ___s. 625.

166.

Complaint to Ground Search Warrant for Note or Parts thereof or Things for counterfeiting. ___ s. 627.

(Heading as in No. 160)

[Name, etc., of Complainant] on oath states that there is reasonable cause to suspect that [state name, etc., of person suspected] has been

concerned in the counterfeiting of currency of this realm, [or of a certain foreign state, or country, to wit, etc.]

Or

[has in his or her custody or possession counterfeit notes of this realm, [or of a certain foreign state etc.] or certain instruments, or tools or engines adapted and intended for the counterfeiting of the current notes of this realm], [or of a certain foreign state, etc.] at, and in a certain [describe premises or place, if dwelling house, or as the case may be] of the said [name of person suspected] situate at in the district aforesaid.

Taken and sworn [etc., as in No. 11].

167.

Search Warrant for Notes,, etc. __s. 627.

(Heading as in No. 160.)

To all Police Officers.

[Name, etc.] having made complaint on oath that there is reasonable cause to suspect [etc., as in complaint].

This is to command you in the name of the Crown with necessary and proper assistance to enter in the [day or night] time into the said]describe premises or place as in complaint] of the said [name, etc., of person suspected] and there diligently to search for such counterfeit and all instruments, tools, engines [or] machines for making any such counterfeit notes; and if the same, or any of them, shall be found on such search, you are to seize and carry the same before the magistrate.

Dated [etc., as in No. 8].

168.

Complaint to Ground Search Warrant respecting suspected Gaming House, Betting House, Brothel or Unlawful Lottery. __s. 630.

(Heading as in No. 160.)

[Name, etc., of Complainant] on oath states that there is reasonable cause to suspect that the [building [or] place [or] premises] [here

describe the same by name or otherwise so that it may be readily known and found] is used as a gaming house or betting house or brothel, or for the purposes of an unlawful lottery, as the case may be].

Taken and sworn [etc., as in No. 11].

169.

Warrant to Enter Betting House, etc. _s. 630

(Heading as in No. 160.)

To all Police Officers

Whereas it appears on the oath of [name, etc.] that there is reasonable cause to suspect that the [etc. as in the complaint].

This is to authorise you in the name of the Crown with such assistance as you may find necessary, to enter into the said [house, room or place], and if necessary, to use force for making such entry, whether by breaking open doors or otherwise, and to arrest all persons, and to seize all [tables or instruments or evidence of betting and all monies or securities for money found therein].

In the case of a lottery___

[dice, lots, cards, figures, contrivances, devices, or other evidence of a lottery therein.]

In the case of a brothel __

[things which may be evidence of such place being used as a brothel.]

Dated [etc., as in No. 8].

170.

Report of Commissioner of Police to Ground Warrant to Enter Brothel, Betting House, Gaming House or Place used for Unlawful Lottery. __s.634.

(Heading as in No. 160.)

To the Magistrate of the District.

There is reasonable cause to suspect [etc., as in No. 169.]

[Signed]

Commissioner of Police.

171.

Warrant to enter Betting House, etc.,

on the Report of the Commissioner of Police._____s. 634.

(Heading as in No. 160.)

To all Police Officers.

Whereas it appears on the report of the Commissioner of Police that there is reasonable cause to suspect that the [etc., as in the report.]

This is to command you [etc., as in No. 169.]

172.

Gunpowder or other Explosive or Dangerous or Noxious Thing. __s. 633

[For complaint adapt No. 164.]

[for writ adapt No. 165.]

173.

Report to the Court by the Police of Property taken from

Arrested Person. ___s. 634.

List of Property taken from [state name] on apprehension.

[Enumerate and describe Articles.]

Note. ___ The above or a like form may be used where the Court does not allow the report to be oral.

174.

(Heading.)

[If in the District Court.]

SAINT LUCIA.

IN DISTRICT COURT.

[Or if in the Supreme Court.]

SAINT LUCIA.

IN THE HIGH COURT OF JUSTICE

(CRIMINAL JURISDICTION).

175.

Order for Seizure of Property in Case of Suspected Crime. __ ss. 634, 635.

(Heading as in No. 174.)

The day of , 20__.

It is ordered that the following property, to wit, [describe property] be [state direction of the Court].

[Signed]

[as in No. 8, in case of a Magistrate's Order].

[as in No.84, in case of the Judge's Order].

176.

Search Warrant on Judicial Order. ___s.637.

(Heading as in No. 174.)

To all Police Officers.

An order was made on the [state date] that the following property, to wit [etc., as in No. 175.]

This is to command you [etc., as in No. 165.]

[Signed] [See preceding Form No. 175.]

177.

Order for Restitution of Property.____ss. 644, 636.

(Heading as in No. 174.)

[Name, etc.] having been on the [date] convicted before the said Court of the offence of having on [state charge].

And as it is proved that the said goods are now in the possession of

It is ordered that the said do forthwith [or, on or before the day of 20] restore the said goods to the owner thereof, namely [state name].

Dated this day of 20__.

[Signed] [See Form No. 175.]

SENTENCES AND ORDERS IN GENERAL

178.

Minutes of Orders. ___ss. 710, 713, 1108, 1109

Note. __ The Court may note the decision and its terms concisely as it thinks proper, e.g. __

(a) In cases other than for Payment of Money.___ss.710, 713, 1109, Order. Defendant to [state concisely as indicated in s. 1108 or the enactment under which the order is made what person is required to do or abstain from doing, or as the case may be, and any conditions annexed.]

[If defendant has made default in obeying an order.] Order. Defendant having made default in complying with order of [state date and terms concisely as above] is ordered to [state punishment prescribed by statute or if none] to pay [state amount and how to be paid] [or] to be imprisoned for [state period, etc.]

[If compensation ordered.] Order. Defendant to pay to [state person to be paid, amount to be paid and how, whether forthwith, or on or before a future date, or by instalments [stating when first instalment is payable], and the imprisonment in default and whether with or without hard labour.

[If costs ordered.] Adapt preceding paragraph.

[or as the case may be].

See also forms Nos. 139 and 192.

(b) In Usual Cases. ___ss. 710, 713, 1108,

Note concisely as indicated in s. 1109 or in the enactment under which order is made amount to be paid or term of imprisonment or as the case may be, e.g. __

Minute of Order against Defendant. __ss. 710, 713, 1108, 1109.

[If a penalty.] Convicted. To pay [state amount and whether for fine or for costs or for compensation, or damages, and how to be paid, whether forthwith or on or before a future date, or by instalments [stating when first instalment is payable], and the imprisonment in default, and whether with or without hard labour, or as the case may be].

[If imprisonment or detention in default.] And in default [imprisonment with or without hard labour for [state period] [or] detention in police custody at [state place] for [state period] or as the case may be].

[If imprisonment only.] Convicted To be imprisoned [with or without] hard labour for [state period].

[If detention in Police Custody]. To be detained in Police custody at [state place] for [state period] [see s. 1134.]

[or as the case may be].

See also forms Nos. 139 and 192.

(c) For Dismissals see No. 137.

(d) See as to Corporal Punishment or Solitary confinement, Form No. 181, and as to Detention of Juvenile Offenders in Institutions, Form No.181.

_____

179.

Extracts of Orders or Convictions or Sentences.

(a) Extract of Order for Cases other than for Payment of Money. __ss. 710, 713, 1056, 1108.

(Heading as in No. 116.)

It was adjudged and ordered by the said Court sitting at on the day of , 20__, that the [defendant [or] complainant] [or as the case may be] [stating name, etc., and setting out shortly what the adjudication or order was].

The said adjudication was consequent on [conviction [or] dismissal] in respect of a charge against the defendant for having on [state charge].

Clerk of the said District Court.

(b) Extract of Conviction of penalty, or Order for Payment of Money, and in Default of Payment, Imprisonment.___ss. 710, 713, 1056, 1109.

(Heading as in No. 133.)

It was adjudged [etc., as in (a)].

The said adjudication was consequent on conviction in respect [etc., as in a)] Clerk of the said District Court.

Note.__ This form may be adapted for Detention in police custody in default of payment.

(c) Extract of conviction where the Punishment is by Imprisonment. __ss. 713, 1056, 1109.

(Heading as in No. 116.)

It was adjudged and ordered by the said Court sitting at on the [date] that the defendant [name, etc.] be imprisoned in the Correctional Facility for the term of [state period] [with or without] hard labour.

The said adjudication was consequent on conviction in respect of a charge against the defendant for having on [state charge].

Clerk of the said District Court.

(d) Extracts of Order for Detention in Police Custody.__ss. 713, 1056, 1134.

Some as in preceding form (c), but "detained in police custody at for the term of " to be substituted for "imprisoned in the Correctional Facility," etc.

Note.__ similar extracts with appropriate heading as in No. 72 may be made in Supreme Court cases, and "accused" may be substituted for "defendant."

For Forms of minutes, see Nos. 137 - 139,178.

CAPITAL PUNISHMENT

180.

Sentence of Death.___s. 1112

(a) Note.__ The user or other officer will proclaim as follows as the Judge is about to pass sentence.

OYEZ, OYEZ, OYEZ, the Honourable the Queen's Puisne Judge commands all present to keep silence, under pain of imprisonment whilst sentence of death is being passed.

GOD SAVE THE QUEEN.

(b) The sentence may be pronounced as follows__

[Name of Accused.] You having been convicted of the crime of [murder] the sentence of the Court upon you is that you be hanged by the neck until you be dead.

or (c) [Name of Accused.] You having been convicted of the crime of [murder] the sentence of the Court upon you is that you be removed hence to the place from whence you come, thence to the place of execution on such day as may be fixed by the Governor General there to be hanged by the neck until you be dead. And may God have mercy on your soul.

181.

Warrant of Commitment under Sentence of Death.__ s.1112, 1114

(Heading as in No. 71.)

To all Police Officers.

[Name of Accused] having been convicted before the said Court on the [date] of the offence of murder and sentenced to suffer death.

This is to command you to convey the accused to the Correctional Officer there to be kept in custody subject to the further warrant or direction of the Governor-General as to the execution of the said sentence.

Dated at [etc., as in No. 83.]

182.

Governor's Warrant for Execution of Sentence of Death.__s. 1114.

SAINT LUCIA

By His Excellency

[L.S.] Etc., Etc., Etc.,

the Officer Administering the

Government of Saint Lucia.

Governor-General

To the Commissioner of Police.

Whereas at a session of the High Court of Justice held at Saint Lucia before the Honourable [name], Puisne Judge, the accused [name of accused] was, on the day of 20 , duly convicted of the crime of murder and Judgment of death was duly given by the said Court that the said accused be hanged by the neck until he or she be dead, the execution of which Judgment yet remains to be done.

Now, therefore, I [name], acting on the advice of ..... do hereby require and command you, the Commissioner of Police, that, upon the day of 20 and between the hours of of the same day, you convey the said accused to the place of Execution in the [describe the

Correctional Facility] and that you then and there cause the said accused to be hanged by the neck until he or she be dead.

Given under my hand and the Public Seal of the Island of Saint Lucia in the said Island this day of 20 .

By Command.

183.

(a) Certificate of Correctional Facility Medical Officer.___s. 1118.

SAINT LUCIA

I, , Medical Officer of the [describe the Correctional Facility] hereby certify that I this day examined the body of On whom Judgment of death was this day executed in the [describe the Correctional Facility] and that on that examination I found that the said was dead.

Dated the day of 20 .

Medical Officer of [Correctional Facility].

(b) Declaration of the Commissioner of Police and Others.___s. 1299 We, the undersigned, hereby declare that Judgment of death was this day executed on in the [describe the Correctional Facility] in our presence.

Dated this day of 20 .

Commissioner of Police

[Correctional Officer].

Justice of the Peace.

Etc., Etc., Etc.

184.

Governor General's Warrant on Commutation of Sentence. __s. 1252.

(Heading as in No. 182.)

To the Keeper of the Correctional Facility.

[Name of person sentenced to death], hereinafter called the accused, was convicted before the High Court on the [date] of the offence of murder and sentenced to suffer death.

And whereas it has pleased the Governor-General of St. Lucia acting on the advice of .....to extend the mercy to the accused by commuting the said sentence to one of imprisonment for [life, or as the case may be], [with or without] hard labour, [or other punishment or condition as the case may be].

This is to command you to carry into execution the said commuted sentence accordingly.

Given [etc., as in No. 182].

DISTRESS.

185.

DISTRESS WARRANT FOR MONEY. __ss. 1222, 1225, 1229

(Heading as in No. 116.)

[Name, etc.] hereinafter called the defaulter was, on the day of by the said Court sitting at adjourned to pay the sums stated at the foot hereof the said adjudication being consequent on [conviction [or] dismissal] in respect of charge against the defaulter for having on [state charge].

And default having been made in payment:

You are hereby commanded forthwith to make distress of the money and goods of the defaulter [except the wearing apparel and bedding of the defaulter and the defaulter's family, and to the value of $14.40, and the tools and implements of the defaulter's trade]; and if within the space of * 3 clear days next after the making of such distress, [unless the said defaulter consents in writing to an earlier sale], the

sum stated at the foot of this warrant, together with the reasonable costs and charges of the making and keeping of the said distress, be not paid, then to sell the said goods, and pay the proceeds of the said distress to the Clerk of the said Court, and if no such distress can be found, to certify the same to the Court.

Dated [etc., as in No. 8]

Adjudication.

Amount adjusted ... ...

Paid ... ...

Balance ... ...

Costs of issuing Warrant ... ...

Amount to be levied ... ...

_____

*Note.__ The first and last days must be excluded so that the sale should not take place until after the expiration of the fifth day, if no further delay than 3 days has been fixed, unless with written consent.

_____

186.

Commitment pending Return to Distress Warrant.__s. 1224

(Heading as in No. 116.)

[Name] hereinafter called the defaulter was, on the day of 20 , by the said Court sitting at adjourned to pay the sums stated at the foot hereof, the said adjudication being consequent on [conviction [or] dismissal] in respect of charge against the defendant for having on [state charge].

And it was ordered that in default of payment the said sums should be levied by distress, and that in default of sufficient distress the defaulter should be [imprisoned [or] detained in police custody] for [state time], and that the defaulter's committal should take place forthwith for the reason that the Court was satisfied that the defaulter was possessed of sufficient means to pay the said sum forthwith [or state any other special reason].

And default having been made a warrant of distress was issued, but no return has been made thereto:

[And the defaulter not having given sufficient security to the satisfaction of this Court to appear at the time and place appointed for the return to the warrant of distress.]

This is to command you to convey the defaulter to the there to be kept in custody, until the day of and to command all whom it may concern on that day to convey the defaulter before the said Court at the hour of unless the defaulter previously [enters into a recognizance in the sum of with surety , severally, in the sum of For the appearance of the defaulter on that day, or] pays the sum payable under such warrant.

Dated [etc., as in No. 8].

Adjudication.

(As in No. 186.)

INDORSEMENT OF PAYMENTS

Payments Received by Persons having custody of the Defaulter.

Date of Receipt	$	c	Signature

187.

Return of Insufficient Distress Indorsed on Warrant.__s. 1238

I [name, etc.] hereby certify that by virtue of the within written warrant I have made diligent search for the money and goods of the within-named defaulter, and that I can find no sufficient money or goods of the defaulter whereon the sums within-mentioned can be levied.

Dated the day of , 200 .

[Signed]

Bailiff [or] Constable [or as the case may be].

188.

Account of Charges incurred on a Distress Warrant.__s. 1232

(Heading as in No. 116.)

I, [name, etc.], the person charged with the execution of the warrant of distress upon the money and goods of dated the day of , hereby declare that the following is a true account of the costs and charges incurred in respect of the execution of the warrant__

[Specify Items.]

_____

Total

_____

Dated, etc.

[Signed]

_____

189.

Commitment in Default of sufficient Distress. __ s. 1238.

(Heading as in No. 116.)

To all Police Officers.

[Name], hereinafter called the defaulter, was on [as in No. 187].

And default having been made, a warrant of distress dated the day of 20 , was issued against the defaulter.

And it now appearing that there is no sufficient distress,

You are hereby commanded to convey the defaulter to the there to be kept in custody [with or without hard labour] for [state term], unless the said sum [and all costs and charges of the [said distress and] commitment] be sooner paid.

Dated [etc., as in No. 8].

Note.__ this form may be also adapted for Detention in Police custody.

Adjudication.

(As in No. 186.)

INDORSEMENT OF PAYMENTS

(As in No. 186.)

FINE AND OTHER MONEY PAYMENTS AND ENFORCEMENT THEREOF.

190.

Complaint to Vary Order for Periodical Payments. ___s. 1192

(Heading as in No. 116.)

The complainant states that by an order duly made on the day of 20 , by the said Court sitting at the defendant was ordered [state shortly the terms of the original Order, and mention any subsequent Order and the effect thereof.]

And the complainant now applies that [the payments under] the said Order [should be made through an Officer of the Court, or through] or should be revived, [revoked, varied by an order requiring] [state terms required] on the ground that

Taken, this [etc., as in No. 11].

191.

Summons to Vary, etc., Order for Periodical Payments.__s. 1192.

(Heading as in No. 116.)

To the Defendant.

Complaint has been made that by an order made on the day of by the said Court sitting at you were ordered [state shortly the terms of the original order, and mention any subsequent order and the effect thereof].

And the complainant applies that the [state terms of application as in complaint] on the ground that [state grounds as in complaint].

You are therefore hereby summoned [etc., as in No. 18.]

Dated [etc., as in No. 8]

192.

Minutes of Orders.

(a)

Minute of Order Varying etc., Order for Periodical Payments.__ss.1192, 1219.

Ordered that [the payments under the order of the [state date and time of former order or orders] be made through an officer of the said Court, to wit, [designate officer] or the said order be forthwith revived, [revoked, varied as follows__]or as the case may be].

Note.__As to Minute of Order for Costs in such cases.__s.1219 . (See Nos. 137 and 139.)

(b)

Minute of Order for Compensation or Costs.__s.1206, and (generally) ss. 1204 - 1220. (See Nos. 137 and 139.)

Note.__when an order is for payment by instalments it is advisable to state when the first instalment is to be paid.

(c)

Minute of Order for Fine.___ss. 1195 - 1202

(See Nos. 137 and 139.)

Note.__ When an order is for payment by instalments it is advisable

to state

when the first instalment is to be paid.

See also for Minutes of Orders generally, Form No. 178.

For forms of Extracts see form No. 179.

193.

Return to Habeas Corpus.__s. 1199.

(Heading as in No. 71.)

(a) I certify that the accompanying certificate by the Registrar of the Supreme Court herein sets forth the judgment or order by virtue of which the arrest or detention of the accused was made.

[Signed]

Commission of Police.

[or] Prison Officer.

Note.__ See also No. 159 (d).

(b) Certificate by the Registrar in Case of Arrest by Commissioner of Police for Non-Payment of Fines, etc.__s. 1199

(Heading as in No. 71.)

This is to certify that [name] of was on the day of , 20 , adjudged by the said Court to pay the sum of $ for .

Registrar of the Supreme Court.

194.

Complaint against Child and Parent or Guardian.__s.1259.

(Heading as in No. 116.)

[But add the parent or guardian's name after the child's as one of the defendants.]

The complainant states that the defendant [name of child] on [state charge, etc., as in No. 15.]

The complainant also states that the defendant [name of parent or guardian] is the [parent [or] guardian] of the said [name of child].

The complainant prays [etc., as in No. 15.]

[Signed as in No. 15.]

Taken [etc., as in No. 10].

Note.__ For complaint against child only see ordinary form No. 118.

195.

Summons to Child and to Parent or Guardian.__s. 1259.

(Heading as in preceding form No. 194.)

To the Defendants.

Complaint has been made that you the defendant [child's name] on [etc., as in No. 18].

And complaint has been further made that you the defendant [state name of parent or guardian] are the [parent or guardian] of the said [state name of child.]

You are therefore each of you hereby summoned [etc., as in No. 18.]

Dated [etc., as in No. 8]

Affidavit of Service.

Same as in No. 12.

196.

Complaint for Attendance of Parent or Guardian after charge made against Child alone.___s.1259.

(Heading as in No. 116.)

The complainant states that the defendant is the [parent or guardian] of [state name of child] who is charged with having on [state charge].

The complainant prays for a summons.

[Signed, etc., as in No. 15.]

Taken [etc. as in No. 10].

197.

Warrant to arrest Parent or Guardian in First Instance.__s.1259.

(Heading as in No. 116.)

Whereas complaint has been made upon oath that the defendant is the [etc., as in preceding Form No. 196].

198.

Summons to Parent or guardian of Child after Charge made against Chid alone.__s. 1259.

(Heading as in No. 116.)

The defendant of whom you are stated to be the [parent or guardian] is charged with having on [state charge].

You are therefore hereby summoned to attend before the said Court at on day the day of 20 , at m., and during all the proceedings of the case.

Dated [etc., as in No. 8].

199.

Warrant of Commitment in the District Court on Sentence of Imprisonment only.__ss.780, 1199 .

(Heading as in No. 116.)

To all Police Officers.

The defendant [name] of [residence and occupation], was on the [date] convicted before the said Court, sitting at for having on [state charge].

And it was thereby adjudged that the defendant be imprisoned for the term of [state period].

This is to command you to convey the defendant to the Correctional Facility, there to be imprisoned accordingly.

Dated [etc., as in No. 8].

Note.__For detention in police custody, see No. 203 (a). For commitment on Extract, see No. 230.

200.

Warrant of Commitment in the Supreme Court on Sentence of Imprisonment only.__ss. 780,1199

(Heading as in No. 71.)

To all Police Officers.

The accused was on the [date] convicted before the said Court, sitting at Castries for having on [state charge].

And it was thereby adjudged [etc., as in preceding form No. 199, but "accused" to be substituted for"defendant" throughout.]

Dated at Castries, Saint Lucia, the day of 20 .

Puisne Judge.

Registrar of the Supreme Court.

Note as to No. 199.

201.

Warrant of commitment on conviction for Penalty or on an Order for Payment of Money in the District Court in the First Instance.__ss. 780, 1199

(Heading as in No. 71.)

To all Police Officers.

[Name] or [residence and occupation], hereinafter called the defaulter, was on the day of 20 , by the said Court, sitting at , adjudged to pay the sums hereinafter stated, the said adjudication the defendant for having on [state charge].

And default having been made in payment.

This is to command you to convey the defaulter to the Correctional Facility, there to be imprisoned in the manner and for the term hereinafter stated, unless the said sums hereinafter appearing to be due be sooner paid.

Adjudication

Amount	Nature	Payable to	How payable, if by instalments:		If not payable forthwith state date or before which total
			Instalm	State whether	

$ c				ent of$ c		monthly, weekly, or every [so many]days	amount or first instalment payable as the case may be
		Fine compensation damages expenses sum due on } recognizance} Costs					
		TOTAL Imprisonment in default [state period] [with or without] hard labour					
Part Payments							
		Balance due Balance of Imprisonment [state period] [with or without] hard labour					
Further Fees or Cost if any							
		Amount Additional Imprisonment [state period] [with or without] hard labour					

Dated [etc. as in No. 8]

INDORSEMENT OF PAYMENTS

(Same as in No. 186.)

Note.__ As to detention in police custody on non-payment, see 203(b).

For commitment on Extract, see No. 230.

202.

Warrant of Commitment on Conviction for Penalty or on an Order for Payment of Money in the Supreme Court in the

Fist Instance.__ss. 780, 1199.

(Heading as in No. 116.)

[Same as preceding Form No. 201, but "accused" to be substituted for "defendant" throughout.]

Adjudication.

(Same as in No. 201.)

INDORSEMENT OF PAYMENTS

(Same as in No. 186.)

Note.__For Commitment on Extract, see No. 230.

203.

(a)

Extract of Order for Detention in Police Custody in First Instance.__s. 1134.

(Heading as in No. 116.)

To all Police Officers.

[Name, etc.] was on the [date] by the said Court sitting at adjudged to be detained in police custody at for the term of days, the said adjudication being consequent on conviction in respect of charge against the defendant for having on [state charge].

This is to command you to convey the said defendant to the said there to be detained accordingly.

Dated [etc., as in No. 8].

(b)

Extract of Order for Detention in Police Custody on Non-Payment.

(Heading as in No. 116.)

To all Police Officers.

[Name, etc.], hereinafter called the defaulter, was on [etc., as in No. 203.]

And in default it was adjudged that the defaulter should be detained in police custody at for the terms of days.

This is to command you to convey the defaulter to the said there to be detained accordingly, unless [the said sum be sooner paid or the said order be sooner obeyed].

Adjudication.

(Same as in No. 201)

INDORSEMENT OF PAYMENTS

(Same as in No. 188.)

Note.__ for Commitment to the Correctional Facility on Extract, see No. 230.

204.

RECOGNIZANCES AND ENFORCEMENT THEREOF.

Complaint without Oath for Order for Recognizance to Keep the Peace.__s. 1239.

(Heading as in No. 116.)

The complaint states that the defendant on [time] at [police and district] [offence, e.g], used severe threats towards the complainant whereby the complainant fears that the defendant will do the complainant some bodily harm [or other offence, as the case may be].

The complainant prays for a summons and that the defendant be adjudged to enter into a recognizance and find sureties to keep the peace and be of good behaviour towards the complainant.

[Signed]

[As in No. 15.]

Taken [etc., as in No. 10].

205.

Complaint upon Oath for Order for Recognizance to Keep the Peace.__s. 1239.

(Heading as in No. 116.)

The complainant on oath states that the defendant on [etc., as in preceding Form No. 204].

The complainant prays for a warrant of arrest and that the defendant be adjudged [etc., as in preceding Form No. 204].

[Signed]

[As in No. 15.]

Taken and sworn [etc., as in No. 11].

206.

Summons to Defendant for Order for Recognizance to Keep the Peace.___s. 1239.

(Heading as in No. 116)

To the Defendant.

Complaint has been made that you on [state charge, as in Complaint].

You are hereby summoned [etc., as in No. 18].

207.

Warrant to Arrest Defendant in first Instance on complaint for Order for Recognizance to keep the Peace.__s. 1239.

(Heading as in No. 116)

To all Police Officers.

Whereas complaint has been made that the defendant on [state charge, as in complaint].

This is to command you [etc., as in No. 19].

208.

Warrant to Arrest Defendant after Summons for Order for Recognizance to Keep the Peace.__s. 1239.

(Heading as in No. 116.)

To all Police Officers

Whereas complaint has been made that the defendant on [state charge as in complaint].

And whereas a summon [etc., as in No. 20].

This is to command you [etc., as in No. 19].

209.

Minute of Order for Recognizance to Keep the Peace.__ss. 1239, 1240. (a) ___s. 1239.

Order. [Name] to enter into recognizance for $ [if with sureties, with surety in $, severally, to keep the peace and be of good behaviour, especially towards [name] for [state period]. In default, imprisonment for [state period] [or] detention in police custody at [place] for [period].

[If costs ordered, add.] [Name] to pay $ costs by instalments of $ for every , the first to be paid] forthwith [or] on the day of]. In default additional imprisonment for [state period] [or] detention [etc., as above].

Note. __ Imprisonment not exceeding "6" months may be adjudged in default.

(b).__s. 1240.

Order. [As in preceding form (a).]

Note.__ Imprisonment not exceeding "3" months may be adjudged in default.

(c). __s. 1241.

Order. [as in preceding form (a), and in addition to or substitution for other punishment.]

Note. __ The convicted defendant may in default be sentenced to imprisonment not exceeding "6" months.

For Minutes of Orders generally see No. 178, and for Extracts see No. 179.

210.

Recognizance to keep the Peace. __ss. 1239, 1240 .

(Heading as in No. 116.)

I, the undersigned [name, etc.], hereinafter called the principal, hereby bind myself to forfeit to the Crown the sum of $ to perform the following condition, namely __

To keep the peace, and be of good behaviour, and especially towards for the term of now next ensuing.

Dated at this day of , 20 .

[Signed]

Principal.

[Signed]

Magistrate of the said District.

Obligation of Sureties, if any

[As in No. 1, but substituting "principal" for "accused."]

This recognizance has been entered into pursuant to an order made by the said Court, sitting at on the [date] on [conviction or dismissal] of a charge against the defendant for having on [state charge].

211.

Security for Penalty or Payment of Money.__s. 1242.

(a)

Minute of Order for Security for Payment of Money.

[Name] at liberty to give security to the satisfaction for [this Court] in $ [with suret , severally, in $ For due payment of sums adjudged.]

For Minutes of Orders as to payments of Money, see Nos. 138, 179.

(b)

(Heading as in No. 116.)

[Name], [defendant or complainant], hereinafter called the principal was on the [date] adjudged by the said Court sitting at to pay the sum of [by instalments of for every days, the first instalment to be paid] forthwith [or on the day of] and to give security for the due payment thereof [or as the case may be].

Now, therefore, the principal hereby undertakes that the principal will pay the sum adjudged at the time and in the manner directed, and hereby acknowledges being bound to forfeit and pay to the Clerk of the Court the sum of in case the principal fails to perform this undertaking.

Dated [etc., as in No. 210].

Obligation of Sureties, if any.

212.

Summons to Person bound y Recognizance alleged to have been forfeited. - s. 1244 (1), (3).

(Heading as in No. 116)

To [name, etc.]

You are hereby summoned to appear at o'clock, .m. on day, the day of 20 , at before the said District Court, to show cause why the recognizance entered into on the day of 20 , whereby you are bound to pay the sum of $ should not be adjudged to be forfeited, and why you should not be adjudges to pay that sum.

Dated this day of , 20 .

[Signed] Magistrate of the said District

213.

Minute of Order to Forfeit and Enforce Recognizance. __s. 1244 (1) Order. Recognizance by [names of persons bound] [dated] forfeited.

[Name] to pay [etc., as in No. 179 (b)]. And in default [imprisonment, etc., as in No. 178 (b)].

As to Minute of Order Mitigating Forfeiture, see No. 227.

214.

Declaration of forfeiture of Recognizance. __s. 1244 (1), (3).

The within-named principal not having complied with the said condition this Court declares that the within written recognizance is forfeited.

[Signed] Magistrate of the said District.

Note. __ This Declaration is to be indorsed on the Recognizance.

For indorsement mitigating forfeiture, see No. 228.

215.

Security to Perform condition of Forfeited Recognizance. ___s. 1244 (2).

(Heading as in No. 116.)

[Name], hereinafter called the principal was by recognizance entered into the [date], bound in the sum of

And the said recognizance has been adjudged to be forfeited, but the principal has applied to the said Court sitting at to [cancel or mitigate] the forfeiture.

Now, therefore, the principal hereby undertakes that the condition of the said recognizance shall be duly performed [and that the said principal shall on or before the day of pay the sum of for costs incurred in respect of the said forfeiture]; and hereby acknowledges being bound to forfeit and pay to [the clerk of the Court] the sum of $ in case the said principal fails to perform the condition of the said recognizance.

Dated [etc., as is No. 210].

Obligation of Sureties, if any.

[As in No. 1, but substituting "principal" for "accused."]

Note.__ As to indorsement mitigating forfeiture, see No. 228.

216.

Minute of Order forfeiting Recognizance on conviction. __s.1244 (3)

Order. [Name], principal, was by recognizance entered into the [date] bound in $ and suret [name or names] in $, severally, the condition being that the principal should [state condition].

And the principal having on the [date] been convicted of having [state offence] the same being a breach of the said condition:

Adjudged that the said recognizance be forfeited, and that the said pay to the Clerk of the Court $ [and $ for costs [by instalments of for every days, the first instalment to be paid] forthwith [or on the day of], or as the case my be.

And in default imprisonment [etc., as in No. 178 (b)].

[If distress is ordered instead].

And in default of payment ordered that [the sum due from the said under this adjudication be levied by distress and sale of [his/her] goods, [and in default of sufficient distress that] the said be imprisoned in the Correctional Officer [with or without] hard labour [or detained in police custody at] for the term of] unless the said sums [and all costs and charges of the [said distress and]commitment] be sooner paid.

Note.__ for summons to Person bound by Recognizance which is alleged to have been forfeited by conviction of principal, s. 1244 (3), see No. 211.

As to Minute of Order Mitigating forfeiture, see No. 227.

217.

Notice to Principal of Forfeiture of Security.___s.1244 (1), (3).

(Heading as in No. 116.)

To [name, etc.]

Take notice that you have forfeited the sum of $ for which you were bound by your undertaking entered into the [date], and unless you pay that sum to the Clerk of the said District Court at on or before the day or a warrant of [commitment for your imprisonment in the Correctional Facility for [period] [or] of

detention in police custody at for [period] will be issued [or][distress will be issued for the recovery thereof].

Registrar.

Let the above named persons be summoned by the Sheriff to show Cause on a.m., why the penalty of the recognizances in respect of which there has been default should not be enforced.

Chief Justice.

218.

List of Persons bound on Recognizances. _ ss. 1245, 1246.

SAINT LUCIA

IN THE HIGH COURT OF JUSTICE

(CRIMINAL JURISDICTION).

SESSIONS, 20 .

List made by [name], Registrar of the said Court in pursuance of section 1396 of the Criminal Code of persons, making default or bound on Recognizances.

Persons bound	Persons making default	Date of Recognizance			Amount of Recognizance
		Day	Month	Year	$

Registrar

Let the above named persons be summoned by the Sheriff to dhow cause on day, the day of , 20 , at .m., why the penalty of the recognizances in respect of which there has been default should not be enforced.

Chief Justice.

219.

Summons to Person bound on Recognizance.__s.1246.

(Heading as in No. 218.)

To [name] of

You are hereby summoned to appear at .m, on day the day of , 20 , before the said Supreme Court, in Castries, to show cause why the recognizance entered into on the day of , 20 , whereby you were bound to pay the sum of $: should not be adjudged to be forfeited, and why you should not be adjudged to pay that sum or be further dealt with according to law.

Dated at Castries, St Lucia, this day of 20 .

220.

Return by the sheriff of Service of Summons on Persons bound by Recognizance. __s.1247.

Name of Persons	On whom return served	when served	By whom served

[Signed]

Sheriff.

221.

Writ of Execution for Enforcement of Forfeited

Recognizance. ___ss. 1248, 1249

(Heading as in No. 218.)

To the Sheriff.

We command you that of the movable and immovable property of [name], hereinafter called the defaulter of you cause to be levied the sum of $ which said sum of money the said defaulter was, by a judgement of Our said Court, bearing date the day of 20 , adjudged to pay in respect of a certain recognizance forfeited by the defaulter, and, in defaulter, then you are to take the body of the said defaulter and lodge the defaulter in the Correctional Facility,

there to await the decision of the judge of Our said Court at its sitting next thereafter to be held, or whenever called upon to appear, unless the said defaulter shall give sufficient security for his or her appearance at the said Court, and to abide the decision of the said Court; and have you then and there this writ.

Dated, etc.

By order.

[Signed]

Registrar.

To the Sheriff of the Supreme Court.

Execute the said writ unless security is duly given to the sheriff.

[Signed]

Sheriff.

Note. __ A Writ of Execution against a surety under s. 1250 may be adapted from preceding form, but substituting 'surety" for "defaulter" throughout.

222.

Recognizance to Appear given to the sheriff. __s.1249.

(Heading as in No. 218.)

I the undersigned [name], hereinafter called the principal, hereby bind myself [etc., as in No. .] To attend at the Supreme Court at Castries at [etc., as in No. 1 to "directed"], and to abide the decision of the said Court or to appear when called upon to do so and to pay the amount of the recognizance forfeited herein or such sum *in lieu* or satisfaction thereof as may be awarded by the Court together with such costs as may be awarded.

Dated at [etc., as in No. 210.]

[Signed]

Principal.

Sheriff.

Obligation of Sureties.

[I or we, etc., as in No. 1.]

Note. __ But to be signed by the sureties and the sheriff.

223.

Warrant of Commitment in Default of Sureties for Peace. __s.1251.

(Heading as in no. 116.)

To all Police Officers.

[Name], hereinafter called the defaulter, was, on the [date] ordered to enter into a recognizance in the sum of $ [state whether forthwith or on or before a certain date], [if with sureties] with suret , severally in the sum of $ to keep the peace and be of good behaviour, and specially towards one [name] for the term of next ensuing.

And default having been made in obeying the said order, this is to command you to convey the defaulter to the there to be detained for the term of unless the said order be sooner obeyed.

Dated [etc., as in No. 8].

Note. __ This Form may also be adapted for Detention in Police

Custody.

224.

Discharge of Defaulter on finding sureties with Variation where Defendant has to enter into his or her own Recognizance at the Correctional Facility. __s.1251

(Heading as in No. 116.)

To the Correctional Officer.

Discharge forthwith [name] now in your custody under a warrant of commitment of the said Court, sitting at , dated , in default of sureties, he or she having [entered into his or her own recognizance and] found the [surety or sureties] required by the said warrant provided he or she [do first enter into his or her recognizance in the sum of $ and] be not detailed for any other cause.

Dated [etc., as in No. 8].

Note. __ As to No. 222.

225.

Order to bring up Defaulter for Sureties. ___s.1251

It is hereby ordered that the Correctional Officer do cause [name], now in the Correctional Facility, to be brought before the said Court in at the hour of , on day the day of 20 , that he or she may enter into a recognizance with suret conditioned to keep the peace.

Dated [etc., as in No. 8].

226.

Summons to vary sureties, etc. ___ 1251

(Heading as in No. 116.)

You are hereby summoned to appear before the said district court sitting at on day the day of , 20 , at the hour of , to show cause why the order of , 20 , against to find surety should not be varied or otherwise dealt with.

Dated [etc., as in No. 8].

227.

Minute of Order Varying Order for Sureties. ___s.1251

Order. [Name], now in the correctional facility under commitment Dated for default in finding surety in the sum of [each].

Upon further consideration ordered that the amount of the suretyship be reduced to [or that the obligation to find suret be dispensed with] [or otherwise as the case may be].

As to minute of order forfeiting recognizance, see Nos. 213 and 216.

228.

Indorsement Mitigating forfeiture, etc. __s. 1251

The within-mentioned recognizance having been adjudged to be forfeited, and [name] having applied to this Court to [cancel or mitigate] such forfeiture, and security having been given for the future performance of the condition of the said recognizance, and [having paid or given security for payment of] the costs incurred in respect of the forfeiture thereof [or insert such other condition as the Court may think just].

The said forfeiture is [cancelled or mitigated to the sum of], [or as the case may be].

Dated [etc., as in No. 8].

As to form of security, see No. 213.

SUPPLEMENTARY FORMS.

229.

Applications.

IN THE COURT.

The application of [name, etc.] shows that -

[State the circumstances in numbered paragraphs and the statute, if any, on which the application is based.]

The application applies [for an order [or] for the issue of [state order or process required, etc., [or] as the case may be].

Note. __ If an affidavit is required that to No. 159 can be adapted.

Order.

On consideration of the foregoing application it is ordered that [terms of order].

[Place and date.]

[Signed]

Note. __ If the application is in the form of a petition__same as above, but substituting “petition” for “application” and “petition” for “applicant.”

230.

Commitment Extract. __ss.1056, 1131

(Heading as in No. 216.)

(a) (Heading.)

IN THE DISTRICT COURT at

Name of Defendant.

Date of Conviction.

Offence of which Convicted.

(b) (Heading as in (a).)

Sentence. Imprisonment [with or without] hard labour for [state period]. Warrant is hereby granted to all Police Officers to convey the defendant to the Prison and for the detention of the defendant therein in execution of the said sentence.

Magistrate of the said District.

Or

[If signed by the Clerk.]

By order.

Clerk to the

Magistrate of the said District.

INDORSEMENT OF PAYMENTS

(As in No. 185.)

(c) Commitment Extract. __ Imprisonment and Recognizance

(Heading as in (a).)

Sentence. Imprisonment [etc., as in (b)], and $ recognizance [etc., as in (e) and in default further imprisonment [etc., as in (b)].

Note.__ The necessary variations to meet different sentences are to be made on the extract. An extract in this form is applicable either to sentence on a plea of guilty or on conviction.

The forms may also be adapted to cases of detention in police custody, substituting "detention in police custody" for "imprisonment etc" as the sentence, and name of the "place of detention" for "Her Majesty's Prison," see (b).

Similar forms may be adapted for the Supreme Court in which case "accused" may be substituted for "defendant."

For commitments on warrant, see Nos. 199-202, and for Extracts for detention in police custody, No. 205.

231.

Convictions.

(a) Conviction for Penalty, and, in Default of Payment, Imprisonment or Detention.

(Heading as in No. 116.)

The day of 20 .

[Name], [hereinafter call the defendant] is this day convicted before the said Court for having [etc., state the Complaint concisely].

And it is adjudged that the defendant do forfeit and pay the sum of [state the penalty, [and also $ compensation [if any] to be pad to].

And do also pay to the said [complainant, or other person as the case may be] the sum of for costs;

And if the said several sums be not paid forthwith [or on or before the day of 20], it is adjudged that the defendant be imprisoned [with or without] hard labour or [detained in police custody] in the for the term of unless the said several sums shall be sooner paid.

[Signed]

Magistrate of the said District.

(b) Conviction where the Punishment is be Imprisonment or Detention.

(Heading as in No. 116.)

The day of 20 .

[Name], [hereinafter call the defendant] is this day convicted before the said Court for having [etc., state the Complaint concisely].

(c) Commitment Extract.__Fine or Imprisonment Forthwith.

(Heading as in (a).)

Sentence. $ fine [and $ costs], and in default imprisonment [etc., as in (b).] $ paid. Balance payable $. Balance of said imprisonment [state period]. Warrant [etc., as in (b)].

INDORSEMENT OF PAYMENTS

(Same as in No. 186.)

(d) Commitment Extract.__Fine or Imprisonment (time allowed).

(Heading as in (a).)

Sentence. $ fine [and $ costs] payable [within [state period] or on or before the [date] or by instalments of $ monthly, weekly, or every [so many] days, as the case may be] and in default imprisonment [etc., as in (b).]

$ paid. Balance payable [etc., as in (c)].

Warrant [etc., as in (b)].

INDORSEMENT OF PAYMENTS

(As in No. 186)

(e) Commitment Extract.___Recognizance.

(Heading as in (a).)

Sentence. $ recognizance for good behaviour for [period] [from date of conviction] [with suret , severally, in $], [if costs are ordered] and $ costs], and in default imprisonment [etc., as in (b)].

$ paid. Balance payable [etc., as in (c)].

Warrant [etc., as in (b)].

(f) Commitment Extract.__Recognizance.

(Heading as in (a).)

Sentence. $ fine [etc., as in (d)], and $ recognizance [etc., as in (e)].

Warrant [etc., as in (b)].

INDORSEMENT OF PAYMENTS

(As in No. 186)

(g) Commitment Extract.___ Fine and Recognizance

(Heading as in (a).)

Sentence. $ fine, and in default imprisonment [etc., as in (b)], and $ recognizance [etc., as in (e)], and in default further imprisonment [etc., as in (b)].

Warrant [etc., as in (b)].

And it is adjudged that the defendant be [imprisonment [with or without] hard labour [or] detained in police custody] in the for the term of and it is also adjudged that the defendant do pay to the said [complainant, or other person as the case may be] the sum of for costs;

And if the sum for costs be not paid forthwith [or on or before the day of 200] then it is adjudged that the defendant be imprisoned [with or without] hard labour [or detained in police custody] in the for the term of to commence at and from the termination of the [imprisonment or detention] aforesaid, unless the said sum for costs shall be sooner paid.

[Signed]

Magistrate of the said District.

Note.__ although the above forms are given, it is to be remembered that formal convictions are, however, no longer compulsory. A copy of extract of a Minute of a Conviction or Order is quite sufficient. See ss. 714, 734 (2),1056.

232.

Extract of conviction. ___s.1056

Sentence. [Whether imprisonment only or otherwise as the case may be, see Form 230 and various sentences indicated or whatever the adjudication or other or sentence may be].

[Signed]

Clerk of the said District Court.

Note.__ This form may be produced as evidence of conviction.

For other forms of extracts of orders and convictions, see No. 179.

233.

Extract List of Previous Convictions.___s.1056.

LIST of convictions in the District Court applying to [name, etc.]

Date.	Place of Trial.	Offence	Sentence

[Signed]

Clerk of the said District Court.

Note.___ a like form may be adapted for the Supreme Court and signed by the Registrar.

This form may be used as evidence of previous convictions.

234.

Minutes of Procedure, etc. (District Court).

[Place. Date. Name.] Magistrate.

Complaint not appearing, dismissed [if with costs, add, with costs $] or as the case may be, or if adjourned, [adjourned to [date and hour].

Appeared. [Parties or Complaint or Defendant. Defendant failed to appear, or as the case may be.]

Plea. Adjourned to [date and hour].

[As to Minutes of Orders and Sentences. Dismissals, No. 137;

Conviction, or for Payment of Money or otherwise generally, Nos. 137, 178, 192;

Recognizances, Nos. 209, 213, 216, 227;

Where there are several accused and different sentences pronounced the sentence applicable to each may be minuted against his or her name under the appropriate form.

For Extracts, see Nos. 179, 230, 232, 233, 238.

235.

Previous Convictions.

Where previous convictions may be charged, a paragraph in the charge may be added as follows -

And the [defendant or accused] has been previously convicted as follows, that is to say on [state of conviction, place of trail, Court, offence and sentence] or [if several], [enumerating and describing them as suggested] or [if a list is preferred] [as in the List annexed marked] Such list may be like No. 233 adapted.

236.

Oats and Affirmations by Witness. __ss. 686, 740.

(a) Affirmation.

I solemnly affirm that the evidence to be given by me shall be the truth, the whole truth and nothing but the truth.

Note.__ See s. 9 of.Oaths and Affirmation Act.

As to Affirmation by Juror, see No. 63.

(b) Oath in General by Christian.

I swear by Almighty God that the evidence to be given by me shall be the truth, the whole truth and nothing but the truth. so help me God.

I swear by Almighty God that I shall speak the truth, the whole truth and nothing by the truth. So help me God.

Note.__ The witness shall hold the New Testament in his uplifted hand and shall say or repeat after the officer the words of the oath. If a Roman Catholic or other person who so desires, instead of a testament he or she may hold a crucifix in his or her uplifted hand or keep his or her hand uplifted before a crucifix. No kissing of book or crucifix is required. See s. 4 of Oaths and Affirmations Act.

(c) Oath in Scotch Form.

I swear by Almighty God [as I shall answer to God at the great day of Judgement] I will speak the truth, the whole truth and nothing but he truth.

Note.__ The officer requests the witness to hold up his or her right hand and

to repeat the words of the oath. No book of any kind is used.

Note.___ See s. 5 of. Oaths and Affirmation Act.

(d) Oath in General by Jew.

I swear by Almighty God that the evidence to be given by me shall be the truth, the whole and nothing but the truth. So help me God.

Note.__ The witness shall hold the Old Testament in his uplifted hand and shall say or repeat after the officer the words of the oath. See s. 4 of Oaths and Affirmations Act. No kissing of the book is required.

(e) See for other Oaths __ By Jury, Nos. 61, 62; Officer in charge of Jury, No. 69;

Voir dire, No. 70; Person trying Challenge, No. 70; Witness on Trial of Challenge, No. 70.

237.

Order to rioters. __s. 342

This Proclamation may be in such form as is thought fit, and may be as follows __

The Governor General charges and commands all persons, being assembled, immediately to disperse to their homes or to their lawful business upon the pains contained in the Criminal Code, or any other law.

238.

Supreme Court Records. __ss. 848, 1056

(a) Certified Extract from the Crown Book. __ ss. 848 (b), 1056.

From the Minutes in the Crown Book.

(Heading as in No. 71.)

[Copy the entry or part of entry required and add following Certificate Certified a true Extract from the Crown Book.

[Signed]

Register of the Supreme Court.

(b) Certificate of Indictment, etc. __ss.848 (c), 1056 .

(Heading as in No. 71)

I certify that the accused [name, etc.] was indicted for having [etc., state charge on indictment] and was tried before The Honourable [name], Puisne Judge, at and a jury.

The jury found the accused guilty [or not guilty or guilty on such and such counts, and not guilty on such and such counts, enumerating them].

The Judge sentenced the accused [state sentence].

Dated, etc.

[Signed]

Registrar of the Supreme Court.

Note. __ The necessary variations may be made in the certificate, e.g., in case of a verdict of "not guilty" instead of paragraphs 2 and 3, "the jury found the accused "not guilty" " ,substituted.

SCHEDULE 6

(Section 1093)

TABLE

PART 1

Scale of increased punishments for repetition of crime

Nature of Conviction	**Nature of Previous Conviction**	**Punishment to be substituted for the punishment mentioned in this Code**
Summary conviction for Crime	Any conviction for a similar crime	Imprisonment for twice the maximum of imprisonment which might otherwise be inflicted
Conviction on indictment for summary offence	A conviction on indictment for a similar indictable offence; or any conviction for a similar summary offence; or 2 summary convictions for similar crimes.	Imprisonment for 2years, and, if under 16 years of age, community service orders in the discretion of the Court.
Conviction on indictment for an indictable offence Any conviction for a similar crime	A conviction for any indictable offence; or a conviction on indictment for a similar summary offence for which a sentence of more than 6 months imprisonment was passed	Imprisonment for 10 years; and if under 16 years of age, and if the Court so directs, police supervision for not more than 5 years
Conviction on indictment for any indictable offence or summary conviction for an indictable offence punishable with imprison-ment for one year or not more than 3 years.	Two convictions of any kind for any indictable offence or 2 summary convictions on indictment for an indictable offence	

Nature of Conviction	**Nature of Previous Conviction**	**Punishment to be substituted for the punishment mentioned in this Code**
Conviction on indictment for being a common or for being a common thief, forger or coiner	punishable with imprisonment for one year or not more than 3 years; or for convictions of any kind for indictable offences of any kind; or one conviction on indictment for being a common receiver of stolen goods, or for being a common thief, forger or coiner One conviction of any kind for an indictable offence or one summary conviction for an indictable offence punishable with imprisonment for one year or not more than 3 years.	1. To be deemed a habitual criminal; and 2. If under 16 years of age, sentenced to a curfew order 3. To be liable to imprisonment for any term; and 4. To be liable to police supervision for 7 years after the expiration of the sentence, or for such greater term, if any, as the Court directs.

TABLE - PART 1

Note to Part 1 of this Table

(1) In this Table, and in the notes thereto, expressions referring to any crime include attempts to commit aiding and abetment of such crime.

(2) Where a person has, in any part of the Commonwealth beyond the jurisdiction of the Courts, been convicted of, or has, within the jurisdiction of the Courts, commencement of this Code, such conviction shall have the same effect as if it had taken place under this Code.

PART II

Periods within which a conviction may be given in evidence

Nature of Conviction	**Period after the execution of the sentence within which conviction may be given in evidence**
Any summary conviction, except for an indictable offence	A period of 1 year
A conviction upon indictment for any crime for which a sentence of imprisonment for 3 years or more has not been passed, or a summary conviction of an indictable offence	A period of 3 years, exclusive of any term of imprisonment suffered after the commencement of the period under any other conviction.
A conviction upon indictment for any crime for which a sentence of imprisonment for 3 years or more has not been passed	A period of 10 years, exclusive of any term of imprisonment or penal servitude after the commencement of the period under any other conviction.

SCHEDULE 7

(Chapter 4 : Sub-part E, F and G)

Part 1

ENFORCEMENT ETC. OF CERTAIN ORDERS

PRELIMINARY

1. — (1) In this Schedule "**relevant order**" means any of the following orders, namely, a probation order, an extra mural order and a curfew order.

(2) This Schedule applies in relation to combination orders—

(a) in so far as they impose such a requirement as is mentioned in paragraph (a) (i) or (b) (i) of subsection (2) of section 1179 of this Code as if they were probation orders;

(b) in so far as they impose such a requirement as is mentioned in paragraph (a) (ii) of that subsection, as if they were extra mural orders; and

(c) in so far as they impose such a requirement as is mentioned in paragraph (b) (ii) of that subsection, as if they were curfew orders.

Part II

BREACH OF REQUIREMENT OF ORDER

ISSUE OF SUMMONS OR WARRANT

2. — (1) If at any time while a relevant order is in force in respect of an offender it appears on information to a magistrate that the offender has failed to comply with any of the requirements of the order, the magistrate may—

(a) issue a summons requiring the offender to appear at the place and time specified in the summons; or

(b) if the information is in writing and on oath, issue a warrant for the offender's arrest.

(2) Any summons or warrant issued under this paragraph shall direct that the offender appear or be brought before a magistrate's court.

POWERS OF MAGISTRATE'S COURT

3.— (1) If it is proved to the satisfaction of the magistrate's court before which an offender appears or is brought under paragraph 2 that the offender has failed without reasonable excuse to comply with any of the requirements of the relevant order, the Court may deal with the offender in respect of the failure in any one of the following ways, namely—

(a) it may impose on the offender a fine not exceeding $2,500;

(b) subject to paragraph 6(2) and (3) it may make an extra mural order in respect of the offender;

(c) where the relevant order was made by a magistrate's court, it may revoke the order and deal with the offender, for the offence in respect of which the order was made, in any manner in which it could deal with the offender if the offender had just been convicted by the Court of the offence.

(2) In dealing with an offender under subparagraph (1)(c), a magistrate's court shall take into account the extent to which the offender has complied with the requirements of the relevant order.

(3) Where a relevant order was made by the High Court and a magistrate's court has power to deal with the offender under subparagraph (1)(a) or (b), the latter Court may, instead, commit the offender to custody or release the offender on bail until the offender can be brought or appear before the High Court.

(4) A magistrate's court which deals with an offender's case under subparagraph (3) shall send to the High Court—

(a) a certificate signed by the magistrate certifying that the offender has failed to comply with the requirements of the relevant order in the respect specified in the certificate; and

(b) such other particulars of the case as may be desirable,

and a certificate purporting to be so signed shall be admissible as evidence of the failure before the High Court.

(5) A person sentenced under subparagraph (1)(c) for an offence may appeal to the High Court against the sentence.

POWERS OF HIGH COURT

4.— (1) Where by virtue of paragraph 3(3) an offender is brought or appears before the High Court and it is proved to the satisfaction of the Court that the offender has failed to comply with any of the requirements of the relevant order, that Court may deal with the offender in respect of the failure in any one of the following ways, namely—

(a) it may impose on the offender a fine not exceeding $3,500;

(b) subject to paragraph 6(2) and (3), it may make an extra mural order in respect of the offender;

(c) it may revoke the order and deal with the offender for the offence in respect of which the order was made, in any manner in which it could deal with the offender if the offender had just been convicted by or before the Court of the offence.

(2) In dealing with an offender under subparagraph (1)(c), the High Court shall take into account the extent to which the offender has complied with the requirements of the relevant order.

(3) In proceedings before the High Court under this paragraph any question whether the offender has failed to comply with the requirements of the relevant order shall be determined by the Court and not by the verdict of a jury.

EXCLUSIONS

5. — (1) Without prejudice to paragraphs 7 and 8, an offender who is convicted of a further offence while a relevant order is in force in respect of the offender, shall not, on that account, be liable to be dealt with under paragraphs 3 and 4 in respect of a failure to comply with any requirement of the order.

(2) An offender who is required by a probation order to submit to treatment for the offender's mental condition, or the offender's dependency on drugs or alcohol, shall not be treated for the purposes of paragraph 3 or 4 as having failed to comply with that requirement on the ground only that the offender has refused to undergo any surgical, electrical or other treatment if,

in the opinion of the Court, the offender's refusal was reasonable having regard to all the circumstances.

SUPPLEMENTAL

6. — (1) Any exercise by a Court of its powers under paragraph 3(1)(a), (b) or (c) or 4(1)(a) or (b) is without prejudice to the continuance of the relevant order.

(2) The number of hours which an offender may be required to work under an extra mural order made under paragraph 3(1)(b) or 4(1)(b), shall be specified in the order.

(3) So far as applicable, the provisions of this Schedule so far as relating to extra mural orders, have effect in relation to such orders under paragraph 3(1)(b) or 4(1)(b) as they have effect in relation to an extra mural order in respect of an offender.

(4) Where the provision of this Schedule has effect as mentioned in subparagraph (3), the powers conferred by those provisions to deal with the offender for the offence in respect of which the extra mural order was made, shall be construed as powers to deal with the offender for the failure to comply with the requirements of the relevant order in respect of which the extra mural order was made.

Part 3

REVOCATION OF ORDER

REVOCATION OF ORDER WITH OR WITHOUT RE-SENTENCING

7. — (1) This paragraph applies where a relevant order is in force in respect of an offender and, on the application of the offender or the responsible officer, it appears to a magistrate's court that, having regard to circumstances which have arisen since the order was made, it would be in the interests of justice—

(a) that the order should be revoked; or

(b) that the offender should be dealt with in some other manner for the offence in respect of which the order was made.

(2) The Court may—

(a) if the order was made by a magistrate's court—

(i) revoke the order, or

(ii) revoke the order and deal with the offender, for the offence in respect of which the order was made, in any manner in which it could deal with the offender if the offender had just been convicted by the Court of the offence; or

(b) if the order was made by the High Court, commit the offender to custody or release the offender on bail until the offender can be brought or appear before the High Court.

(3) The circumstances in which a probation order may be revoked under subparagraph (2)(a)(i) include the offender's making good progress or responding satisfactorily to supervision.

(4) In dealing with an offender under subparagraph (2)(a)(ii), a magistrate's court shall take into account the extent to which the offender has complied with the requirements of the relevant order.

(5) An offender sentenced under subparagraph (2)(a)(ii), may appeal to the High Court against the sentence.

(6) Where the Court deals with an offender's case under sub-paragraph (2)(b), it shall send to the High Court such particulars of the case as may be desirable.

(7) Where a magistrate's court proposes to exercise its powers under this paragraph otherwise than on the application of the offender, it shall summon the offender to appear before the Court and, if the offender does not appear in answer to the summons, may issue a warrant for the offender's arrest.

(8) An application may not be made by the offender under sub-paragraph (1) while an appeal against the relevant order is pending.

8. — (1) This paragraph applies where an offender in respect of whom a relevant order is in force—

(a) is convicted of an offence before the High Court; or

(b) is committed by a magistrate's court to the High Court for sentence and is brought or appears before the High Court; or

(c) is brought or appears before the High Court by virtue of paragraph 7(2)(b).

(2) If it appears to the High Court to be in the interests of justice to do so, having regard to circumstances which have arisen since the order was made, the High Court may—

(a) revoke the order; or

(b) revoke the order and deal with the offender, for the offence in respect of which the order was made, in any manner in which it could deal with the offender if the offender had just been convicted by or before the Court of the offence.

(3) The circumstances in which a probation order may be revoked under subparagraph (2)(a) include the offender's making good progress or responding satisfactorily to supervision.

(4) In dealing with an offender under subparagraph (2)(b), the High Court shall take into account the extent to which the offender has complied with the requirements of the relevant order.

SUPPLEMENTAL

9. — (1) On the making under this Part of this Schedule of an order revoking a relevant order, the clerk to the Court shall forthwith give copies of the revoking order to the responsible officer.

(2) A responsible officer to whom in accordance with sub-paragraph (1) copies of a revoking order are given, shall give a copy to the offender and to the person in charge of any institution in which the offender was required by the order to reside.

Part 4

AMENDMENT OF ORDER

AMENDMENT OF REQUIREMENTS OF PROBATION OR CURFEW ORDER

10. — (1) Subject to subparagraph (2), a magistrate's court may, on the application of the offender or the responsible officer, by order amend a probation or curfew order—

(a) by cancelling any of the requirements of the order; or

(b) by inserting in the order (either in addition to or in substitution for any such requirement) any requirement which the Court could include if it were then making the order.

(2) The power of a magistrate's court under subparagraph (1) is subject to the following restrictions, namely—

(a) the Court shall not amend a probation order

(i) by reducing the probation period, or by extending that period beyond the end of 3 years from the date of the original order; or

(ii) by inserting in the order a requirement that the offender shall submit to treatment for the offender's mental condition, or the offender's dependency on drugs or alcohol, unless the amending order is made within 3 months after the date of the original order;

(b) the Court shall not amend a curfew order by extending the curfew periods beyond the end of 6 months from the date of the original order.

(3) In this paragraph and paragraph 11, references to the offender's dependency on drugs or alcohol include references to his or her propensity towards the misuse of drugs or alcohol.

AMENDMENT OF CERTAIN REQUIREMENTS OF PROBATION ORDER

11.— (1) Where the medical practitioner or other person by who or under whose direction an offender is being treated for the offender's mental condition, or the offender's dependency on drugs or alcohol, in pursuance of any requirement of a probation order.

(a) is of the opinion mentioned in subparagraph (2); or

(b) is for any reason unwilling to continue to treat or direct the treatment of the offender,

that medical practitioner or other person shall make a report in writing to that effect to the responsible officer and that officer shall apply under paragraph 10 to a magistrate's court for the variation or cancellation of the requirement.

(2) The opinion referred to in subparagraph (1) is—

(a) that the treatment of the offender should be continued beyond the period specified in that behalf in the order; or

(b) that the offender needs different treatment, being treatment of a kind to which the offender could be required to submit in pursuance of a probation order; or

(c) that the offender is not susceptible to treatment; or

(d) that the offender does not require further treatment.

EXTENSION OF EXTRA MURAL ORDER

12. Where—

(a) an extra mural order is in force in respect of an offender; and

(b) on the application of the offender or the responsible officer, it appears to a magistrate's court that it would in the interest of justice to do so having regard to circumstances which have arisen since the order was made,

the Court may, in relation to the order, extend the period specified in the order.

SUPPLEMENTAL

13. An application may not be made under paragraph 10 or 12 while an appeal against the relevant order is pending.

14.— (1) Subject to subparagraph (2), where a Court proposes to exercise its powers under this Schedule otherwise than on the application of the offender, the Court—

(a) shall summon the offender to appear before the Court; and

(b) if the offender does not appear in answer to the summons, may issue a warrant for the offender's arrest,

and the Court shall not amend a relevant order under this Part of this Schedule unless the offender expresses willingness to comply with the requirements of the order as amended.

(2) This paragraph does not apply to an order cancelling a requirement of a relevant order or reducing the period of any requirement or substituting a new place for the one specified in a relevant order.

15.— (1) On a Court making under this Part of this Schedule an order amending a relevant order, the clerk to the Court shall forthwith—

(a) if the order amends the relevant order otherwise than by substituting a new place for the one specified in the relevant order, give copies of the amending order to the responsible officer;

(b) if the order amends the relevant order in the manner excepted by paragraph (a), send to the clerk to the magistrate's court for the district in which the new place is situated—

(i) copies of the amending order, and

(ii) such documents and information relating to the case as the clerk considers likely to be of assistance to a Court acting for that district in exercising its functions in relation to the order,

and in a case falling within paragraph (b) the clerk to the magistrate's court for that district shall give copies of the amending order to the responsible officer.

(2) A responsible officer to whom copies of an order are given in accordance with subparagraph (1), shall give a copy to the offender and to the person in charge of any institution in which the offender is, or was required by the order to reside.

SCHEDULE 8

(Section 166)

ROYAL SAINT LUCIA POLICE FORCE

REPORT OF INCIDENCE

This serves to certify that ..... of.....did on ……..... and at .....report to the police a rape/incest incident involving them.

Pursuant to the report, the police are carrying out an investigation.

Dated this .....of..... ,20.....

at .....

.....

Signed Commissioner of Police or

Authorised Officer