

SUMMARY JURISDICTION ACT, 1879.

[42 & 43 VICT., CH. 49.]

ARRANGEMENT OF SECTIONS.

Section.

1. Short title.
2. Application of Act.
3. Commencement of Act.

PART I.

Court of Summary Jurisdiction.

4. Mitigation of punishment by Court.
5. Scale of imprisonment for non-payment of money.
6. Sum recoverable by summary order to be recoverable as a civil debt.
7. Payment by instalments of or security taken for payment of money.
8. Provision as to costs in the case of small fines.
9. Enforcing of recognizances by Court of summary jurisdiction.
10. Summary trial of children for indictable offences, unless objected to by parent or guardian.
11. Summary trial with consent of young persons (juvenile offenders).
12. Summary trial with consent of adult.
13. Summary conviction on plea of guilty of adult.
14. Restriction on summary dealing with adult charged with indictable offence.
15. Restriction on punishment of child for summary offence.
16. Power of Court to discharge accused without punishment.
17. Right to claim trial by jury in case of offences otherwise triable summarily.
18. Imprisonment in cases of cumulative sentences not to exceed six months.

Section.

19. Appeal from summary conviction to general or quarter sessions.
20. Court of Summary Jurisdiction to sit at a petty sessional or occasional court-house, &c.
21. Special provisions as to warrants of commitment for non-payment of sums of money, and as to warrants of distress.

Supplemental Provisions.

22. Register of Court of Summary Jurisdiction.
23. Regulations as to securities taken in pursuance of Act.
24. Power of Court of Summary Jurisdiction to remand for indictable offences.
25. Procedure before Court of Summary Jurisdiction in case of sureties to keep the peace.
26. Power of petty sessional court with respect to varying order for sureties.
27. Regulations as to indictable offences dealt with summarily.
28. Cost of prosecution of indictable offences dealt with summarily.
29. Power of the Lord Chancellor to make rules.
30. Power to provide petty sessional court-house.

 PART II.
Amendment of Procedure.

31. Procedure on appeal to general or quarter sessions.
32. Application of provisions respecting appeals to quarter sessions to appeals under prior Acts.
33. Appeal from Court of Summary Jurisdiction by special case.
34. Summary orders.
35. Recovery of civil debts in Court of Summary Jurisdiction
36. Summons of witness when out of the jurisdiction of a Court of Summary Jurisdiction.
37. Summons or warrant not avoided by death of justice, &c.
38. Bail of person arrested without a warrant.
39. Provisions as to proceedings, &c.
40. Case from quarter sessions without certiorari.

Section.

41. Proof by declaration of service of process, handwriting, &c.
42. Recognizances taken out of Court.
43. Procedure on the execution of distress warrants.
44. Return by order of court of property taken from prisoner.
45. Local jurisdiction of court under this Act.
46. General provisions as to local jurisdiction of courts of summary jurisdiction.

PART III.—DEFINITIONS, SAVINGS, AND REPEAL OF ACTS.

Special Definitions.

47. Application of Act to sums leviable by distress or payable under order.
48. As to clerk of court of summary jurisdiction.
49. Special definitions for purposes of the Act.

General Definitions.

50. General definitions applicable to this and future Acts.

Application of Acts.

51. Application of Summary Jurisdiction Acts to future Acts.

Savings and Construction.

52. Saving for Army, Navy, Marine, and Militia Acts.
53. Application of Summary Jurisdiction Acts to Post Office, Inland Revenue, and Customs.
54. Application and construction of Act.

Repeal.

55. Repeal of Acts.

SCHEDULES.

AN ACT

TO AMEND THE LAW RELATING TO THE SUMMARY JURISDICTION OF MAGISTRATES,

11TH AUGUST, 1879.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited for all purposes as the Summary Jurisdiction Act, 1879. Short title.

2. This Act shall not extend to Scotland or Ireland.

3. This Act shall come into operation on the first day of January, one thousand eight hundred and eighty (which day is in this Act referred to as the commencement of this Act): Application of Act.
Commencement of Act.

Provided that at any time after the passing of this Act any rules may be made, and any act or thing necessary or proper for bringing this Act into operation at the commencement thereof may be done, so that such rules, Act, or thing take effect only upon the said commencement.

PART I.

Court of Summary Jurisdiction.

4. Subject as in this Act mentioned, and notwithstanding any enactment to the contrary, where a court of summary jurisdiction has authority under this Act, or under any other Act, whether past or future, to impose imprisonment or to impose a fine for an offence punishable on summary conviction, that court may, in the case of imprisonment, impose the same without hard labour, and reduce the prescribed period thereof, or do either of such acts; and in the case of a fine, if it be imposed as in respect of a first offence, may reduce the prescribed amount thereof. Mitigation of punishment by Court.

And where in the case either of imprisonment or a fine there is prescribed a requirement for the offender to enter into his recognizance and to find sureties for keeping the peace, and observing some other condition, or to do any of such things, the court may dispense with any such requirement or any part thereof.

And where a court of summary jurisdiction has authority under an Act of Parliament other than this Act, whether past or future, to impose imprisonment for an offence punishable on summary conviction, and has not authority to impose a fine for that offence, that court, when adjudicating on such offence, may, notwithstanding if the court think that the justice of the case will be better met by a fine than by imprisonment, impose a fine not exceeding twenty-five pounds, and not being of such an amount as will subject the offender under the provisions of this Act, in default of payment of the fine, to any greater term of imprisonment than that to which he is liable under the Act authorising the said imprisonment.

Scale of imprisonment for non-payment of money.

5. The period of imprisonment imposed by a court of summary jurisdiction under this Act, or under any other Act, whether past or future, in respect of the non-payment of any sum of money adjudged to be paid by a conviction, or in respect of the default of a sufficient distress to satisfy any such sum, shall, notwithstanding any enactment to the contrary in any past Act, be such period as in the opinion of the court will satisfy the justice of the case, but shall not exceed in any case the maximum fixed by the following scale; that is to say,

Where the amount of the sum or sums of money adjudged to be paid by a conviction, as ascertained by the conviction,	The said period shall not exceed
Does not exceed Ten Shillings - - -	Seven days.
Exceeds Ten Shillings but does not exceed One Pound - - - - -	Fourteen days.
Exceeds One Pound but does not exceed Five Pounds - - - - -	One month.
Exceeds Five Pounds but does not exceed Twenty Pounds - - - - -	Two months.
Exceeds Twenty Pounds - - - - -	Three months.

And such imprisonment shall be without hard labour, except where hard labour is authorised by the Act on which the conviction is founded, in which case the imprisonment may, if the court thinks the justice of the case requires it, be with hard labour, so that the term of hard labour awarded do not exceed the term authorised by the said Act.

6. Where under any Act, whether past or future, a sum of money claimed to be due is recoverable on complaint to a court of summary jurisdiction, and not on information, such sum shall be deemed to be a civil debt, and if recovered before a court of summary jurisdiction shall be recovered in the manner in which a sum declared by this Act to be a civil debt recoverable summarily is recoverable under this Act, and not otherwise; and the payment of any costs ordered to be paid by the complainant or defendant in the case of any such complaint shall be enforced in like manner as such civil debt, and not otherwise.

Sum recoverable by summary order to be recoverable as a civil debt.

7. A court of summary jurisdiction, by whose conviction or order any sum is adjudged to be paid, may do all or any of the following things; namely,—

Payment by instalments of or security taken for payment of money.

- (1.) Allow time for the payment of the said sum; and
- (2.) Direct payment to be made of the said sum by instalments; and
- (3.) Direct that the person liable to pay the said sum shall be at liberty to give to the satisfaction of that court, or of such other court of summary jurisdiction, or such person as may be specified by that court, security with or without a surety or sureties for the payment of the said sum or of any instalment thereof, and such security may be given and enforced in manner provided by this Act.

Where a sum is directed to be paid by instalments and default is made in the payment of any one instalment, the same proceedings may be taken as if default had been made in payment of all the instalments then remaining unpaid.

A court of summary jurisdiction directing the payment of a sum or of an instalment of a sum may direct such payment to be made at such time or times, and in such place or places, and to such person or persons, as may be specified by the

court; and every person to whom any such sum or instalment is paid, where not the clerk of the court of summary jurisdiction, shall as soon as may be account for and pay over the same to that clerk.

Provision as to costs in the case of small fines.

8. Where a fine adjudged by a conviction by a court of summary jurisdiction to be paid does not exceed five shillings, then, except so far as the court may think fit to expressly order otherwise, an order shall not be made for payment by the defendant to the informant of any costs; and the court shall, except so far as they think fit to expressly order otherwise, direct all fees payable or paid by the informant to be remitted or repaid to him; the court may also order the fine or any part thereof to be paid to the informant in or towards the payment of his costs.

Enforcing of recognizances by court of summary jurisdiction.

9. (1.) Where a recognizance is conditioned for the appearance of a person before a court of summary jurisdiction, or for his doing some other matter or thing to be done in, to, or before a court of summary jurisdiction, or in a proceeding in a court of summary jurisdiction, such court, if the said recognizance appears to the court to be forfeited, may declare the recognizance to be forfeited, and enforce payment of the sum due under such recognizance in the same manner as if the sum were a fine adjudged by such court to be paid which the statute provides no means of enforcing, and were ascertained by a conviction.

Provided that at any time before the sale of goods under a warrant of distress for the said sum, the said court of summary jurisdiction, or any other court of summary jurisdiction for the same county, borough, or place, may 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 payment of the costs incurred in respect of the forfeiture, or upon such other conditions as the court may think just.

(2.) Where a recognizance conditioned to keep the peace or to be of good behaviour, or not to do or commit some act or thing, has been entered into by any person as principal or surety before a court of summary jurisdiction, that court or

any other court of summary jurisdiction acting for the same county, borough, or place, upon proof of the conviction of the person bound as principal by such recognizance of any offence which is in law a breach of the condition of the same, may by conviction adjudge such recognizance to be forfeited, and adjudge the persons bound thereby, whether as principal or sureties, or any of such persons, to pay the sums for which they are respectively bound.

(3.) Except where a person seeking to put in force a recognizance to keep the peace or to be of good behaviour, by notice in writing, requires such recognizance to be transmitted to a court of general or quarter sessions, the recognizances to which this section applies shall be dealt with in manner in this section mentioned, and notwithstanding any enactment to the contrary, shall not be transmitted, nor shall the forfeiture thereof be certified, to general or quarter sessions.

(4.) All sums paid in respect of a recognizance declared or adjudged by a court of summary jurisdiction in pursuance of this section to be forfeited shall be paid to the clerk of such court, and shall be paid and applied by him in the manner in which fines imposed by such court, in respect of which fines no special appropriation is made, are payable and applicable.

10. (1.) Where a child is charged before a court of summary jurisdiction with any indictable offence other than homicide, the court, if they think it expedient so to do, and if the parent or guardian of the child so charged, when informed by the court of his 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 inflict the same description of punishment as might have been inflicted had the case been tried on indictment.

Summary trial of children for indictable offences, unless objected to by parent or guardian.

Provided that—

- (a.) A sentence of penal servitude shall not be passed, but imprisonment shall be substituted therefor; and
- (b.) Where imprisonment is awarded, the term shall not, in any case exceed one month; and
- (c.) Where a fine is awarded, the amount shall not in any case exceed forty shillings; and
- (d.) When the child is a male the court may, either in

addition to or instead of any other punishment, adjudge the child to be, as soon as practicable, privately whipped with not more than six strokes of a birch rod by a constable, in the presence of an inspector or other officer of police of higher rank than a constable, and also in the presence, if he desires to be present, of the parent or guardian of the child.

(2.) For the purpose of a proceeding under this section, the court of summary jurisdiction, at any time during the hearing of the case at which they become satisfied by the evidence that it is expedient to deal with the case summarily, shall cause the charge to be reduced into writing and read to the parent or guardian of the child, and then address a question to such parent or guardian to the following effect: "Do you desire the child to be tried by jury, and object to the case being dealt with summarily?" with a statement, if the court think such statement desirable for the information of such parent or guardian, of the meaning of the case being dealt with summarily, and of the assizes or sessions (as the case may be) at which the child will be tried if tried by a jury.

(3.) Where the parent or guardian of a child is not present when the child is charged with an indictable offence before a court of summary jurisdiction, the court may, if they think 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, so far as is practicable, of securing his attendance at the hearing of the charge, or the court may, if they think it expedient so to do, deal with the case summarily.

(4.) This section shall not prejudice the right of a court of summary jurisdiction to send a child to a reformatory or industrial school.

(5.) This section shall not render punishable for an offence any child who is not, in the opinion of the court before whom he is charged, above the age of seven years and of sufficient capacity to commit crime.

Summary trial
with consent of
young persons
(juvenile
offenders).

11. (1.) Where a young person is charged before a court of summary jurisdiction with any indictable offence specified in the first column of the First Schedule to this Act, the court, if they think 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 the young person charged with the offence, when informed by the court of his right to be tried by a jury, consents to be dealt with summarily, may deal summarily with the offence, and in their discretion adjudge such person, if found guilty of the offence, either to pay a fine not exceeding ten pounds, or to be imprisoned, with or without hard labour, for any term not exceeding three months; and if the young person is a male, and, in the opinion of the court, under the age of fourteen years, the court, if they think it expedient so to do, may, either in substitution for or in addition to any other punishment under this Act, adjudge such young person to be, as soon as practicable, privately whipped with not more than twelve strokes of a birch rod by a constable, in the presence of an inspector or other officer of police of higher rank than a constable, and also in the presence, if he desires to be present, of the parent or guardian of such young person.

(2.) For the purpose of a proceeding under this section, the court, at any time during the hearing of the case at which they become satisfied by the evidence that it is expedient to deal with the case summarily, shall cause the charge to be reduced into writing and read to the young person charged, and then address a question to him to the following effect: "Do you desire to be tried by a jury, or do you consent to the case being dealt with summarily?" with a statement, if the court think 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 assizes or sessions (as the case may be) at which he will be tried if tried by a jury.

(3.) This section shall not prejudice the right of a court of summary jurisdiction to send a young person to a reformatory or an industrial school.

12. Where a person who is an adult is charged before a court of summary jurisdiction with any indictable offence specified in the second column of the First Schedule to this Act, the court, if they think it expedient so to do, having regard to the character and antecedents of the person charged, the nature of

Summary trial
with consent of
adult.

the offence, and all the circumstances of the case, and if the person charged with the offence, when informed by the court of his right to be tried by a jury, consents to be dealt with summarily, may deal summarily with the offence, and adjudge such person, if found guilty of the offence, to be imprisoned, with or without hard labour, for any term not exceeding three months, or to pay a fine not exceeding twenty pounds.

For the purpose of a proceeding under this section, the court, at any time during the hearing of the case at which they become satisfied by the evidence that it is expedient to deal with the case summarily, shall cause the charge to be reduced into writing and read to the person charged, and then address a question to him to the following effect: "Do you desire to be tried by a jury, or do you consent to the case being dealt with summarily?" with a statement, if the court think such statement desirable for the information of the person to whom the question is addressed, of the meaning of the case being dealt with summarily, and of the assizes or sessions (as the case may be) at which he will be tried if tried by a jury.

Summary conviction on plea of guilty of adult.

13. (1.) Where a person who is an adult is charged before a court of summary jurisdiction with an indictable offence which is specified in the first column of the First Schedule to this Act, and is not comprised in the second column of that schedule, and the court at any time during the hearing of the case become satisfied that the evidence is sufficient to put the person charged on his trial for the said offence, and further are satisfied (either after such a remand as is provided by this Act or otherwise) that the case is one which, having regard to the character and antecedents of the person charged, the nature of the offence, and all the circumstances of the case, may properly be dealt with summarily, and may be adequately punished by virtue of the powers of this Act, then the court shall cause the charge to be reduced into writing and read to the person charged, and shall then ask him whether he is guilty or not of the charge, and if such person says that he is guilty, the court shall thereupon cause a plea of guilty to be entered, and adjudge him to be imprisoned, with or without hard labour, for any term not exceeding six months.

(2.) The court, before asking, in pursuance of this section, the person charged whether he is guilty or not, shall explain to him that he is not obliged to plead or answer, and that if he pleads guilty he will be dealt with summarily, and that if he does not plead or answer, or pleads not guilty, he will be dealt with in the usual course; with a statement, if the court thinks such statement desirable for the information of the person to whom the question is addressed, of the meaning of the case being dealt with summarily or in the usual course, and of the assizes or sessions (as the case may be) at which such person will be tried if tried by a jury. The court shall further state to such person to the effect that he is not obliged to say anything unless he desires to do so, but that whatever he says will be taken down in writing, and may be given in evidence against him upon his trial, and shall give him clearly to understand that he has nothing to hope from any promise of favour, and nothing to fear from any threat which may have been held out to him to induce him to make any admission or confession of his guilt, but that whatever he then says may be given in evidence against him upon his trial, notwithstanding such promise or threat.

(3.) If the prisoner does not plead guilty, whatever he says in answer shall be taken down in writing and read over to him, and signed by a justice constituting or forming part of the court, and kept with the depositions of the witnesses, and transmitted with them in manner required by law, and afterwards upon the trial of the prisoner, may, if necessary, be given in evidence against him without further proof thereof, unless it is proved that the justice purporting to have signed the same did not in fact sign the same.

14. Where a person who is an adult is charged before a court of summary jurisdiction with any indictable offence specified in the First Schedule to this Act, and it appears to the court that the offence is one which, owing to a previous conviction on indictment of the person so charged, is punishable by law with penal servitude, the court shall not deal with the case summarily in pursuance of this Act.

Restriction on summary dealing with adult charged with indictable offence.

15. A child on summary conviction for an offence punishable on summary conviction under this Act, or under any other Act,

Restriction on punishment of child for summary offence.

whether past or future, shall not be imprisoned for a longer period than one month nor fined a larger sum than forty shillings.

Power of Court to discharge accused without punishment.

16. If upon the hearing of a charge for an offence punishable on summary conviction under this Act, or under any other Act, whether past or future, the court of summary jurisdiction think that though the charge is proved the offence was in the particular case of so trifling a nature that it is inexpedient to inflict any punishment, or any other than a nominal punishment,—

(1.) The court, without proceeding to conviction, may dismiss the information, and if the court think fit, may order the person charged to pay such damages, not exceeding forty shillings, and such costs of the proceeding, or either of them, as the court think reasonable; or,

(2.) The court upon convicting the person charged may discharge him conditionally on his giving security, with or without sureties, to appear for sentence when called upon, or to be of good behaviour, and either without payment of damages and costs, or subject to the payment of such damages and costs, or either of them, as the court think reasonable:

Provided that this section shall not apply to an adult convicted in pursuance of this Act of an offence of which he has pleaded guilty, and of which he could not, if he had not pleaded guilty, be convicted by a court of summary jurisdiction.

Right to claim trial by jury in case of offences otherwise triable summarily.

17. (1.) A person when charged before a court of summary jurisdiction with an offence, in respect of the commission of which an offender is liable on summary conviction to be imprisoned for a term exceeding three months, and which is not an assault, may, on appearing before the court and before the charge is gone into, but not afterwards, claim to be tried by a jury, and thereupon the court of summary jurisdiction shall deal with the case in all respects as if the accused were charged with an indictable offence and not with an offence punishable on summary conviction, and the offence shall as respects the person so charged, be deemed to be an indictable

offence, and if the person so charged is committed for trial, or bailed to appear for trial, shall be prosecuted accordingly, and the expenses of the prosecution shall be payable as in cases of felony.

(2.) A court of summary jurisdiction, before the charge is gone into in respect of an offence to which this section applies for the purpose of informing the defendant of his right to be tried by a jury in pursuance of this section, shall address him to the following effect: "You are charged with an offence in respect of the commission of which you are entitled, if you desire it, instead of being dealt with summarily, to be tried by a jury; do you desire to be tried by a jury?" with a statement, if the court think such statement desirable for the information of the person to whom the question is addressed, of the meaning of being dealt with summarily, and of the assizes or sessions (as the case may be) at which such person will be tried if tried by a jury.

(3.) This section shall not apply to the case of a child unless the parent or guardian of the child is present; but the court shall ascertain whether the parent or guardian of the child is present, and if he is, shall address the above question to such parent or guardian, and the claim under this section may be made by such parent or guardian.

18. A court of summary jurisdiction shall not, by cumulative sentences of imprisonment (other than for default of finding sureties) to take effect in succession in respect of several assaults committed on the same occasion, impose on any person imprisonment for the whole exceeding six months.

Imprisonment in cases of cumulative sentences not to exceed six months.

19. Where, in pursuance of any Act, whether past or future, any person is adjudged by a conviction or order of a court of summary jurisdiction to be imprisoned without the option of a fine, either as a punishment for an offence, or, save as hereinafter mentioned, for failing to do or to abstain from doing any act or thing required to be done or left undone, and such person is not otherwise authorised to appeal to a court of general or quarter sessions, and did not plead guilty or admit the truth of the information or complaint, he may, notwithstanding anything in the said Act, appeal to a court of general or quarter sessions against such conviction or order:

Appeal from summary conviction to general or quarter sessions.

Provided that this section shall not apply where the imprisonment is adjudged for failure to comply with an order for the payment of money, for the finding of sureties, for the entering into any recognizance, or for the giving of any security.

Court of summary jurisdiction to sit at a petty sessional or occasional court-house, &c.

20. (1.) A case arising under this Act, or under any other Act, whether past or future, shall not be heard, tried, determined, or adjudged by a court of summary jurisdiction, except when sitting in open court.

(2.) Open court means a petty sessional court-house or an occasional court-house.

(3.) A petty sessional court-house means a court-house or other place at which justices are accustomed to assemble for holding special or petty sessions, or which is for the time being appointed as a substitute for such court-house or place; and where the justices are accustomed to assemble for either special or petty sessions at more than one court-house or place in a petty sessional division, means any such court-house or place.

(4.) An occasional court-house means such police station or other place as is appointed (as hereinafter provided) to be used as an occasional court-house.

(5.) The justices of a petty sessional division of a county shall, from time to time, at a sessions of which notice has been given to every justice of such division, appoint police stations or other places other than the petty sessional court-house, to be used as occasional court-houses, at which cases may be heard, tried, determined and adjudged, and they may from time to time, at such a sessions as aforesaid, vary any police station or place so appointed, and shall cause public notice to be given in such manner as they think expedient of every police station or place for the time being appointed to be used as an occasional court-house.

(6.) A court of summary jurisdiction consisting of two or more justices, when sitting in a petty sessional court-house, is in this Act referred to as a petty sessional court.

(7.) Where a case arising under this Act, or under any other Act, whether past or future, is heard, tried, determined, and adjudged by a court of summary jurisdiction sitting in an

occasional court-house, the period of imprisonment imposed by the conviction or order of such court shall not exceed fourteen days, and the sum adjudged to be paid by the conviction or order of such court shall not exceed twenty shillings; and a justice of the peace, when sitting alone in a petty sessional court-house, shall not have power to impose any greater term of imprisonment or adjudge any larger sum to be paid than is above mentioned.

(8.) An indictable offence dealt with summarily in pursuance of this Act shall not be heard, tried, determined, or adjudged except by a petty sessional court sitting on some day appointed for hearing indictable offences, of which public notice has been given in such manner as to the justices of the petty sessional division seem expedient, or at some adjournment of such court.

(9.) Any case arising under this Act, other than such indictable offence as aforesaid, and any case arising under any future Act which is triable by a court of summary jurisdiction, shall, unless it is otherwise prescribed, be heard, tried determined and adjudged by a court of summary jurisdiction consisting of two or more justices.

(10.) The Lord Mayor of the City of London, and any alderman of the said city, and any metropolitan or borough police magistrate or other stipendiary magistrate, when sitting in a court-house or place at which he is authorised by law to do alone any act authorised to be done by more than one justice of the peace, shall, for the purposes of this Act, be deemed to be a court of summary jurisdiction consisting of two or more justices, and also to be a court of summary jurisdiction sitting in a petty sessional court-house, and is in this Act included in the expression "petty sessional court."

(11.) A court of summary jurisdiction, when not a petty sessional court, may, without prejudice to any other power of adjournment which the court may possess, adjourn the hearing of any case to the next practicable sitting of a petty sessional court in the same manner in all respects as a justice is authorised to adjourn the hearing of a case under section 16 of the Summary Jurisdiction Act, 1848.

21. (1.) A court of summary jurisdiction to whom applica-

11 & 12 Vict. c.
43.

Special pro-
visions as to

warrants of commitment for non-payment of sums of money, and as to warrants of distress.

tion is made either to issue a warrant of distress for any sum adjudged to be paid by a conviction or order, or to issue a warrant for committing a person to prison for non-payment of a sum of money adjudged to be paid by a conviction, or in the case of a sum not a civil debt by an order, or for default of sufficient distress to satisfy any such sum, may, if the court deem it expedient so to do, postpone the issue of such warrant until such time and on such conditions, if any, as to the court may seem just.

(2.) The wearing apparel and bedding of a person and his family, and, to the value of five pounds, the tools and implements of his trade, shall not be taken under a distress issued by a court of summary jurisdiction.

(3.) Where a person is adjudged by the conviction of a court of summary jurisdiction, or in the case of a sum not a civil debt by an order of such court, to pay any sum of money, and on default of payment of such sum a warrant of distress is authorised to be issued, and it appears to the court of summary jurisdiction to whom application is made to issue such warrant that such person has no goods whereon to levy the distress, or that in the event of a warrant of distress being issued his goods will be insufficient to satisfy the money payable by him, or that the levy of the distress will be more injurious to him or his family than imprisonment, such court, instead of issuing such warrant of distress, may, if it think fit, order the said person, on non-payment of the said sum, to be imprisoned for any period not exceeding the period for which he is liable under such conviction or order to be imprisoned in default of sufficient distress.

(4.) Where on application to a court of summary jurisdiction to issue a warrant for committing a person to prison for non-payment of a sum adjudged to be paid by a conviction of any court of summary jurisdiction, or in the case of a sum not a civil debt by an order of such court, or for default of sufficient distress to satisfy any such sum, it appears to the court to whom the application is made that either by payment of part of the said sum, whether in the shape of instalments or otherwise, or by the net proceeds of the distress, the amount of the sum so adjudged has been reduced to such an extent that the

unsatisfied balance, if it had constituted the original amount adjudged to be paid by the conviction or order, would have subjected the defendant to a maximum term of imprisonment less than the term of imprisonment to which he is liable under such conviction or order, the court shall, by its warrant of commitment, revoke the term of imprisonment, and order the defendant to be imprisoned for a term not exceeding such less maximum term, instead of for the term originally mentioned in the conviction or order.

Supplemental Provisions.

22. (1.) The clerk of every court of summary jurisdiction shall keep a register of the minutes or memorandums of all the convictions and orders of such court, and of such other proceedings as are directed by a rule under this Act to be registered, and shall keep the same with such particulars and in such form as may be from time to time directed by a rule under this Act.

Register of
court of sum-
mary jurisdic-
tion.

(2.) Such register, and also any extract from such register certified by the clerk of the court keeping the same to be a true extract, shall be *prima facie* evidence of the matters entered therein for the purpose of informing a court of summary jurisdiction acting for the same county, borough or place as the court whose convictions, orders, and proceedings are entered in the register; but nothing in this section shall dispense with the legal proof of a previous conviction for an offence when required to be proved against a person charged with another offence.

(3.) The register kept by any particular clerk, in pursuance of this section, may be distinguished by the name of his petty sessional division, or by such name or description as may be directed by a rule under this Act.

(4.) The entries relating to each minute, memorandum or proceeding shall be either entered or signed by the justice or one of the justices constituting the court by or before whom the conviction or order or proceeding referred to in the minute or memorandum was made or had, except that when a court of summary jurisdiction is not a petty sessional court a return signed as aforesaid, and made and entered in the register in manner provided by a rule under this Act shall suffice.

(5.) Every sum paid to the clerk of a court of summary jurisdiction in accordance with the Summary Jurisdiction Acts, and the appropriation of such sum, shall be entered and authenticated in such manner as may be from time to time directed by a rule under this Act.

(6.) Every such register shall be open for inspection, without fee or reward, by any justice of the peace, or by any person authorised in that behalf by a justice of the peace or by a Secretary of State.

Regulations as
to securities
taken in pur-
suance of Act.

23. (1.) A person shall give security under this Act, whether as principal or surety, either by the deposit of money with the clerk of the court, or by an oral or written acknowledgment of the undertaking or condition by which and of the sum for which he is bound, in such manner and form as may be for the time being directed by any rule made in pursuance of this Act, and evidence of such security may be provided by entry thereof in the register under this Act of proceedings of a court of summary jurisdiction or otherwise as may be directed by such rule.

(2.) Any sum which may become due in pursuance of a security under this Act from a surety shall be recoverable summarily in manner directed by this Act with respect to a civil debt, on complaint by a constable or by the clerk of the court directing such security to be given, or by some other person authorised for the purpose by that court or any other court of summary jurisdiction for the same county, borough or place.

(3.) A court of summary jurisdiction may enforce payment of any sum due by a principal in pursuance of a security under this Act which appears to such court to be forfeited, in like manner as if that sum were adjudged by a court of summary jurisdiction to be paid as a fine which the statute provides no mode of enforcing, if the security was given for a sum adjudged by a conviction, and in any other case in like manner as if it were a sum adjudged by a court of summary jurisdiction to be paid as a civil debt; provided that before a warrant of distress for the sum is issued, such notice of the forfeiture shall be served on the said principal, and in such manner as may be directed for the time being by rules under this Act, and sub-

ject thereto by the court authorising the security, or by any court to whom application is made for the issue of the warrant.

(4.) Any sum paid by a surety on behalf of his principal in respect of a security under this Act, together with all costs, charges and expenses incurred by such surety in respect of that security, shall be deemed a civil debt due to him from the principal, and may be recovered before a court of summary jurisdiction in manner directed by this Act with respect to the recovery of a civil debt which is recoverable summarily.

(5.) Where security is given under this Act for payment of a sum of money, the payment of such sum shall be enforced by means of such security in substitution for other means of enforcing such payment.

24. (1.) Where a person is charged before a court of summary jurisdiction with an indictable offence, with which a court of summary jurisdiction has or may have under the circumstances in this Act mentioned power to deal summarily, the court before whom such person is charged, without prejudice to any other power that it may possess,—

Power of court of summary jurisdiction to remand for indictable offences.

(a.) 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, from time to time adjourn the case and remand the person accused; and

(b.) If such court is not at the time of the charge a petty sessional court, and the court think the case proper to be dealt with summarily, may adjourn the case and remand the person accused until the next practicable sitting of a petty sessional court.

(2.) A person may be remanded under this section in like manner in all respects as a person accused of an indictable offence may be remanded under section twenty-one of the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-two, intituled "An Act to facilitate the performance of the duties of justices of the peace out of sessions within England and Wales with respect to persons charged with indictable offences," with this addition, that where he is remanded to the next practicable sitting

of a petty sessional court he may be remanded for more than eight days.

Procedure before court of summary jurisdiction in case of sureties to keep the peace.

25. The power of a court of summary jurisdiction, upon complaint of any person, to adjudge a person to enter into a recognizance and find sureties to keep the peace or to be of good behaviour towards such first-mentioned person, shall be exercised by an order upon complaint, and the Summary Jurisdiction Acts shall apply accordingly, and the complainant and defendant and witnesses may be called and examined and cross-examined, and the complainant and defendant shall be subject to costs, as in the case of any other complaint.

The court may order the defendant, in default of compliance with the order, to be imprisoned for a period not exceeding, if the court be a petty sessional court, six months, and if the court be a court of summary jurisdiction other than a petty sessional court, fourteen days.

Power of petty sessional court with respect to varying order for sureties.

26. Where a person has been committed to prison by a court of summary jurisdiction for default in finding sureties, any petty sessional court for the same county borough or place may, on application made to them in manner directed by a rule made in pursuance of this Act, by him or by some one acting on his behalf, inquire into the case of the person so committed, and if upon new evidence produced to such court, or proof of a change of circumstances, the court think, having regard to all the circumstances of the case, that it is just so to do, they may reduce the amount for which it is proposed the sureties or surety should be bound, or dispense with the sureties or surety, or otherwise deal with the case as the court may think just.

Regulations as to indictable offences dealt with summarily.

27. Where an indictable offence is under the circumstances in this Act mentioned authorised to be dealt with summarily,—

- (1.) The procedure shall, until the court assume the power to deal with such offence summarily, be the same in all respects as if the offence were to be dealt with throughout as an indictable offence, but when and so soon as the court assume the power to deal with such offence summarily, the procedure shall be the same from and after that period as if the offence were an offence punishable on summary conviction

and not on indictment, and the provisions of the Acts relating to offences punishable on summary conviction shall apply accordingly; and

- (2.) The evidence of any witness taken before the court assumed the said power need not be taken again, but every such witness shall, if the defendant so require it, be recalled for the purpose of cross-examination; and
- (3.) The conviction for any such offence shall be of the same effect as a conviction for the offence on indictment, and the court may make the like order for the restitution of property as might have been made by the court before whom the person convicted would have been tried if he had been tried on indictment; and
- (4.) Where the court have assumed the power to deal with the case summarily, and dismiss the information, they shall, if required, deliver to the person charged a copy certified under their hands of the order of such dismissal, and such dismissal shall be of the same effect as an acquittal on a trial on indictment for the offence; and
- (5.) The conviction shall contain a statement either as to the plea of guilty of an adult, or in the case of a child as to the consent or otherwise of his parent or guardian, and in the case of any other person of the consent of such person, to be tried by a court of summary jurisdiction; and
- (6.) The order of dismissal shall be transmitted to and filed by the clerk of the peace in like manner as the conviction is required by the Summary Jurisdiction Act, 1848, to be transmitted and filed, and together with the order of dismissal or the conviction, as the case may be, there shall be transmitted to and filed by such clerk in each case the written charge, the depositions of the witnesses, and the statement, if any, of the accused.

28. Where an indictable offence (the expenses of the prosecution of which would otherwise have been payable out of the local rate) is dealt with summarily in pursuance of this

Cost of prosecution of indictable offences dealt with summarily.

Act by a court of summary jurisdiction, the expenses of the prosecution of such offence shall be payable in manner provided by this section.

The court dealing summarily with any such indictable offence may, if it seem fit, grant to any person who preferred the charge, or appeared to prosecute or give evidence, a certificate of the amount of the compensation which the court may deem reasonable for his expenses, trouble, and loss of time therein, subject, nevertheless, to such regulations as may be from time to time made by a Secretary of State with respect to the payment of costs in the case of indictable offences; and the amount named in the certificate may include the fees payable to the clerk of the court of summary jurisdiction, and the fees payable to the clerk of the peace for filing the conviction depositions and other documents required to be filed by him under this Act, and such other expenses as are by law payable when incurred before a commitment for trial; and every certificate so granted shall have the effect of an order of court for the payment of the expenses of a prosecution for felony, made in pursuance of the Act of the seventh year of King George the Fourth, chapter sixty-four, intituled "An Act for improving the administration of criminal justice in England," and the Acts amending the same, and the amount named in such certificate shall be paid in like manner as the expenses specified in such order would have been paid.

Power of the
Lord Chancellor
to make rules.

29. (1.) The Lord High Chancellor of Great Britain may from time to time make, and when made, rescind, alter and add to, rules in relation to the following matters, or any of them, that is to say,

- (a.) The giving security under this Act; and
- (b.) The forms to be used under the Summary Jurisdiction Acts, or any of them, including the forms of any recognizance mentioned in this Act; and
- (c.) The costs and charges payable under distress warrants issued by a court of summary jurisdiction; and
- (d.) Adapting to the provisions of this Act and of the Summary Jurisdiction Act, 1848, the procedure before courts of summary jurisdiction under any Act passed before the Summary Jurisdiction Act, 1848; and

11 & 12 Vict.
c. 43.

- (e.) Regulating the form of the account to be rendered by clerks of courts of summary jurisdiction of fines, fees, and other sums received by them, and providing for the discontinuance of any existing account rendered unnecessary by the aforesaid account; and
- (f.) Any other matter in relation to which rules are authorised or required to be made under or for the purpose of carrying into effect this Act.

(2.) The Lord Chancellor may, in the exercise of the power given him by this section, annul, alter, or add to any forms contained in the Summary Jurisdiction Act, 1848, or any forms relating to summary proceedings contained in any other Act.

(3.) Any rule purporting to be made in pursuance of this section shall be laid before both Houses of Parliament as soon as may be after it is made, if Parliament be then sitting, or if not then sitting, within one month after the commencement of the then next session of Parliament, and shall be judicially noticed.

30. Where the justices in general or quarter sessions assembled or the council of any borough have authority to hire or otherwise provide a fit and proper place for holding petty sessions of the peace, such justices or council shall have power to provide a petty sessional court-house within the meaning of this Act, by the purchase or other acquisition of land and the erection of a proper building thereon; and all enactments relating to the provision of such place, and to the raising of the money for defraying the expense of the provision of such place shall apply accordingly.

Power to provide petty sessional court-house.

PART II.

Amendment of Procedure.

31. Where any person is authorised by this Act or by any future Act to appeal from the conviction or order of a court of summary jurisdiction to a court of general or quarter sessions, he may appeal to such court, subject to the conditions and regulations following:

Procedure on appeal to general or quarter sessions.

- (1.) The appeal shall be made to the prescribed court of general or quarter sessions, or if no court is pre-

scribed, to the next practicable court of general or quarter sessions having jurisdiction in the county, borough, or place for which the said court of summary jurisdiction acted, and holden not less than fifteen days after the day on which the decision was given upon which the conviction or order was founded; and

- (2.) The appellant shall, within the prescribed time, or if no time is prescribed, within seven days after the day on which the said decision of the court was given, give notice of appeal by serving on the other party and on the clerk of the said court of summary jurisdiction notice in writing of his intention to appeal, and of the general grounds of such appeal; and
- (3.) The appellant shall, within the prescribed time, or if no time is prescribed, within three days after the day on which he gave notice of appeal, enter into a recognizance before a court of summary jurisdiction, with or without a surety or sureties as that court may direct, conditioned to appear at the said sessions and to try such appeal, and to abide the judgment of the court of appeal thereon, and to pay such costs as may be awarded by the court of appeal; or the appellant may, if the court of summary jurisdiction before whom the appellant appears to enter into a recognizance think it expedient, instead of entering into a recognizance, give such other security, by deposit of money with the clerk of the court of summary jurisdiction or otherwise, as that court deem sufficient; and
- (4.) Where the appellant is in custody, the court of summary jurisdiction before whom the appellant appears to enter into a recognizance may, if the court think fit, on the appellant entering into such recognizance or giving such other security as aforesaid, release him from custody; and
- (5.) The court of appeal may adjourn the hearing of the appeal, and upon the hearing thereof may confirm, reverse, or modify the decision of the court of

summary jurisdiction, or remit the matter, with the opinion of the court of appeal thereon, to a court of summary jurisdiction acting for the same county, borough or place as the court by whom the conviction or order appealed against was made, or may make such other order in the matter as the court of appeal may think just, and may by such order exercise any power which the court of summary jurisdiction might have exercised, and such order shall have the same effect, and may be enforced in the same manner as if it had been made by the court of summary jurisdiction. The court of appeal may also make such order as to costs to be paid by either party as the court may think just; and

- (6.) Whenever a decision is not confirmed by the court of appeal, the clerk of the peace shall send to the clerk of the court of summary jurisdiction from whose decision the appeal was made, for entry in his register, and also indorse on the conviction or order appealed against, a memorandum of the decision of the court of appeal, and whenever any copy or certificate of such conviction or order is made, a copy of such memorandum shall be added thereto, and shall be sufficient evidence of the said decision in every case where such copy or certificate would be sufficient evidence of such conviction or order; and
- (7.) Every notice in writing required by this section to be given by an appellant shall be in writing signed by him, or by his agent on his behalf, and may be transmitted as a registered letter by the post in the ordinary way, and shall be deemed to have been served at the time when it would be delivered in the ordinary course of the post.

32. Where a person is authorised by any past Act to appeal from the conviction or order of a court of summary jurisdiction to a court of general or quarter sessions, he may appeal to such court, subject to the conditions and regulations contained in this Act with respect to an appeal to a court of general or quarter sessions :

Application of provisions respecting appeals to quarter sessions to appeals under prior Acts.

Provided that where any such appeal is in accordance with the conditions and regulations prescribed by the Act authorising the appeal, so far as the same is unrepealed, such appeal shall not be deemed invalid by reason only that it is not in accordance with the conditions and regulations contained in this Act.

Where any past Act, so far as unrepealed, prescribes that any appeal from the conviction or order of a court of summary jurisdiction shall be made to the next court of general or quarter sessions, such appeal may be made to the next practicable court of general or quarter sessions having jurisdiction in the county, borough or place for which the court of summary jurisdiction acted, and held not less than fifteen days after the day on which the decision was given upon which the conviction or order appealed against was founded.

Appeal from court of summary jurisdiction by special case.

33. (1.) Any person aggrieved who desires to question a conviction, order, determination, or other proceeding of a court of summary jurisdiction, on the ground that it is erroneous in point of law, or is in excess of jurisdiction, may apply to the court to state a special case setting forth the facts of the case and the grounds on which the proceeding is questioned, and if the court decline to state the case, may apply to the High Court of Justice for an order requiring the case to be stated.

(2.) The application shall be made and the case stated within such time and in such manner as may be from time to time directed by rules under this Act, and the case shall be heard and determined in manner prescribed by rules of court made in pursuance of the Supreme Court of Judicature Act, 1875, and the Acts amending the same; and, subject as aforesaid, the Act of the session of the twentieth and twenty-first years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to improve the administration of the law" so far as respects summary proceedings before justices of "the peace," shall, so far as it is applicable, apply to any special case stated under this section, as if it were stated under that Act:

38 & 39 Vict.
c. 77

Provided that nothing in this section shall prejudice the statement of any special case under that Act.

34. (1.) Where a power is given by any future Act to a court of summary jurisdiction of requiring any person to do or abstain from doing any act or thing other than the payment of money, or of requiring any act or thing to be done or left undone other than the payment of money, and no mode is prescribed of enforcing such requisition, the court may exercise such power by an order or orders, and may annex to any such order any conditions as to time or mode of action which the court may think just, and may suspend or rescind any such order on such undertaking being given or condition being performed as the court may think just, and generally may make such arrangement for carrying into effect such power as to the court seems meet.

Summary orders.

(2.) A person making default in complying with an order of a court of summary jurisdiction in relation to any matter arising under any future Act other than the payment of money, shall be punished in the prescribed manner, or if no punishment is prescribed, may in the discretion of the court be ordered to pay a sum (to be enforced as a civil debt recoverable summarily under this Act) not exceeding one pound for every day during which he is in default, or to be imprisoned until he has remedied his default:

Provided that a person shall not, for non-compliance with the requisition of a court of summary jurisdiction, whether made by one or more orders, to do or abstain from doing any act or thing, be liable under this section to imprisonment for a period or periods amounting in the aggregate to more than two months, or to the payment of any sums exceeding in the aggregate twenty pounds.

35. Any sum declared by this Act, or by any future Act, to be a civil debt, which is recoverable summarily, or in respect of the recovery of which jurisdiction is given by such Act to a court of summary jurisdiction, shall be deemed to be a sum for payment of which a court of summary jurisdiction has authority by law to make an order on complaint in pursuance of the Summary Jurisdiction Acts. Provided as follows:—

Recovery of civil debts in court of summary jurisdiction.

(1.) A warrant shall not be issued for apprehending any person for failing to appear to answer any such complaint; and

- (2.) An order made by a court of summary jurisdiction for the payment of any such civil debt as aforesaid, or of any instalment thereof, or for the payment of any costs in the matter of any such complaint, whether ordered to be paid by the complainant or defendant, shall not, in default of distress or otherwise, be enforced by imprisonment, unless it be proved to the satisfaction of such court or of any other court of summary jurisdiction for the same county, borough or place, that the person making default in payment of such civil debt, instalment or costs either has, or has had since the date of the order, the means to pay the sum in respect of which he has made default, and has refused or neglected, or refuses or neglects, to pay the same, and in any such case the court shall have the same power of imprisonment as a county court would for the time being have under the Debtors Act, 1869, for default of payment if such debt had been recovered in that court, but shall not have any greater power.

32 & 33 Vict.
c. 62.

Proof of the means of the person making default may be given in such manner as the court to whom application is made for the commitment to prison think just, and for the purposes of such proof the person making default and any witnesses may be summoned and examined on oath according to the rules for the time being in force under this Act in relation to the summoning and examination of witnesses, or if no such rules are in force, to the rules for the like purpose made in pursuance of the Employers and Workmen Act, 1875.

38 & 39 Vict.
c. 90.

Summons of
witness when
out of the juris-
diction of a
court of
summary
jurisdiction.

36. Where a court of summary jurisdiction for any county, borough or place would have power to issue a summons to a witness, if such witness were within the said county, borough or place, and such witness is believed to be within some other county, borough or place in England, such court may issue a summons to such witness in like manner as if such witness were within the jurisdiction of such court; and any court of summary jurisdiction for the county, borough or place in which the witness may be, or be believed to be, may, on proof on oath, or such solemn declaration as provided by this Act,

of the signature to the summons, indorse the summons, and the witness, on service of the summons so indorsed and on payment or tender of a reasonable amount for his expenses, shall obey the summons, and in default shall be liable to be apprehended or otherwise proceeded against either in the county, borough or place in which the summons was issued, or in that in which the witness may happen to be, in manner directed by the Summary Jurisdiction Act, 1848, as if such witness had been duly summoned by a court of summary jurisdiction for the county, borough or place in which such witness is apprehended or proceeded against.

11 & 12 Vict.
c. 43.

37. A warrant or summons issued by a justice of the peace under the Summary Jurisdiction Act, 1848, or any other Act, whether past or future, or otherwise, shall not be avoided by reason of the justice who signed the same dying or ceasing to hold office.

Summons or
warrant not
avoided by
death of
justice, &c.
11 & 12 Vict.
c. 43.

38. A person taken into custody for an offence without a warrant shall be brought before a court of summary jurisdiction as soon as practicable after he is so taken into custody, and if it is not or will not be practicable to bring him before a court of summary jurisdiction within twenty-four hours after he is so taken into custody, a superintendent or inspector of police, or other officer of police of equal or superior rank, or in charge of any police station, shall inquire into the case, and, except where the offence appears to such superintendent, inspector or officer to be of a serious nature, shall discharge the prisoner, upon his entering into a recognizance, with or without sureties, for a reasonable amount, to appear before some court of summary jurisdiction at the day, time and place named in the recognizance.

Bail of person
arrested with-
out a warrant.

39. The following enactments shall apply to proceedings before courts of summary jurisdiction; (that is to say,)

Provisions as to
proceedings, &c.

(1.) The description of any offence in the words of the Act, or any order, bye-law, regulation, or other document creating the offence, or in similar words, shall be sufficient in law; and

(2.) Any exception, exemption, proviso, excuse, or qualification, whether it does or does not accompany in the same section the description of the offence in the

Act, order, bye-law, regulation, or other document creating the offence, may be proved by the defendant, but need not be specified or negatived in the information or complaint, and if so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the informant or complainant; and

- (3.) A warrant of commitment shall not be held void by reason of any defect therein, if it be therein alleged that the offender has been convicted or ordered to do or abstain from doing any act or thing required to be done or left undone, and there is a good and valid conviction or order to sustain the same; and
- (4.) A warrant of distress shall not be deemed void by reason only of any defect therein, if it be therein alleged that a conviction or order has been made, and there is a good and valid conviction or order to sustain the same, and a person acting under a warrant of distress shall not be deemed a trespasser from the beginning by reason only of any defect in the warrant, or of any irregularity in the execution of the warrant, but this enactment shall not prejudice the right of any person to satisfaction for any special damage caused by any defect in or irregularity in the execution of a warrant of distress, so however that if amends are tendered before action brought, and if the action is brought are paid into court in the action, and the plaintiff does not recover more than the sum so tendered and paid into court, the plaintiff shall not be entitled to any costs incurred after such tender, and the defendant shall be entitled to costs, to be taxed as between solicitor and client; and
- (5.) All forfeitures not pecuniary which are incurred in respect of an offence triable by a court of summary jurisdiction, or which may be enforced by a court of summary jurisdiction, may be sold or disposed of in such manner as the court having cognizance of the case or any other court of summary jurisdiction for the same county, borough or place may direct, and

the proceeds of such sale shall be applied in the like manner as if the proceeds were a fine imposed under the Act on which the proceeding for the forfeiture is founded.

40. A writ of certiorari or other writ shall not be required for the removal of any conviction, order, or other determination, in relation to which a special case is stated by a court of general or quarter sessions for obtaining the judgment or determination of a superior court.

Case from quarter sessions without certiorari.

41. In a proceeding within the jurisdiction of a court of summary jurisdiction, without prejudice to any other mode of proof, service on a person of any summons, notice, process, or document required or authorised to be served, and the handwriting and seal of any justice of the peace or other officer or person on any warrant, summons, notice, process, or document, may be proved by a solemn declaration taken before a justice of the peace, or before a commissioner to administer oaths in the Supreme Court of Judicature, or before a clerk of the peace or a registrar of a county court; and any declaration purporting to be so taken shall, until the contrary is shown, be sufficient proof of the statements contained therein, and shall be received in evidence in any court or legal proceeding, without proof of the signature or of the official character of the person or persons taking or signing the same; and the fee, if any, for taking such declaration shall be such sum, not exceeding one shilling, as may be directed by rules made in pursuance of this Act, and any such fee shall be costs in the matter or proceeding to which it relates.

Proof by declaration of service of process, handwriting, &c.

The declaration may be in the form provided by a rule under this Act, and if any declaration made under this section is untrue in any material particular, the person wilfully making such false declaration shall be guilty of wilful and corrupt perjury.

42. When a court of summary jurisdiction has fixed, as respects any recognizance, the amount in which the principal and the sureties (if any) are to be bound, the recognizance, notwithstanding anything in this or any other Act, need not be entered into before such court, but may, subject to any rules made in pursuance of this Act, be entered into by the parties

Recognizances taken out of court.

before any other court of summary jurisdiction or before any clerk of a court of summary jurisdiction, or before a superintendent or inspector of police or other officer of police of equal or superior rank or in charge of any police station, or where any of the parties is in prison, before the governor or other keeper of such prison; and thereupon all the consequences of law shall ensue, and the provisions of this Act, with respect to recognizances taken before a court of summary jurisdiction, shall apply, as if the recognizance had been entered into before the said court as heretofore by law required.

Procedure on
the execution
of distress
warrants.

43. The following regulations shall be enacted with respect to warrants of distress issued by a court of summary jurisdiction :

- (1.) A warrant of distress shall be executed by or under the direction of a constable; and
- (2.) Save so far as the person against whom the distress is levied otherwise consents in writing, the distress shall be sold by public auction, and five clear days at the least shall intervene between the making of the distress and the sale, and where written consent is so given as aforesaid the sale may be made in accordance with such consent; and
- (3.) Subject as aforesaid, the distress shall be sold within the period fixed by the warrant, and if no period is so fixed, then within the period of fourteen days from the date of the making of the distress, unless the sum for which the warrant was issued, and also the charges of taking and keeping the said distress, are sooner paid; and
- (4.) Subject to any directions to the contrary given by the warrant of distress, where the distress is levied on household goods, the goods shall not, except with the consent in writing of the person against whom the distress is levied, be removed from the house until the day of sale, but so much of the goods shall be impounded as are in the opinion of the person executing the warrant sufficient to satisfy the distress, by affixing to the articles impounded a conspicuous

mark; and any person removing any goods so marked, or defacing or removing the said mark shall, on summary conviction, be liable to a fine not exceeding five pounds; and

- (5.) Where a person charged with the execution of a warrant of distress wilfully retains from the produce of any goods sold to satisfy the distress, or otherwise exacts any greater costs and charges than those to which he is for the time being entitled by law, or makes any improper charge, he shall be liable, on summary conviction, to a fine not exceeding five pounds; and
- (6.) A written account of the costs and charges incurred in respect of the execution of any warrant of distress shall be sent by the constable charged with the execution of the warrant, as soon as practicable, to the clerk of the court of summary jurisdiction issuing the warrant; and it shall be lawful for the person upon whose goods the distress was levied, within one month after the levy of the distress, to inspect such account without fee or reward at any reasonable time to be appointed by the court, and to take a copy of such account; and
- (7.) A constable charged with the execution of a warrant of distress shall cause the distress to be sold, and may deduct out of the amount realised by such sale all costs and charges actually incurred in effecting such sale, and shall render to the owner the overplus, if any, after retaining the amount of the sum for which the warrant was issued and the proper costs and charges of the execution of the warrant; and
- (8.) Where a person pays or tenders to the constable charged with the execution of a warrant of distress the sum mentioned in such warrant, or produces the receipt for the same of the clerk of the court of summary jurisdiction issuing the warrant, and also pays the amount of the costs and charges of such distress up to the time of such payment or tender, the constable shall not execute the warrant.

Return by order
of court of pro-
perty taken
from prisoner.

44. Where any property has been taken from a person charged before a court of summary jurisdiction with any offence punishable either on indictment or on summary conviction, a report shall be made by the police to such court of summary jurisdiction of the fact of such property having been taken from the person charged, and of the particulars of such property, and the court shall, if of opinion that the property or any portion thereof can be returned consistently with the interests of justice and with the safe custody of the person charged, direct such property, or any portion thereof, to be returned to the person charged or to such other person as he may direct.

Local jurisdic-
tion of court
under this Act.

45. Where a person is charged with an indictable offence, mentioned in the First Schedule to this Act, before a court of summary jurisdiction for any county, borough, or place, and the court have jurisdiction to commit such person for trial in such county, borough, or place, although the offence was not committed therein, such court shall also have jurisdiction to deal with the offence summarily in pursuance of this Act.

General pro-
visions as to
local jurisdic-
tion of courts of
summary
jurisdiction.

46. For the purposes of the trial of any offence punishable on summary conviction under this Act, or under any other Act, whether past or future, the following provisions shall have effect—

- (1.) Where the offence is committed in any harbour, river, arm of the sea, or other water, tidal or other, which runs between or forms the boundary of the jurisdiction of two or more courts of summary jurisdiction, such offence may be tried by any one of such courts.
- (2.) Where the offence is committed on the boundary of the jurisdiction of two or more courts of summary jurisdiction, or within the distance of five hundred yards of any such boundary, or is begun within the jurisdiction of one court and completed within the jurisdiction of another court of summary jurisdiction, such offence may be tried by any one of such courts.
- (3.) Where the offence is committed on any person, or in respect of any property in or upon any carriage, cart, or vehicle whatsoever employed in a journey, or on

board any vessel whatsoever employed in a navigable river, lake, canal, or inland navigation, the person accused of such offence may be tried by any court of summary jurisdiction through whose jurisdiction such carriage, cart, vehicle, or vessel passed in the course of the journey or voyage during which the offence was committed; and where the side, bank, centre or other part of the highway, road, river, lake, canal, or inland navigation along which the carriage, cart, vehicle, or vessel passed in the course of such journey or voyage is the boundary of the jurisdiction of two or more courts of summary jurisdiction, a person may be tried for such offence by any one of such courts.

- (4.) Any offence which is authorised by this section to be tried by any court of summary jurisdiction may be dealt with, heard, tried, determined, adjudged, and punished as if the offence had been wholly committed within the jurisdiction of such court.

PART III.

DEFINITIONS, SAVINGS, AND REPEAL OF ACTS.

Special Definitions.

47. The provisions of this Act, with respect to a sum adjudged to be paid by an order, shall apply, so far as circumstances admit, to a sum in respect of which a court of summary jurisdiction can issue a warrant of distress without an information or complaint under the Summary Jurisdiction Act, 1848, in like manner as if the said sum were a civil debt; and the provisions of this Act with respect to the hearing, trying, determining, and adjudging of a case by a court of summary jurisdiction when sitting in open court shall apply to the hearing, trying, determining, and adjudging by a court of summary jurisdiction of an application for the issue of any such warrant.

Application of Act to sums leviable by distress or payable under order.

11 & 12 Vict. c. 43.

The provisions of this Act with respect to the period of imprisonment to be imposed in respect of the non-payment of

a sum of money adjudged to be paid by a conviction, or in respect of the default of a sufficient distress to satisfy any such sum, shall apply to the period of imprisonment to be imposed in respect of the non-payment of any sum of money adjudged to be paid by an order of a court of summary jurisdiction, or in respect of the default of a sufficient distress to satisfy any such sum, where such sum is not a civil debt nor enforceable as a civil debt.

As to clerk of court of summary jurisdiction.

40 & 41 Vict. c. 43.

48. Anything required by this Act to be done by, to, or before a clerk of a court of summary jurisdiction, shall be done by, to, or before the salaried clerk to a petty sessional division under section five of the Justices Clerks Act, 1877, and where there is more than one such clerk, by either of such clerks or by such of those clerks as a court of summary jurisdiction for such division from time to time direct; and if any other person acts as the clerk to a court of summary jurisdiction acting in and for such division, such person, subject to any rules made under this Act, shall be deemed for the purposes of this Act to have acted as the deputy of such salaried clerk, and shall make a return to the said salaried clerk of all matters done by such court and of all matters which the clerk of the court is required to enter in a register or otherwise to record :

40 & 41 Vict. c. 43.

Provided, that nothing in this section shall apply where the court of summary jurisdiction is a court to whose clerk section five of the Justices Clerks Act, 1877, does not apply; that is to say, the justices of a borough, or a metropolitan police court, or any stipendiary or other magistrate, the salary of whose clerk is regulated under any Act of Parliament, other than the Justices Clerks Act, 1877, and the principal Act therein mentioned.

40 & 41 Vict. c. 43.

Special definitions for purposes of the Act.

49. In this Act, if not inconsistent with the context, the following expressions have the meanings hereinafter respectively assigned to them; that is to say,

The expression "Secretary of State" means one of Her Majesty's Principal Secretaries of State :

The expression "child" means a person who in the opinion of the court before whom he is brought is under the age of twelve years :

The expression " young person " means a person who in the opinion of the court before whom he is brought is of the age of twelve years and under the age of sixteen years :

The expression " adult " means a person who in the opinion of the court before whom he is brought is of the age of sixteen years or upwards :

The expression " person " includes a child, young person, and adult, and also includes a body corporate :

The expression " guardian," in relation to a child, includes any person who, in the opinion of the court having cognizance of any case in which a child is concerned, has for the time being the charge of or control over such child :

The expression " prescribed " means prescribed or provided by any Act which relates to any offences, penalties, fines, costs, sums of money, orders, proceedings, or matters, to the punishment, recovery, making, or conduct of which the Summary Jurisdiction Acts expressly or impliedly apply or may be applied :

The expression " past Act " means any Act passed before the commencement of this Act, exclusive of this Act :

The expression " future Act " means any Act passed after the commencement of this Act :

The expression " fine " includes any pecuniary penalty or pecuniary forfeiture or pecuniary compensation payable under a conviction :

The expression " county " includes any county, riding, division, parts, or liberty of a county having a separate court of quarter sessions :

The expression " borough " means a borough subject to the provisions of the Municipal Corporations Act, 1835, ^{5 & 6 W. 4, c. 78.} and the Acts amending the same :

The expression " local rate " means as respects any county, borough or place, any county rate, borough rate or other local rate out of which the costs of the prosecution of any felony committed within such county, borough or place are payable :

The expressions " sum adjudged to be paid by a conviction "

and "sum adjudged to be paid by an order" respectively include any costs adjudged to be paid by the conviction or order, as the case may be, of which the amount is ascertained by such conviction or order.

General Definitions.

General definitions applicable to this and future Acts.

50. In this Act and any future Act, if not inconsistent with the context, the following expressions shall have the meanings hereinafter respectively assigned to them; that is to say,

11 & 12 Vict.
c. 43.

The expression "The Summary Jurisdiction Act, 1848," shall mean the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to facilitate the performance of the duties of justices of the peace out of sessions within England and Wales with respect to summary convictions and orders":

11 & 12 Vict.
c. 43.

The expression "The Summary Jurisdiction Acts" and the Expression "The Summary Jurisdiction (English) Acts" shall respectively mean the Summary Jurisdiction Act, 1848, and this Act and any Act, past or future, amending the Summary Jurisdiction Act, 1848, or this Act.

11 & 12 Vict.
c. 43.

The expression "court of summary jurisdiction" shall mean—

Any justice or justices of the peace or other magistrate, by whatever name called, to whom jurisdiction is given by, or who is or are authorised to act under the Summary Jurisdiction Acts or any of such Acts:

In any future Act, if not inconsistent with the context—

The expression "petty sessional court" shall have the same meaning as it has in this Act:

The expression "occasional court-house" shall mean such police station or other place as is for the time being appointed in pursuance of this Act to be used as an occasional court-house.

Application of Acts.

Application of Summary Juris-

51. The following regulations shall be made for the purpose

of facilitating the application of the Summary Jurisdiction Acts to any future Act; that is to say, diction Acts to future Acts.

- (1.) Where in any future Act, any offence is directed or authorised to be prosecuted summarily or on summary conviction, or any fine is directed or authorised to be recovered summarily or on summary conviction, or any other words are used implying that such offence is to be prosecuted or fine is to be recovered in manner provided by the Summary Jurisdiction Acts, the Summary Jurisdiction Acts shall apply accordingly; and
- (2.) Where in any future Act any sum of money is directed or authorised to be recovered before a court of summary jurisdiction, or on complaint made to a court of summary jurisdiction, or words are used (whether by authorising the sum to be recovered summarily or in a summary manner or otherwise) which imply that such sum of money is to be recovered before a court of summary jurisdiction or in manner provided by the Summary Jurisdiction Acts, the Summary Jurisdiction Acts shall apply accordingly; and
- (3.) Where in any future Act a court of summary jurisdiction is authorised to order or require a person to do or abstain from doing any act or thing other than the payment of a sum of money; or where in pursuance of any such Act, any act or thing other than the payment of a sum of money is required or authorised by an order of a court of summary jurisdiction to be done, or is declared capable of being enforced summarily, or by summary order; or where in any such Act any words are used implying that such act or thing is to be enforced in manner provided by the Summary Jurisdiction Acts, the Summary Jurisdiction Acts shall apply accordingly.

Savings and Construction.

52. The provisions of this Act, which enable a court of summary jurisdiction, notwithstanding any enactment to the contrary, to impose imprisonment without hard labour, and Saving for Army, Navy, Marine and Militia Acts.

reduce the prescribed period thereof, or do either of such acts, and in the case of a fine, if it be imposed as in respect of a first offence, to reduce the prescribed amount thereof, and in the case of imprisonment, to impose a fine in lieu of imprisonment, shall not apply to any proceedings taken under any Act relating to any of Her Majesty's regular or auxiliary forces.

Application
of Summary
Jurisdiction
Acts to Post
Office, Inland
Revenue,
and Customs.

53. The Summary Jurisdiction Acts shall apply to all informations, complaints, and other proceedings before a court of summary jurisdiction under the statutes relating to the Post Office.

Every offence under the statutes relating to the Post Office for which a person is liable to forfeit a sum not exceeding twenty pounds may be prosecuted before a court of summary jurisdiction in manner provided by the Summary Jurisdiction Acts.

The Summary Jurisdiction Acts shall, notwithstanding any special provisions to the contrary contained in any of the statutes relating to Her Majesty's revenue under the control of the Commissioners of Inland Revenue or the Commissioners of Customs, apply to all informations, complaints, and other proceedings before a court of summary jurisdiction under or by virtue of any of the said statutes.

Provided, that where the sum adjudged by conviction under or by virtue of any of the said statutes to be paid exceeds fifty pounds, the period of imprisonment imposed by a court of summary jurisdiction in respect of the nonpayment of such sum, or in respect of the default of a sufficient distress to satisfy such sum, may exceed three months, but shall not exceed six months.

Application and
construction
of Act.

54. This Act shall apply to the levying of sums adjudged to be paid by an order in any matter of bastardy, or by an order which is enforceable as an order of affiliation, and to the imprisonment of a defendant for non-payment of such sums, in like manner as if an order in any such matter or so enforceable were a conviction on information, and shall apply to the proof of the service of any summons, notice, process, or document in any matter of bastardy, and of any handwriting or seal in any such matter, and to an appeal from an order in any matter of bastardy.

Nothing in this Act shall authorise a court of summary jurisdiction to reduce the amount of a fine where the Act prescribing such amount carries into effect a treaty convention or agreement with a foreign state, and such treaty convention or agreement stipulates for a fine of a minimum amount.

This Act shall be construed as one with the Summary Jurisdiction Act, 1848, so far as is consistent with the tenour of such Acts respectively, and save as aforesaid shall be subject to the exceptions specified in section thirty-five of the Summary Jurisdiction Act, 1848 :

11 & 12 Vict.
c. 43.

11 & 12 Vict.
c. 43.

Provided that the provisions contained in sections thirty-three and thirty-four of the Summary Jurisdiction Act, 1848, as to the Acts relating to the police in the metropolis and in the city of London, and relating to the powers of justices within the metropolitan police district, shall not apply to or restrict the operation of this Act.

11 & 12 Vict.
c. 43.

This Act shall not apply to any information, complaint, or other summary proceeding laid, made, or instituted before the commencement of this Act, or in respect of any offence committed, or any act done, or any cause which arose before the commencement of this Act, and any such information, complaint, or other proceeding as aforesaid may be laid, made, instituted, and proceeded with in the same manner as if this Act had not been passed.

Repeal.

55. There shall be repealed as from the commencement of this Act—

Repeal of Acts.

- (1.) The Acts mentioned in the Second Schedule to this Act to the extent in the third column of that schedule mentioned; and
- (2.) So much of any other Act as is inconsistent with this Act.

Provided that this repeal shall not affect—

- (1.) Anything duly done or suffered before the commencement of this Act under any enactment hereby repealed; or
- (2.) Any right or privilege acquired or any liability incurred before the commencement of this Act under any enactment hereby repealed; or

- (3.) Any imprisonment, fine, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed before the commencement of this Act under any enactment hereby repealed; or
- (4.) The institution or prosecution to its termination of any investigation or legal proceeding or any other remedy for prosecuting any such offence, or ascertaining, enforcing, or recovering any such liability, imprisonment, fine, forfeiture, or punishment as aforesaid, and any such investigation, legal proceeding, and remedy may be carried on as if this repeal had not been enacted.

Where any unrepealed Act of Parliament incorporates or refers to any provisions of any Act hereby repealed, such unrepealed Act shall be deemed to incorporate or refer to the corresponding provisions of this Act.

SCHEDULES.

FIRST SCHEDULE.

INDICTABLE OFFENCES WHICH CAN BE DEALT WITH SUMMARILY UNDER THIS ACT.

FIRST COLUMN. Young Persons consenting and Adults pleading Guilty.	SECOND COLUMN. Adults consenting.
<p>1. Simple larceny.</p> <p>2. Offences declared by any Act for the time being in force to be punishable as simple larceny.</p> <p>3. Larceny from or stealing from the person.</p> <p>4. Larceny as a clerk or servant.</p> <p>5. Embezzlement by a clerk or servant.</p> <p>6. Receiving stolen goods, that is to say, committing any of the offences relating to property specified in the ninety-first and ninety-fifth sections of the Larceny Act, 1861 (being the Act of the session of the twenty-fourth and twenty-fifth years of the</p>	<p>1. Simple larceny, where the value of the whole of the property alleged to have been stolen does not in the opinion of the court before whom the charge is brought exceed forty shillings.</p> <p>2. Offences declared by any Act for the time being in force to be punishable as simple larceny, where the value of the whole of the property alleged to have been stolen, destroyed, injured, or otherwise dealt with by the offender does not in the opinion of the court before whom the charge is brought exceed forty shillings.</p> <p>3. Larceny from or stealing from the person, where the value of the whole of the property alleged to have been stolen does not in the opinion of the court before whom the charge is brought exceed forty shillings.</p> <p>4. Larceny as a clerk or servant, where the value of the whole of the property alleged to have been stolen does not in the opinion of the court before whom the charge is brought exceed forty shillings.</p> <p>5. Embezzlement by a clerk or servant, where the value of the whole of the property alleged to have been embezzled does not in the opinion of the court before whom the charge is brought exceed forty shillings.</p> <p>6. Receiving stolen goods, that is to say, committing any of the offences relating to property specified in the ninety-first and ninety-fifth sections of the Larceny Act, 1861 (being the Act of the session of the twenty-fourth and twenty-fifth</p>

<p style="text-align: center;">FIRST COLUMN. Young Persons consenting and Adults pleading Guilty.</p>	<p style="text-align: center;">SECOND COLUMN. Adults consenting.</p>
<p>reign of Her present Majesty, chapter ninety-six), or in either of such sections.</p> <p>7. Aiding, abetting, counselling, or procuring the commission of simple larceny, or of an offence declared by any Act for the time being in force to be punishable as simple larceny, or of larceny or stealing from the person, or of larceny as a clerk or servant.</p> <p>8. Attempt to commit simple larceny, or an offence declared by any Act for the time being in force to be punishable as simple larceny, or to commit larceny from or steal from the person, or to commit larceny as a clerk or servant.</p>	<p>years of the reign of Her present Majesty, chapter ninety-six), or in either of such sections, where the value of the whole of the property alleged to have been received does not in the opinion of the court before whom the charge is brought exceed forty shillings.</p> <p>7. Aiding, abetting, counselling, or procuring the commission of simple larceny, or of an offence declared by any Act for the time being in force to be punishable as simple larceny, or of larceny or stealing from the person, or of larceny as a clerk or servant, where the value of the whole of the property which is the subject of the alleged offence does not in the opinion of the Court before whom the charge is brought exceed forty shillings.</p> <p>8. Attempt to commit simple larceny, or an offence declared by any Act for the time being in force to be punishable as simple larceny, or to commit larceny from or steal from the person, or to commit larceny as a clerk or servant.</p>

This Act shall apply to any of the following offences when alleged to have been committed by a young person in like manner as if such offence were included in the first column of the schedule; that is to say,

- (1.) To any offence in relation to railways and railway carriages, mentioned in sections thirty-two and thirty-three of the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter one hundred, intituled "An Act to consolidate and amend the statute law of England and Ireland relating to offences against the person;" and
- (2.) To any offence relating to railways mentioned in section thirty-five of the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-seven, intituled "An Act to consolidate and amend the statute law of England and Ireland relating to malicious injuries to property;" and
- (3.) To any indictable offence, either under the Post Office Laws or prosecuted by Her Majesty's Postmaster-General; and for the purpose of this provision the expression "Post Office Laws"

has the same meaning as it has in the Act of the session of the seventh year of the reign of King William the Fourth and the first year of the reign of Her present Majesty, chapter thirty-six, intituled "An Act for consolidating the laws relative to offences against the Post Office of the United Kingdom, and for regulating the judicial administration of the Post Office Laws, and for explaining certain terms and expressions employed in those laws," and the Acts amending the same.

SECOND SCHEDULE.

Session and Chapter.	Title.	Extent of Repeal.
10 & 11 Vict. c. 82 - -	An Act for the more speedy trial and punishment of juvenile offenders.	The whole Act.
11 & 12 Vict. c. 43 - -	An Act to facilitate the performance of the duties of justices of the peace out of sessions within England and Wales with respect to summary convictions and orders	The following words in section thirty-five: "Nor to any information or complaint or other proceeding under or by virtue of any of the statutes relating to Her Majesty's Revenue of Excise or Customs, Stamps, Taxes, or Post Office."
13 & 14 Vict. c. 37 - -	An Act for the further extension of summary jurisdiction in cases of larceny.	The whole Act, in so far as relates to England.
18 & 19 Vict. c. 126 - -	An Act for diminishing expense and delay in the administration of Criminal Justice in certain cases.	The whole Act, in so far as relates to England, except sections eighteen, twenty, twenty-two, twenty-three, and twenty-four.
27 & 28 Vict. c. 80 - -	An Act to extend the provisions of the Criminal Justice Act, 1855, to the Liberties of the Cinque Ports, and to the district of Romney Marsh in the county of Kent.	The whole Act.
27 & 28 Vict. c. 110 - -	An Act for the amendment of the law relating to the mitigation of penalties.	The whole Act, so far as relates to England.
28 & 29 Vict. c. 127 - -	An Act to amend the law relating to small penalties.	The whole Act.
31 & 32 Vict. c. 116 - -	An Act to amend the law relating to Larceny and Embezzlement.	Section two, in so far as relates to England.
34 & 35 Vict. c. 78 - -	An Act to amend the law respecting the Inspection and Regulation of Railways.	Section thirteen, in so far as relates to England.

RULES AND SCHEDULE OF FORMS

UNDER THE

SUMMARY JURISDICTION ACT OF 12TH DEC., 1879.

ARRANGEMENT OF RULES.

1. Short title.
2. Commencement.
3. Register.
4. Special appropriation of fine under a statute.
5. Returns.
6. Form of account of fines, &c.
7. Rule as to sums of which payment is deferred or to be made by instalments.
8. Provision for dispensing with unnecessary accounts.
9. Entry of receipts by clerk.
10. Remitted fees book.
11. Crown fines.
12. Application of sum due under forfeited security.
13. Form of security under Act.
14. Security book.
15. Notice to principal of forfeiture of security.
16. Mode of application to vary order for sureties.
17. Time for stating special case.
18. Particulars of claim for civil debt.
19. Judgment summons.
20. Service of judgment summons.
21. Issue and proof of service of judgment summons.
22. Time of service.
23. Adjournment of hearing of judgment summons.
24. Witnesses on judgment summons.
25. Date of order of commitment.
26. Payment by judgment debtor.
27. Discharge of judgment debtor.
28. Costs of plaintiff in enforcing order.
29. Fee for taking declaration.
30. Forms.

SUMMARY JURISDICTION ACT, 1879.

RULES.

1. These Rules may be cited as the Summary Jurisdiction Rules, 1880. Short title.

2. These Rules shall come into operation on the 1st day of January, 1880. Commencement.

3. The clerk of each Court of Summary Jurisdiction shall keep the register required to be kept by him in pursuance of the Summary Jurisdiction Act, 1879, with such particulars as appear by the form in Part III. of the Schedule hereto. Register.

4. Where in pursuance of any statute the Court specially directs the appropriation of a fine, the statute under which the appropriation is made shall be set forth in the register and authenticated by the signature of the justice or one of the justices constituting the Court. Special appropriation of fine under a statute.

5. The return referred to in Section 22, sub-Section (4) of the Summary Jurisdiction Act, 1879, shall contain the particulars required to be entered in the register. The justice signing any such return shall cause it to be sent to the clerk who keeps the register for his Petty Sessional Division, and that clerk shall enter the return in his register. Returns.

6. The form of account to be rendered by clerks of Courts of Summary Jurisdiction of fines, fees, and other sums received by them shall be the form given in Part III. of the Schedule hereto, or a form to the like effect approved by the local authority under the Justices Clerks Act, 1877, and shall be rendered quarterly or at any less interval as may be directed by that authority. Provided that nothing in this rule shall apply to the police courts of the Metropolis, Chatham, or Sheerness. Form of account of fines.

7. All fines imposed by the Court shall appear in this account in chronological order, and where payment is deferred or to be made by instalments, the fact shall be shown in the column headed "Remarks." When the whole of the sum has been paid or recovered by distress, or the term of imprisonment imposed in default of payment or of sufficient distress has expired, the clerk shall then enter the sum in the account. Rule as to sums of which payment is deferred or to be made by instalments.

Provided that though the whole of the sum may not have been paid or recovered, the instalments received shall be accounted for at such times and in such manner as the above-mentioned local authority may direct.

Provision for dispensing with unnecessary accounts.

8. Where a clerk of a Court of Summary Jurisdiction renders an account in the form required or authorised by these Rules to the authority to whom he is required to render it, he shall not be required to render any other account relating to the same particulars.

Entry of receipts by clerk.

9. The clerk of each Court of Summary Jurisdiction shall enter on the day of its receipt each sum of money received by him on any account whatever. Each instalment so received shall be entered in a book called the Instalment Ledger to an account to be opened in respect of the proceeding in which the sum is paid.

Remitted fees book.

10. The book required to be kept by Section 12 of the Act 14 & 15 Vic. c. 55, shall be kept according to the form in Part III. of the Schedule hereto, and shall be called the Remitted Fees Book.

Crown fines.

11. The clerk of every Court of Summary Jurisdiction shall send on the 10th day of January, April, July, and October, in each year to the Secretary of State for the Home Department, Whitehall, without paying the postage, a certified statement, in the form in Part III. of the Schedule hereto, of all fines which have been imposed by the Court during the previous three months, and which are payable wholly or in part to Her Majesty or to the Exchequer. If no such fines have been imposed, the statement shall be certified in blank.

Application of sum due under forfeited security.

12. Where a Court of Summary Jurisdiction has enforced payment of any sum due by a principal in pursuance of a security under the Summary Jurisdiction Act, 1879, which appears to the Court to be forfeited, the sum shall, unless it is recoverable as a civil debt, be paid to the clerk of the Court, and shall be paid and applied by him in the manner in which fines imposed by the Court, in respect of which fines no special appropriation is made, are payable and applicable.

Form of security under Act.

13. Any security given under the Summary Jurisdiction Act, 1879, by an oral or written acknowledgment, shall be in the form of an undertaking, and may be in the appropriate

form in Part I. or Part II. of the Schedule hereto, or in any other form to the like effect.

14. The clerk of each Court of Summary Jurisdiction shall Security book. keep a security book, and shall enter therein, with respect to each security given in relation to any proceeding before the Court, the name and address of each person bound, showing whether he is bound as principal or as surety, the sum in which each person is bound, the undertaking or condition by which he is bound, the date of the security, and the person before whom it is taken. Where any such security is not entered into before the Court, or before the clerk of the Court, the person before whom it is entered into shall make a return of it, showing the above particulars, to the clerk of the Court. The security book, and any certified extract therefrom, shall be evidence of the several matters hereby required to be entered in the security book in like manner as if the security book were the register.

15. Not less than two clear days before a warrant of distress is issued for a sum due by a principal in pursuance of a forfeited security under the Summary Jurisdiction Act, 1879, the clerk of the Court issuing the warrant shall cause notice of the forfeiture to be served on the principal. Service of the notice may be effected either by prepaid letter sent to the address mentioned in the security, or as service of a summons may be effected under the Summary Jurisdiction Acts. Notice to principal of forfeiture of security.

16. An application under section 26 of the Summary Jurisdiction Act, 1879, shall be an application for a summons requiring the complainant to show cause why the order made on his complaint should not be varied. Mode of application to vary order for sureties.

17. An application to a Court of Summary Jurisdiction under section 33 of the Summary Jurisdiction Act, 1879, to state a special case shall be made in writing, and may be made at any time within seven days from the date of the proceeding to be questioned, and the case shall be stated within three calendar months after the date of the application. Time for stating special case.

18. In the case of a claim for a civil debt recoverable summarily, the particulars of the claim shall, unless embodied in the summons, be annexed to, and if so annexed, shall be deemed part of the summons. Particulars of claim for civil debt.

Judgment summons.

19. An order of commitment under section 35 of the Summary Jurisdiction Act, 1879, shall not be made unless a summons to appear and be examined on oath (hereinafter called a judgment summons) has been served on the judgment debtor.

Service of judgment summons.

20. The judgment summons shall, whenever it is practicable, be served personally on the judgment debtor, but if it is made to appear on oath to the Court that prompt personal service is for any reason impracticable, the Court may make such order for substituted or other service as to the Court may seem just.

Issue and proof of service of judgment summons.

21. A judgment summons may issue although no distress warrant has been applied for, and its service, where made out of the jurisdiction of the Court, may be proved by affidavit or solemn declaration.

Time of service.

22. A judgment summons shall be served not less than two clear days before the day on which the judgment debtor is required to appear.

Adjournment of hearing of judgment summons.

23. The hearing of a judgment summons may be adjourned from time to time.

Witnesses on judgment summons.

24. Any witness may be summoned to prove the means of the judgment debtor, in the same manner as witnesses are summoned to give evidence on the hearing of a complaint.

Date of order of commitment.

25. An order of commitment made under section 35 of the Summary Jurisdiction Act, 1879, shall, on whatever day it is issued, bear date on the day on which it was made.

Payment by judgment debtor.

26. When an order of commitment for non-payment of money is issued, the defendant may, at any time before he is delivered into the custody of the gaoler, pay to the officer holding the order the amount indorsed thereon as that on the payment of which he may be discharged, and on receiving that amount the officer shall discharge the defendant, and shall forthwith pay over the amount to the clerk of the Court.

Discharge of judgment debtor.

27. The sum indorsed on the order of commitment as that on payment of which the prisoner may be discharged, may be paid to the clerk of the Court from which the commitment order was issued, or to the gaoler in whose custody the prisoner is. Where it is paid to the clerk, he shall sign a certificate of the payment, and upon receiving the certificate by post or otherwise, the gaoler in whose custody the prisoner

then is shall forthwith discharge the prisoner. Where it is paid to the gaoler, he shall, on payment to him of that amount, with costs sufficient to pay for sending the amount by post-office order or otherwise, to the Court under the order of which the prisoner was committed, sign a certificate of the payment, and discharge the prisoner, and forthwith transmit the sum so received to the clerk of the Court.

28. All costs incurred by the plaintiff in endeavouring to enforce an order shall, unless the Court otherwise order, be deemed to be due in pursuance of the order, as if it were made under section 5 of the Debtors Act, 1869. Costs of plaintiff in enforcing order.

29. The fee for taking a declaration under Section 41 of the Summary Jurisdiction Act, 1879, shall be one shilling. Fee for taking declaration.

30. The forms in the Schedule hereto, or forms to the like effect, may be used, with such variations as circumstances require. Forms.

The forms S. 1 and S. 2 in the Schedule to the Summary Jurisdiction Act, 1848, are hereby annulled.

CAIRNS, C.

12th December, 1879.

SCHEDULE.

PART I.—FORMS APPLICABLE TO SUMMARY PROCEEDINGS OTHER THAN PROCEEDINGS FOR THE RECOVERY OF A CIVIL DEBT.

1. Summons to person bound by a recognizance which is alleged to have been forfeited by conviction of principal. [s. 9 (4).]
2. Summons to attend an application for varying or dispensing with sureties. [s. 26.]
3. Indorsement on summons to witness. [ss. 36, 41.]
4. Warrant where witness has not obeyed an indorsed summons. [s. 36.]
5. Conviction for fine, to be levied by distress, and in default of sufficient distress, imprisonment. Payment forthwith, or by a given day, or by instalments. [ss. 7, 8.]

6. Conviction for fine, and in default of payment imprisonment. Payment forthwith, or by a given day, or by instalments. [ss. 7, 8.]
7. Conviction where punishment is by imprisonment. No costs.
8. Conviction where punishment is by imprisonment. Costs. [s. 7.]
9. Conviction or order where security is to be given for payment. [s. 7.]
10. Order for any matter (other than the payment of a civil debt) where disobedience to the order is punishable by imprisonment. (*See s. 21, &c.*)
11. Order to enter into recognizance to keep the peace or to be of good behaviour. [s. 25.]
12. Adjudication of forfeiture of recognizance where person bound as principal has been convicted of an offence which is a breach of the condition. [s. 9 (2).]
13. Summary conviction of child for indictable offence. [ss. 10, 27.]
14. Summary conviction (by consent) of juvenile offender for indictable offence. [ss. 11, 27.]
15. Summary conviction (by consent) of adult for indictable offence. [ss. 12, 27.]
16. Summary conviction (on plea of guilty) of adult for indictable offence. [ss. 13, 27.]
17. Order of dismissal of child dealt with summarily for indictable offence. [ss. 10, 27.]
18. Order of dismissal of young person or adult dealt with summarily for indictable offence. [ss. 11, 12, 27.]
19. Order dismissing information and directing person charged to pay damages. [s. 16 (1).]
20. Summary conviction where person convicted is discharged conditionally on giving security to appear or to be of good behaviour. [s. 16, (2).]
21. Warrant of distress on conviction for fine, with or without costs or damages, or for costs or damages without fine. [ss. 21, 43.]
22. Warrant of distress on an order for the payment of any sum other than a civil debt. [s. 21.]

23. Warrant of distress where the charge is dismissed, but the person charged is ordered to pay damages or costs, or both. [s. 16.]
24. Warrant of distress for sum due under recognizance declared to be forfeited. [s. 9 (1).]
25. Warrant of distress for sum due under recognizance adjudged to be forfeited by conviction of principal. [s. 9 (2).]
26. Warrant of distress for sum due by a principal in pursuance of a forfeited security for payment of a sum adjudged by a conviction. [s. 23 (3).]
27. Order for imprisonment and warrant of commitment where it appears that there are no goods, or insufficient goods, whereon to levy distress, or that distress would be more injurious than imprisonment. [s. 21 (3).]
28. Warrant of commitment pending return to warrant of distress. [11 & 12 Vict. c. 43, s. 20.]
29. Warrant of commitment for want of distress.
30. Warrant of commitment reducing term of imprisonment on part payment. [s. 21 (4).]
31. Warrant of commitment on a conviction where the punishment is by imprisonment.
32. Warrant of commitment where person liable to summary conviction demands trial by jury. [s. 17 (1).]
33. Recognizance conditioned for appearance or for doing some other thing in, to, or before, or in a proceeding in a court of summary jurisdiction. [ss. 9 (1), 42.]
34. Declaration of forfeiture (to be endorsed on recognizance).
35. Order cancelling or mitigating forfeiture of recognizance. [s. 9 (1).] (To be endorsed on recognizance.)
36. Recognizance conditioned to keep the peace or to be of good behaviour, or not to do or commit some act or thing. [s. 9 (2).]
37. Oral or written acknowledgment of undertaking to pay a sum adjudged by a conviction. [ss. 7, 13.]
38. Oral or written acknowledgment of undertaking to perform condition of forfeited recognizance. [ss. 9 (1), 23.]
39. Notice to principal of forfeiture of security. [s. 23 (3).]
40. Order varying order for sureties. [s. 26.]

41. Order for restitution of property. [s. 27.]
42. Order to bring up appellant in custody to enter into recognizance for appeal. [s. 31 (4).]
43. Notice to parent or guardian of child charged with an indictable offence before a court of summary jurisdiction. [s. 10 (3).]
44. Declaration of service of summons or other document. [s. 41.]
45. Declaration as to handwriting and seal. [s. 41.]
46. Certificate of costs of prosecution of indictable offence dealt with summarily. [s. 28.]
47. Account of costs and charges incurred in respect of the execution of a warrant of distress. [s. 43 (6).]

PART II.—FORMS APPLICABLE TO PROCEEDINGS FOR THE
RECOVERY OF A CIVIL DEBT.

1. Summons to appear.
2. Summons to witness.
3. Judgment for plaintiff.
4. Judgment for defendant.
5. Judgment summons.
6. Order of commitment.
7. Certificate for discharge of a prisoner from custody.
8. Distress warrant.
9. Oral or written acknowledgment of undertaking to pay civil debt.

PART III.—GENERAL FORMS.

1. Register.
2. Account of fines and fees.
3. Remitted fee book.
4. Return of Exchequer fines, penalties, &c.

SCALE OF IMPRISONMENT

FOR

NON-PAYMENT

(In substitution for "THE SMALL DEBTS ACT")

SEC. 5.—“The period of imprisonment imposed by a Court of Law, whether past or future, in respect of the non-payment of a debt, or in respect of the default of a sufficient distress to satisfy a debt, in any past Act, **be such period as in the opinion of the Court shall not exceed in any case the maximum fixed by the following**

Where the amount of the sum or sums of money due on the date of a conviction, as ascertained by the Court, is—	
Does not exceed TEN SHILLINGS
Exceeds TEN SHILLINGS , but does not exceed ONE POUND
Exceeds ONE POUND , but does not exceed FIVE POUNDS
Exceeds FIVE POUNDS , but does not exceed TWENTY POUNDS
Exceeds TWENTY POUNDS

“And such imprisonment shall be **Without hard labour** if the conviction is founded, in which case the imprisonment may, at the discretion of the Court, be **with hard labour**, so that the term of hard labour awarded do not exceed the term of imprisonment awarded.

PRISONMENT

THE

OF MONEY

PENALTIES ACT," 28 & 29 Vict. c. 127).

Summary Jurisdiction under this Act, or under any other Act, any sum of money adjudged to be paid by a conviction, or any such sum, shall, notwithstanding any enactment to the contrary of the Court will satisfy the justice of the case, but shall Scale, that is to say—"

adjudged to be paid by conviction,	The said period shall not exceed
... ..	SEVEN DAYS.
ONE POUND	FOURTEEN DAYS.
FIVE POUNDS	ONE MONTH.
TWENTY POUNDS	TWO MONTHS.
... ..	THREE MONTHS,

except where hard labour is authorised by the Act under which *the Court thinks the justice of the case requires it*, be **With hard term** authorised by the said Act."

I

SCALE OF IMPRISONMENT

FOR

“ CIVIL DEBTS ”

(SECS. 6 & 35).

Section 5 of the Debtors' Act, 1869 (32 & 33 Vic. cap. 62),

enacts—

“ Subject to the provisions hereinafter mentioned,

“ and to the prescribed rules, any Court may commit

“ to prison for a term

“ not exceeding SIX WEEKS,

“ or until payment of the sum due, any person who

“ makes default in payment of any debt due from him

“ in pursuance of any order or judgment of that or

“ any other competent Court.”

THE JUSTICES'
ADDRESSES TO ACCUSED PERSONS,
IN INDICTABLE OFFENCES PUNISHABLE
SUMMARILY UNDER THE ACT.

WHERE "A CHILD" CHARGED, TO THE
PARENT OR GUARDIAN OF SUCH CHILD.

"For the purpose of a proceeding under these sections, the Court of Summary Jurisdiction at any time during the hearing of the case at which they become satisfied by the evidence that it is expedient to deal with the case summarily, shall cause the charge to be reduced into writing and read to the parent or guardian of the child [*or 'young person' (sec. 11) or 'person' (sec. 12) charged*], and then address a question to such parent or guardian [*or 'young person' or 'person' charged*] to the following effect":—

TO ACCUSED PERSON, [*or Parent or Guardian,*] You have a right to have this case tried by a Jury. Do you desire it to be tried by a Jury and object to it being dealt with summarily? * *The meaning of the case being dealt with summarily is that it will be heard and determined by this Court forthwith. If you desire it tried by a Jury, it will be sent for trial at the next Quarter Sessions (or Assizes) for this County which will be holden at*
" on ."

* The words in italics need only be used if the Court think it desirable for the information of the person charged, or the Parent or Guardian.

ON SUMMARY CONVICTION ON PLEA OF
GUILTY BY ADULT.

Sec. 13.

TO ACCUSED PERSON: "I am going to ask
 " you if you are guilty or not of this charge. You
 " are not obliged to plead or answer. If you plead
 " guilty you will be dealt with summarily. If you
 " do not plead or answer, or plead not guilty, you will
 " be dealt with in the usual course. * *The meaning of*
 " *this is that if you plead guilty you will be dealt with*
 " *by this Court forthwith, otherwise you will be sent for*
 " *trial to the next Quarter Sessions (or Assizes) for*
 " *this County, which will be holden at* on
 " *and be there tried by a Jury.*" "You are
 " not obliged to say anything unless you desire to
 " do so, but whatever you do say will be taken down
 " in writing, and may be given in evidence against
 " you upon your trial, and I give you clearly to
 " understand that you have nothing to hope from
 " any promise of favour, and nothing to fear from
 " any threat which may have been held out to you to
 " induce you to make any admission or confession of
 " your guilt, but whatever you now say may be given
 " in evidence against you notwithstanding such
 " promise or threat. Are you guilty or not guilty?"

* The portion in italics need only be used if the Court think it desirable for the information of the person charged.

TO PERSONS ENTITLED TO TRIAL BY JURY
UNDER SEC. 17.

TO PERSON CHARGED (or *Parent or Guardian*):
—“You are charged with an offence, in respect of
“ the commission of which you are entitled, if you
“ desire it, instead of being dealt with summarily to
“ be tried by a Jury. Do you desire to be tried by
“ a Jury? * *The meaning of the case being dealt with*
“ *summarily is that it will be heard and determined by*
“ *this Court forthwith. If you desire it tried by a Jury,*
“ *it will be tried at the next Quarter Sessions (or*
“ *Assizes) for this County (or Borough), which will be*
“ *holden at on .”*

* The words in Italics need only be used if the Court think it desirable for the information of the person charged (or Parent or Guardian).

FORMS

NOT GIVEN IN THE SCHEDULE ISSUED UNDER
THE ACT.

NOTICE APPOINTING PETTY SESSIONAL COURTS
FOR HEARING INDICTABLE OFFENCES.

(Sec. 20, Sub-Sec. 8).

THE SUMMARY JURISDICTION ACT, 1879

(42 & 43 Vict., c. 49).

Petty Sessional Division of _____ in the
County (or Borough) of _____ .

Notice is hereby given that the Justices of the above Division do hereby appoint every day during the year 188 _____ (except Sundays, Good Friday, and Christmas Day), at the hour of _____ in the _____ noon, at the (*Police Court or other place*), being the Petty Sessional Court for the said Division for hearing indictable offences and for dealing summarily therewith under the provisions of the above Act, if necessary.

Dated this _____ day of _____, 188 _____ .

By order of the Justices,

Clerk.

RECOVERY OF CIVIL DEBTS.

*PARTICULARS OF CLAIM (to be annexed to
Summons) in pursuance of Rule 18.*

In the County (or Borough, &c.) of _____, Petty
Sessional Division of _____.

Between

Plaintiff,

and

Defendant.

*The following are the particulars of the Plaintiff's
claim, referred to in the annexed summons:—*

1. The Plaintiff's claim is £ _____ being ^{Maintenance} _{Orders.} _____
weeks arrears of the sum of _____ s. _____ d. per
week, directed to be paid by the Defendant towards
the maintenance of his _____, by an order
of Justices dated the _____ day of _____ 188
Dated this _____ day of _____ 188

The above-named Plaintiff.

2. The Plaintiff's claim is £ _____ due from ^{Poor Rates.} _____
Defendant, a person duly rated and assessed to the
relief of the Poor of the Parish of _____ in the
said County and Division, in and by the following
Rates, viz. :—

A Poor Rate made on the _____ day
of _____ 188, in the sum of £ _____
A Poor Rate made on the _____ day
of _____ 188, in the sum of £ _____
A Poor Rate made on the _____ day
of _____ 188, in the sum of £ _____

£ _____

Dated this _____ day of _____, 188

The above-named Plaintiff.

The following are the particulars of the Plaintiff's claim, referred to in the annexed summons :—

Union and
Highway Calls.

3. The Plaintiff, as Clerk to the Board of Guardians of the Poor Law Union of _____ (or to the Highway Board of the District of _____), claims £ _____ due from the defendants as Overseers of the Poor of the Parish of _____, in the said County and Division, as the amount of an order of contribution (or Precept of the said Highway Board) from the Poor Rates of the said parish to the common fund of the Union, in the County (or Counties) of _____ (or of the said Highway Board) made the _____ day of _____ 188 _____, and duly served upon the said Overseers.

Dated this _____ day of _____, 188 _____.

The above-named Plaintiff.

The following are the particulars of the Plaintiff's claim, referred to in the annexed summons :—

Extraordinary
Traffic on
Highways.

4. The Plaintiff, as Clerk to the Highway Authority of the District of _____, in the said County and Division claims the sum of £ _____, as extraordinary expenses incurred by such Authority in repairing a certain highway within the said district, viz., the highway leading from _____ to _____, by reason of the damage caused by excessive weight passing along the same, or extraordinary traffic thereon, such weight or traffic having been conducted by the order of the Defendant.

Dated this _____ day of _____ 188 _____.

The above-named Plaintiff.