CRIMINAL LAW (PROCEDURE) ACT

CHAPTER 10:01

Act
19 of 1893
Amended by

25	of	1893	27	of	1927	18	of	1957	O. in C. 56/1947
11	of	1894	4	of	1929	22	of	1961	O. 68/1961
13	of	1894	40	of	1929	40	of	1961	37/1966A
10	of	1903	31	of	1930	5	of	1962	15/1970
3	of	1905	21	of	1931	21	of	1968	O. 4/1974
11	of	1907	51	of	1932	24	of	1969	80/1980
16	of	1909	20	of	1932	4	of	1972	
18	of	1910	20	of	1939	25	of	1973	
25	of	1918	20	of	1944	21	of	1978	
20	of	1918	2	of	1948	3	of	1980	
2	of	1921	30	of	1950	19	of	1990	
12	of	1922	57	of	1952	12	of	1988	
34	of	1922	9	of	1953	19	of	1991	
5	of	1923	14	of	1955	6	of	1997	
27	of	1925	38	of	1955	17	of	2008	
27	of	1927	18	of	1956	7	of	2010	

Current Authorised Pages

Pages (inclusive)				*Authorised by L.R.O.*
1	–	171	...	1/2012

Index
of
Subsidiary Legislation

Note

As the Revision of the List of Jurors (Special Provisions) Act (8 of 1972) is a special validation Act for the year 1972, it has been omitted.

CHAPTER 10:01

CRIMINAL LAW (PROCEDURE) ACT

ARRANGEMENT OF SECTIONS

SECTION

PRELIMINARY

PART I
GENERAL PROVISIONS
TITLE 1 – BUSINESS OF THE COURT

Gaol Delivery

TITLE 2 – LAW AND PRACTICE AS TO JURIES

SECTION

Qualification of Jurors and Jury Lists

Summoning Jurors

Empanelling the Jury

Fees of Jurors

Supplemental Provisions

SECTION

PART II
PROCEEDINGS BEFORE A MAGISTRATE
TITLE 3 – ENFORCING APPEARANCE OF ACCUSED PERSON

Search Warrant

Complaint or Information

Warrant for Apprehension of Accused Person

TITLE 4 – PROCEEDINGS ON APPEARANCE OF ACCUSED PERSON

SECTION

SECTION

SECTION

TITLE 10 – WITNESSES

Attendance of Witness

Examination of Witness

Remuneration of Witness

TITLE 11 – TRIAL

Records

Arraignment

SECTION

SECTION

SECTION

1929 Ed.
c. 18
1953 Ed.
c. 11

CHAPTER 10:01

CRIMINAL LAW (PROCEDURE) ACT

19 of 1893

An Act to consolidate and amend the Laws relating to Procedure with respect to Indictable Offences.

[1ST MARCH, 1894]

PRELIMINARY

Short title.

1. This Act may be cited as the Criminal Law (Procedure) Act.

Interpretation
[O. 4/1974]

2. In this Act –

"child" means a person who, in the opinion of the magistrate or of the Court, is under the age of fourteen years;

"the Court" means the High Court acting in the exercise of its

criminal jurisdiction;

"guardian" in relation to a child, means the parent or other lawful guardian of the child, and includes any person, being of or above the age of eighteen years, who, in the opinion of the magistrate or of the Court, has for the time being the actual custody, control, or charge of the child;

"indictable offence" means any offence punishable on indictment before the Court;

"indictment" includes any criminal information triable by a jury;

"a judge" means a judge of the Court sitting with or without a jury or in chambers, as the case may be;

"keeper" when used in relation to a prison, includes the superintendent or other chief resident officer of a prison;

"the marshal" means the Registrar, and includes any person lawfully discharging the functions of a marshal in reference to any cause or matter in the Court;

"prison" includes any lock-up house, police cell, or other duly authorised place of detention for persons in custody;

"the Registrar" means the Registrar of the Supreme Court, and includes any person lawfully discharging the functions of the Registrar in reference to any cause or matter in the Court;

"the Registry" means the registry of the Supreme Court.

Application of the Act.

3. This Act shall extend and apply to all proceedings in respect of indictable offences, unless the contrary is expressly provided by any written law relating thereto.

PART I
GENERAL PROVISIONS
TITLE 1 – BUSINESS OF THE COURT

Appointment of causes to be tried on each day of the sitting.

4. (1) At every sitting of the Court, the Director of Public Prosecutions shall appoint the number of causes to be tried on each day of the sitting, and shall cause a list of the causes, and of the days on which he appoints them to be tried, to be transmitted to the Registrar three days at least before the first day of the sitting of the Court.

(2) Immediately on receiving the list, the Registrar shall cause it to be published in the *Gazette* and in one or more newspapers of Guyana, and he shall also cause a copy of the list to be delivered to the judge or judges who is or are to preside at the sitting, and a copy to be put up on or near the door of the court hall in which the sitting is to be held.

(3) The Registrar shall also immediately transmit by telegraph or telephone, if possible, the particulars of the list to the clerk of every Magistrate's court in the county in which the sitting is to be held and to the police constable in charge of every police station in that county; and it shall be the duty of that clerk or constable, immediately on receiving the particulars, to cause a copy of the list to be posted up in some conspicuous place at every court shall in his district or at the police station under his charge, as the case may be.

Time of trial of causes.
[40 of 1961]

5. Every cause so appointed to be tried on a particular day shall not be tried before that day, but shall, if not postponed to the next sitting of the Court, be tried on that day, or on one of the succeeding days of the sitting that may be convenient.

Adding cause after transmission of list.

6. Nothing in section 4 or 5 shall be construed to prevent the Director of Public Prosecutions from adding any cause to the list after it has been transmitted to the Registrar:

Provided that if an addition is made at any time less than three days before the first day of the sitting of the Court, or at any time during the said sitting of the Court, the accused person shall be entitled to apply to the Court for a postponement of the trial to another sitting of the Court on the ground that he has not had sufficient time to prepare his defence.

Calendar of causes for trial.

7. The Director of Public Prosecutions shall, on the first day of every sitting of the Court, deliver to the Court a list of all persons, whether in custody or not, against whom any process has been commenced for any indictable offences triable at that sitting, specifying the names of all of them, the nature of the offences with which they are respectively charged, the time at which each offence is alleged to have been committed, and the state of the proceedings in each case.

State prosecutors. [O. 68/1961]

8. (1) The Director of Public Prosecutions may appoint any attorney-at-law to prosecute on behalf of the State at any sitting of the Court or on any day or days of the sitting.

(2) It shall not be necessary for any person so appointed to produce any commission or other proof of his having been so appointed.

(3) Any person so appointed shall, in relation to the business before the Court during the subsistence of his appointment, have all the powers and perform all the duties of the Director of Public Prosecutions, but subject to any express directions of the Director of Public Prosecutions in that behalf.

Jurisdiction with respect to counties.

9. (1)All plantations, estates, and other premises situated, lying, and being between the Parika creek and the Boerasirie creek shall, for all purposes connected with the administration of justice by the Court, be deemed and taken to be within the county of Demerara and not within the county of Essequibo.

(2) Where persons committed for trial from any place or district in any county can, on account of difficulty of communication or expense or otherwise, be more conveniently tried at a sitting of the Court other than a sitting for the county in which that place or district is situate, the Chief Justice may, by order, direct that all persons committed for trial from that place or district shall be committed for trial to, and shall be tried at, the first-mentioned sitting.

(3) While the order remains in force, it shall be the duty of all persons concerned to obey its directions.

Bringing of prisoners before the Court for trial.

10. (l) The keeper of the prison of the county in which any sitting of the Court is held shall, by himself or by his deputy, be in attendance at the sitting at all times whilst the Court is sitting, and shall bring each prisoner awaiting trial before the Court when his case is called for trial, and during the continuance of the trial shall have him under his charge and custody, and from time to time remand him to prison by permission or order of the Court during the progress of the trial or on any adjournment thereof.

(2) The Commissioner of Police shall afford any assistance necessary to enable the keeper to comply with the requirements of this section.

Discontinuance of proclamation against vice.

11. It shall not hereafter be necessary for any proclamation against vice and immorality to be read at the commencement of any sitting of the Court.

Gaol Delivery

Prisons to be delivered at the sittings of the Court.

12. The prisons which shall be delivered at the respective sittings of the Court held in and for the several counties of Guyana shall be the respective county prisons, that is to say, the Georgetown prison and the New Amsterdam prison (or any other prisons from time to time

substituted by lawful authority for them respectively), and no other.

Bringing of certain classes of prisoners before the Court for delivery. [20 of 1939]

13. (1) The keeper of each of the county prisons shall, before the end of every sitting of the Court held in the county in which the prison is situate, deliver in open Court to the presiding judge a correct list of all persons in his custody upon any criminal charge who have not then been tried, or upon whom sentence has not then been passed, or who have been committed in default of sureties to keep the peace or otherwise, distinguishing as accurately as may be their names, ages, and sexes, with the dates of their respective commitments and the authority under which they were respectively committed.

(2) The keeper, on the days and at the times of the sitting, and in the numbers directed by the Court shall bring and produce in open court all the persons so in his custody as aforesaid.

Right of prisoner in certain cases to be tried or bailed. [20 of 1939]

14. If any person who, during any sitting of the Court, appears to be in actual custody awaiting his trial thereat, prays in open court, at any time during that sitting, to be then and there put upon his trial, the Court may, before the termination of the sitting, either –

(a) if the jurors have not been discharged, proceed to his trial; or

(b) discharge him upon bail to appear at the next ensuing sitting of the Court for the same county, and to answer any indictment which may then be preferred against him; or

(c) remand him for trial at the next ensuing sitting of the Court for the same county, or otherwise, as the Court thinks fit; but if a prisoner,

being in custody for the same offence during a second sitting of the Court for the same county, at any time during that sitting, in open court, prays to be then and there put upon his trial, the Court shall, before the termination of the sitting, either proceed to his trial or discharge him upon bail as aforesaid.

Prisoners entitled to be discharged.

15. At the conclusion of every sitting of the Court, the Court shall discharge all prisoners not under sentence remaining in the prison of the county in which the sitting is held, who, by the law of Guyana for the time being in force, and, in default of that law, and so far as it does not extend, by the law of England for the time being in force, would be then entitled to their discharge upon gaol delivery, and also all other accused persons committed for trial at the sitting and remaining untried who, by the law aforesaid, would be entitled to that discharge; and the Court may also discharge all prisoners remaining in that prison in default of sureties to keep the peace, who, in the opinion of the Court, ought to be so discharged.

Procedure of the Court in matters not provided for.

16. Subject to this Act and any other statute for the time being in force, the practice and procedure of the Court shall be, as nearly as possible, the same as the practice and procedure for the time being in force in criminal causes and matters in the High Court of Justice and the courts of assize created by commission of oyer and terminer and of gaol delivery in England.

TITLE 2 – LAW AND PRACTICE AS TO JURIES

Constitution of jury.

17. Every jury for the trial and determination of a cause before the Court shall be constituted as hereinafter provided.

Abolition of jury *de mediatate linguae*.

18. No alien, denizen, or other person charged with an indictable offence shall be entitled to be tried by *jury de mediatate linguae.*

Qualification of Jurors and Jury Lists

Qualification of Jurors.
[2 of 1948
52 of 1952
22 of 1961
4 of 1972]

19. (l) Save as otherwise provided in this Act and subject to this section, every person residing in Guyana who is a citizen of Guyana and is not subject to any legal incapacity shall be qualified and liable to serve on a jury for the trial and determination of causes before the Court sitting in the county in which he resides –

(a) if he is in receipt of an income, salary or wage which (together with any sum paid or allowed to him or on his behalf for board or lodging or board or lodging supplied to him or on his behalf as one of the terms of his employment) amounts to a sum which is at the rate of not less than seven hundred and fifty dollars *per annum*; or

(b) if he is the owner in his own right of immovable property in the county in which he resides consisting of not less than three acres of land; or

(c) if he is the owner in his own right of immovable property in the county in which he resides of the value of not less than one hundred and fifty dollars over and above the amount of any registered encumbrance thereon or statutory claim attached thereto, or of a house in the county in which he resides of the value of not less than

one hundred and fifty dollars over and above the amount of any bill of sale or registered encumbrance thereon or statutory claim attached thereto; or

(d) if he is the lessee in his own right, under a lease or other document in writing registered in the Deeds Registry or in the Lands Department for an original term of three years or more, of immovable property in the county in which he resides consisting of not less than three acres of land; or

(e) if he is the lessee in his own right of immovable property, or of a house, in the county in which he resides of the annual rental of not less than fifty dollars under a lease in writing, registered in the Deeds Registry or in the Lands Department, for an original term of one year or more.

(2) Where two or more persons are owners, whether jointly or in common, of immovable property, then for the purpose of subsection (l) (b) each of such owners shall be regarded as qualified and liable under that paragraph if the acreage of such immovable property is such that when divided by the number of such owners the result is not less than three acres.

(3) Where two or more persons are owners, whether jointly or in common, of immovable property or of a house, then for the purpose of subsection (l)(c), each of such owners shall be regarded as qualified and liable under that paragraph if the value of such immovable property or house, as the case may be, is such that when divided by the number

of such owners the result is not less than one hundred and fifty dollars.

(4) Where two or more persons are lessees, whether jointly or in common, of immovable property under a lease or other document for an original term of three years or more, then for the purpose of subsection (l) (d), each of such lessees shall be regarded as qualified and liable under that paragraph if the acreage of such immovable property is such that when divided by the number of such lessees the result is not less than three acres.

(5) Where two or more persons are lessees, whether jointly or in common, of immovable property or of a house under a lease or other document for an original term of one year or upwards, then for the purpose of subsection (l)(e) each of such lessees shall be regarded as qualified and liable under that paragraph if the annual rental of such immovable property or house, as the case may be, is such that when divided by the number of such lessees the result is not less than fifty dollars.

Disqualification of certain persons from jury service. [20 of 1939 22 of 1961 O. 4/1974]

20. A person shall not be qualified or be liable to serve on juries who –

(a) cannot speak, read and write English; or

(b) is over sixty or under eighteen years of age; or

(c) has been convicted of any offence involving dishonesty in respect of which he has undergone any term imprisonment or has been convicted of any offence in respect of which he has undergone a term of imprisonment exceeding six months, unless he has received a free pardon;

or

(d) is at the date of the trial for which a jury is being empanelled a person in respect of whom a preliminary inquiry into an indictable offence is pending or who has been committed for trial; or

(e) is suffering, either at the date of the preparation or of the revision of the jury list or at the date of a trial, from deafness, dumbness, blindness, insanity or imbecility.

Exemption of certain persons. First Schedule.

21. The persons described in the First Schedule shall be severally exempt, as therein specified, from being returned to serve and from serving on juries, and their names shall not be inserted in any list of jurors or jurors' book; but, save as aforesaid, no person otherwise qualified, and not hereinbefore disqualified, to serve on juries, shall be exempt from serving thereon.

Disqualification or exemption to be claimed on revision of jury list.

22. No person whose name is in any juror's book as a juror shall be entitled to be excused from attendance on the ground of any disqualification or exemption, other than illness, not claimed by him or before the revision of the list of jurors as hereinafter mentioned.

Information to Registrar for preparation of lists.

[2 of 1948
22 of 1961
24 of 1969
25 of 1973]

23. (1) Every person who, whether as principal or attorney or manager, has others in his employ in any county shall, on application made to him at any time by the Registrar, furnish that officer with a list signed by him of all those persons who are, to the best of his belief, qualified under this Act, to serve as jurors.

(2) Every mayor or chairman of a local authority and every chief executive officer (by whatever name called) of

a local authority shall, on that application, furnish a list of all persons qualified as jurors within the area administered by the local authority as shown by the valuation list or other records relating to the properties within the said area.

(3) The district commissioner and every officer of police in any county shall, on that application, furnish to the best of his ability any information which he has or is able to obtain as to the qualifications as jurors by property or otherwise, of all persons within their respective districts or jurisdictions.

(4) Every government medical officer shall, on the application of the Registrar or revising officer, offer to examine free of charge any person within his district as to whose physical qualification to serve as a juror any question has arisen, and, if that person consents, shall furnish the Registrar with a certificate as to that qualification. In the absence of any medical evidence to the contrary, a refusal to be examined may be taken as conclusive of absence of qualification.

(5) The Registrar shall make any application under this section in writing and may serve it by post.

(6) Any person having in his custody any record, plan or information relating to valuation for the purposes of rating or town taxes (including any valuation list and any appraisement, rate or property assessment book) shall permit the Registrar to inspect the same at any reasonable time.

(7) Every person aforesaid who fails to comply with the request of the Registrar within a reasonable time shall be liable on summary conviction to a fine of nineteen thousand five hundred dollars.

Publication of list by

24. (1) On or before the 7th August in every year, the Registrar shall prepare and publish, in the *Gazette* in

Registrar. Second Schedule. Form 1. [2 of 1948 22 of 1961]

alphabetical order, a list of all persons residing within the counties of Demerara, Essequibo, and Berbice, respectively, who are qualified and liable to serve as jurors in those counties respectively, with the forenames and surnames written at full length, and the place of abode, the title, quality, calling, or business, and the nature of the qualification of each of them, and if the qualification is in respect of immovable property, the situation of that property and the nature of his interest therein:

Provided that, in preparing the list, the Registrar shall not include therein the name of any person who for the time being resides more than forty miles from the place where the sittings of the Court at which he is liable to serve are held.

(2) The Registrar shall cause copies of every such list to be posted on the doors of such post offices, police stations, court-houses, government offices, town halls, village offices, churches, chapels, and other conspicuous places in the county to which the list relates, as he may deem necessary.

Revision of lists.

[2 of 1948 57 of 1952 22 of 1961 24 of 1969 25 of 1973 3 of 1980]

25. (1) The Chief Justice may from time to time appoint one or more magistrates, or attorneys-at-law of the Supreme Court, to be revising officers to sit at suitable places within any county for the purpose of revising the list for the county, and the Registrar shall, at the time of the publication of the list mentioned in the last preceding section, give notice in the *Gazette* of the date and places at which the revising officers shall sit, but no sitting shall begin earlier than the 12th August.

(2) Every copy of the list posted under section 24(2) shall contain a notice by the Registrar of the dates and places at which the revising officer for the county to which the list relates shall sit.

(3) At the sitting, every person claiming to be exempted or to be added to the list, or to have any alteration

made in his name or description on the list, may appear and prove his case by oath or other evidence to the satisfaction of the revising officer.

(4) The Registrar, the mayor and town clerk of Georgetown and New Amsterdam respectively, the mayors and chief executive officers (by whatever name called) of other towns established under section 33 of the Municipal and District Councils Act, the chairmen and chief executive officers of councils of local government districts established under the Municipal and District Councils Act, the chairmen of village councils, district commissioners and officers of police, shall have the right of audience and may on proper grounds lodge objections to the inclusion or omission of any name and to the correctness of any description.

c. 28:01

(5) (a) The revising officer may insert on the list the name of any person whom he considers should not have been omitted, and may strike out the name of any person whom he considers to be improperly included, and may correct any error or omission whether of name, description, or otherwise:

Provided that –

(i) except on the application of the person whose name or description is dealt with, no inclusion, removal, or alteration aforesaid, shall be made unless that person has had two days' notice in writing that application will be made to the revising officer at the sitting; and

(ii) in the absence of notice, the

revising officer shall cause written notice to be given, fixing a suitable place and date, not earlier than three days from the date of notice, requiring him to show cause why the inclusion, removal, or alteration should not be made.

(b) Subject to the provisions of this Act the revising officer shall have all the powers of a registrar under regulation 27 of the National Registration (Residents) Regulations.

c. 19:08
Sub. Leg.

(6) When the list has been duly revised the revising officer shall sign it with his allowance thereof and transmit it to then Registrar on or before the 26th August, and the Registrar shall thereupon cause notice of all amendments to be published, on or before the 1st September, in the *Gazette*, and shall thereupon correct his original list according to each amendment.

(7) The Registrar shall cause copies of the notice of amendments under subsection (6) to be posted on the doors of such post offices, police stations, court-houses, government offices, town halls, village offices, churches, chapels, and other conspicuous places in the county to which the notice relates, as he may deem necessary.

(8) The Registrar shall keep the revised list of jurors for the several counties and shall immediately after their allowance cause them to be fairly and truly recorded in a book to be entitled "The Demerara (*or* Berbice, *or* Essequibo) Jurors Book for the Judicial Year ," as the case may be.

(9) The Registrar shall prefix to each name in the jurors' books its proper number, beginning the numbers from

the first name and continuing them in regular arithmetical series down to the last name.

(10) The Registrar shall, from time to time after the revision jurors above the age of sixty years, and the names of all jurors who have died or departed from the counties aforesaid respectively.

Appeal from decision of revising officer. [2 of 1948]

26. An appeal shall lie from any decision of the revising officer to a Judge of the High Court in chambers:

Provided that an appeal shall not prevent or postpone the allowance of the list by the revising officer, or invalidate any act done thereafter in regard to the list, but if the decision of the High Court on appeal necessitates any alteration of the list, the alteration shall be duly made by the Registrar and shall take effect from the date thereof.

Jurors' book to be true record of jurors.

27. Every jurors' book so prepared and regulated shall be taken to be a true record of all persons qualified and liable to serve on juries for the county to which it relates for the twelve months subsequent to the 1st September in each year:

Provided that each jurors' book shall remain in force until the next jurors' book for the same county has been prepared.

Summoning Jurors

Mode of selecting jurors to form panel. [2 of 1948 57 of 1952 14 of 1955 18 of 1956 22 of 1961 21 of 1968]

28. (l) (a) At a convenient time before any sitting of the Court, the Registrar shall, in the presence of a Judge of the High Court, select from the jurors book of the county in which the sitting is to be held a sufficient number of panels as the circumstances may require, each panel consisting of not less than thirty

persons whose names are in that book.

(b) The numbers prefixed to the names in the jurors' list for the county shall be written, type-written, or printed, on separate cards of uniform size and put into a box, whence, after being shaken before the drawing of each card, such number, being not less than thirty, as the Registrar may deem sufficient, shall be drawn out, and the persons whose names correspond to the numbers on the cards so drawn shall form the panel.

(c) If any of the persons die, or is too ill to travel, or are not found for service, other numbers shall be drawn in like manner until the panel is completed:

Provided that –

(i) no person shall be summoned who resides more than forty miles from the place where the sitting of the Court is to be held;

(ii) any person who has been selected to form a panel shall be exempt from service for two years;

(iii) if the number of person on the jurors' book for a county who are liable to be selected as hereinbefore provided is at any time insufficient to form a panel or panels at any sitting of

the Court, the Registrar may select from the persons whose names are entered in the jurors' book as exempt under the preceding paragraph of this proviso any number necessary to complete the panel or panels; and, in making the selection, the Registrar shall take first the names of those persons who have been longest exempt and shall proceed in that order until the panel is complete;

(iv) a husband and wife shall not both be summoned to serve at any sitting of the Court; and

(v) the number of women appearing on any panel of jurors shall be in the same proportions, as near as may be, to the number of men appearing thereon as the total number of women is to the total number of men in the jurors' book.

(2) When two or more persons in or belonging to any bank, counting-house, mercantile establishment, store, shop, or cane plantation, are liable to be selected as jurors at the same sitting of the Court, the Registrar shall select one only of those persons at that sitting for every five persons in or belonging to the bank or other establishment or place aforesaid; and the other or others of them (if any) shall be liable to be selected as jurors at the next or any subsequent sitting of the Court for the same county, so that not more than one for every five of the persons last mentioned shall be summoned at any one sitting.

(3) As often as any juror is selected to serve, the Registrar shall mark in the jurors' book the date when he has been so selected.

(4) The persons so selected as aforesaid shall, subject to subsection (5), be the jurors to serve for the trial of all issues at that sitting of the Court for the county.

(5) The Court or a Judge may exempt or discharge any juror, or any panel of jurors, from service or further service during the whole or any part of a criminal session, and may direct the Registrar, if the Court or Judge considers such a direction to be necessary, to select another juror, or another panel of jurors, for service during the whole or the part as aforesaid (as the case may be) of the criminal session.

(6) Every selection of jurors under this Act shall be made by or in the presence of the Registrar in person, or in his absence, by or in the presence of the chief or other senior clerk of his office.

Service of the summons. Second Schedule. Form 2.

29. (1) The Registrar shall not less than ten days before the first day of any sitting of the Court, send to the Commissioner of Police, the summonses to be served on the jurors for that sitting.

(2) The Commissioner of Police shall cause the summonses to be served by members of the police force on the persons selected to serve as jurors seven days at least before the first day of the sitting by delivering a summons in writing to each of them personally, or if he cannot conveniently be encountered, by leaving it for him at his last or most usual place of abode.

(3) The summoning officer shall make a true return of the service, and shall attend at the sitting of the Court, and if necessary verify the service on oath.

(4) Nothing in this Act shall be construed to

prevent a police officer from summoning additional jurors at any time selected by, or in the presence of the Registrar in person, or chief or other senior clerk of his office in person, for any sitting of the Court.

Delivery of panel.

30. (1) The Registrar shall cause the names of the jurors who have been summoned to be fairly and truly copied in a panel, in alphabetical order, from the jurors' book, together with their places of abode and other particulars required to be entered therein, and shall number the names in arithmetical series from the first to the last.

(2) The Registrar shall thereupon cause the names of the jurors to be written, printed, or stamped, on separate pieces of card or parchment, or on balls, and shall place the said pieces of card, or parchment, or balls, in a box to be provided for that purpose.

31. [Repealed by Act No. 7 of 2010]

Challenges to the array. Second Schedule. Form 3.

32. (1) Either the State or the accused person may challenge the array on the ground of partiality, fraud, or wilful misconduct, on the part of the Registrar or any officer of his department, but on no other ground and the challenge shall be made in writing, stating that the Registrar or any officer of his department was partial, or was fraudulent, or wilfully misconducted himself, as the case may be.

(2) If the partiality, fraud, or wilful misconduct, as the case may be, is denied, the Court shall appoint any two indifferent persons to try whether the alleged ground of challenge is true or not, and if the triers find that the alleged ground of challenge is true in fact, the Court shall direct a new panel to be returned at once or otherwise as it thinks fit.

(3) If the array is not challenged, or if the triers find against the challenge, the Registrar shall proceed to impanel a jury, and to swear the jurors in the manner hereinafter

prescribed.

Number of jury. Continuance of trial where juror dies or becomes incapable. [21 of 1932]

33. In every case the jury shall consist of twelve persons:

Provided that where in the course of a trial any juror dies or is discharged by the Court as being through illness incapable of continuing to act or for any other reason, the jury shall nevertheless, so long as the number of the jurors is not reduced below ten, be considered as remaining for all the purposes of that trial properly constituted, and the trial shall proceed and a verdict may be given accordingly.

Duties of members of police force.

34. (1) Any member of the police force may serve summonses on jurors.

(2) All members of the police force shall be officers of the court in respect of the several duties imposed upon them by this Act.

Transfer of causes from one court to another.

35. When two or more judges are sitting separately in any county, the Director of Public Prosecutions may transfer any cause from one court to another and shall in each case state to the presiding judge of the court to which the case is to be transferred his reasons for so doing, but shall not transfer a case to any judge without that judge's consent.

Empanelling the Jury

Mode of choosing jury.

36. When any issue is to be tried, the Registrar shall place in a box pieces of card or parchment of uniform size, or balls, marked with the names or numbers of the panel and shall, after shaking the box, in open court draw them out of the box one after another to the number required to constitute a jury and shall call out in regular sequence the names or numbers of the jurors on the pieces of card or parchment, or balls; and if any of the persons whose names are so drawn do not appear, or are challenged and set aside, then the further

number required, until the proper number of persons are drawn and appear and, after all just causes of challenge allowed, remain as fair and indifferent; and the proper number of persons so first drawn and appearing and approved as indifferent, their names being marked in the panel and they being sworn, shall be the jury to try the issue.

Pieces of card etc., kept apart till discharge of jury.

37. The pieces of card or parchment, or the balls, containing the names or numbers of the persons so drawn and sworn, shall be kept apart by themselves until the jury have delivered their verdict and the verdict has been recorded, or until the jury have otherwise been discharged, and shall then be returned to the box and mixed with the other pieces of card or parchment, or balls, then remaining undrawn, and so as often and as long as any issue remains to be tried:

Provided that, if any issue comes on to be tried, before the jury in any other issue have brought in their verdict or have been discharged, the Registrar shall draw the proper number of the residue of pieces of card or parchment, or balls, in manner aforesaid for the trial of the issue so coming on to be tried.

Peremptory challenges. [2 of 1948]

38. On the trial of any indictment –

(a) the Director of Public Prosecutions, the State Counsel or any counsel appointed to prosecute on behalf of the State may, without cause assigned, challenge three jurymen; and

(b) every person arraigned may, without any cause assigned, challenge three jurymen.

Challenges for cause.
[2 of 1948]

39. (1) The State and every accused person shall be entitled to any number of challenges on any of the following grounds, that is to say –

(a) that any jurors' name does not appear in the jurors' book:

Provided that no misnomer or misdescription in that book shall be a ground of challenge, if it appears to the Court that the description given therein sufficiently designates the person referred to; or

(b) that any juror is disqualified under section 20 or exempt under section 21; or

(c) that any juror is not indifferent between the State and the accused person.

(2) No other ground of challenge than those above-mentioned shall be allowed, and no challenge under this section shall be allowed except for one of those grounds on any trial.

Second Schedule. Form 4.

(3) (a) If any challenge aforesaid is made, the Court may, in its discretion, require the party challenging to put his challenge in writing.

(b) The other party may deny that the ground of challenge is true, or may, in the case of a challenge on the ground that the juror has been convicted as hereinbefore mentioned, allege that the juror challenged has received a free pardon.

(c) If the ground of challenge is that the jurors' name does not appear in the jurors' book, the issue shall be tried by the Court on *voire dire* by the inspection of the jurors' book, and on any other evidence the Court thinks fit to receive, and similarly also in the case of a challenge on the ground that the juror cannot speak, read, and write English.

(4) If the ground of challenge is any other than as last aforesaid, then two persons present whom the Court may appoint for that purpose, shall be sworn to try whether the juror challenged is disqualified under section 20, or is exempt under section 21, or stands indifferent between the State and the accused person, as the case may be, and that trial may be held before the judge in chambers.

(5) If the Court or the triers find against the challenge, the juror shall be sworn, but if the Court or the triers find for the challenge, the juror shall not be sworn, and if, after what the Court considers a reasonable time, the triers are unable to agree, the Court may discharge them from giving a verdict and direct other persons to be sworn in their place, or may give any other directions it thinks fit.

Default of jurors. [14 of 1955]

40. (1) Where a full jury does not appear or where, after appearance of a full jury, by reason of challenges or otherwise, there is likely to be a default of jurors the court, on request made by the State, shall command the Registrar to name and appoint, as often as required, so many of other persons qualified to act as jurors then present as will make up a full jury, and the Registrar shall, at the command of the court, return those persons duly qualified who are present or can be found to serve on that jury, and shall add their names to the panel returned by him; and the State and the accused person shall in that case have their respective challenges to

the jurors so added, and the court shall proceed to the trial of every issue in the same manner as if all of them had been returned by the Registrar in the original panel.

(2) Where two or more panels are returned, the Registrar may, on a tales being awarded, return a juror summoned on any one panel as a talesman to serve with the jurors returned on any other panel.

Trial of successive issues by the same jury.

41. If no objection is made by either party, the Court may try an issue with the same jury who have previously tried, or been drawn to try, another issue, without their numbers being returned to the box and redrawn, or to order the name of any person on the jury justly challenged, or excused by the Court, to be set aside, and another number to be drawn from the box in lieu thereof.

Counting and swearing jurors. Second Schedule. Form 5. Form 6.

42. (1) As soon as the jury is chosen the jurors shall be counted in the box by the Registrar, who shall at once proceed to swear them; but if any juror refuses, or is unwilling from alleged conscientious motives, to be sworn, the Court may, on being satisfied of the sincerity of the objection, allow him to make a solemn affirmation.

(2) That affirmation shall be of the same force and effect as if the person affirming had taken an oath in the usual form, and shall, if untrue, entail the same penalties as are or shall be provided against persons guilty of perjury.

(3) Whenever, in any legal or proceeding, it is necessary or usual to state or allege that jurors have been sworn, it shall not be necessary to specify that any particular juror had made affirmation instead of oath, but it shall be sufficient to state or allege generally that the jurors have been sworn.

(4) After they have been sworn, the jurors shall, by a majority of the voices to be taken privately by the Registrar,

elect one of their number to be their foreman.

Fees of Jurors

Payment of jurors.
[20 of 1939
2 of 1948
22 of 1961
21 of 1968]
Third Schedule.

43. (1) Every person who has been summoned to attend, and actually attends, any sitting of the Court as a juror, shall be entitled at the close of the sitting or earlier and for such periods (being not less than one week in any instance) as the Registrar may approve and after his account has been duly taxed by the Registrar to the sum mentioned in the Third Schedule.

(2) On presentation of the taxed account to the officer for the time being directed by the Registrar, it shall be paid out of moneys provided by Parliament to defray the expenses of the administration of justice.

(3) Except with the approval of the Registrar, no claim made by a juror for any sum aforesaid, shall be entertained if it is made later than one month after the last day of the sitting of the Court in respect of which it is made.

Supplemental Provisions

View by jury of place or person, connected with cause.

44. (1) Where in any case it is made to appear to the Court or a judge that it will be for the interests of justice that the jury who are to try or are trying the issue in the cause should have a view of any place, person, or thing connected with the cause, the Court or judge may direct that view to be had in the manner, and upon the terms and conditions, to the Court or judge seeming proper.

(2) When a view is directed to be had, the Court or judge shall give any directions seeming requisite for the purpose of preventing undue communication with the jurors:

Provided that no breach of any of those directions shall affect the validity of the proceedings, unless the Court

otherwise orders.

Discharge of jurors from attendance.

45. The Court may at any time discharge any person summoned as a juror from further attendance on the Court, or may excuse him from attendance for any period during the sitting of the Court, or, for any reason which it deems sufficient, may direct any juror, at any stage before the accused is arraigned, to stand aside until the rest of the panel has been called.

Partiality of Registrar. [6 of 1997]

46. (1) If the Registrar in any way acts partially in regulating any jurors' book, or in selecting and summoning any jurors', he shall be liable to a fine of ninety-seven thousand five hundred dollars, to be recovered in the High Court by any person who may inform and bring an action therefor, with full costs of suit.

(2) One-half of the sum, when recovered, shall belong to the informer, and the other half shall be paid to the Accountant General for the public use.

Failure to comply with order.

(3) Any person failing without reasonable cause within the time prescribed, or, if no time is prescribed, then within a reasonable time, to comply with any application order or direction authorised by this Act shall be liable to a fine of nineteen thousand five hundred dollars.

Definition of "Registrar" in this Title.

(4) In this Title "Registrar" shall be deemed to include the Registrar as already defined in this Act, and any marshal, and any officer of the Court or the registry thereof duly authorised in writing by the Registrar or by a sworn clerk or assistant sworn clerk.

Procedure as to juries in matters not provided for.

47. Subject to this Act and any other written law for the time being in force, the practice and procedure relating to juries on the trial of indictable offences shall be as nearly as possible in accordance with the practice and procedure in the like case of the courts in England mentioned in section 16.

PART II
PROCEEDINGS BEFORE A MAGISTRATE
TITLE 3 – ENFORCING APPEARANCE OF ACCUSED PERSON

When magistrate may compel appearance before him of accused person.

48. Every magistrate may issue a summons or warrant as hereinafter mentioned to compel the appearance of an accused person before him for the purpose of preliminary inquiry, in any of the following cases:

(a) if the person is accused of having committed in any place whatever an indictable offence triable in Guyana, and is, or is suspected to be, within the limits in which the magistrate has jurisdiction, or resides or is suspected to reside within those limits; or

(b) if he, wherever he may be, is accused of having committed an indictable offence within those limits, or on any journey during any part of which he has passed through them; or

(c) if he is alleged to have anywhere unlawfully received property which was so unlawfully obtained within those limits as to render him liable for an indictable offence.

Magistrate may inquire into suspected offence.

49. (1) Any magistrate who has reason to believe that any indictable offence has been committed within the limits of his jurisdiction for which the offender might, according to any statute for the time being in force, be arrested without warrant, or that there is reasonable ground for inquiring whether that offence has been committed within those limits, or, in either case, that there is reasonable ground for inquiring by whom the suspected offence has been committed, may

Fourth Schedule. Form 4

Form 13

(whether any particular person is charged or not) summon to appear before him any person whom he has reason to believe to be capable of giving material evidence concerning the offence, and may examine the person upon oath concerning the offence, and, if he sees cause, bind the person by recognizance to attend and give evidence, if called upon by any magistrate or by the court, at any time within the twelve months then next ensuing, unless the person can show some reasonable excuse to the contrary.

(2) In case any person so summoned neglects to attend, or refuses without lawful excuse to take the oath, or, having taken it, to answer any question concerning the offence then put to him, or to enter into the recognisance aforesaid, he may be dealt with in the same manner as a witness may be dealt with who neglects or refuses to attend or give evidence, or to be bound by recognisance to do so, after having been served with a summons for that purpose.

Search Warrant

When search warrant may be issued, and proceedings thereunder.

50. (1) Any magistrate who is satisfied by proof upon oath, that there is reasonable ground for believing that there is, in any building, ship, carriage, box, receptacle, or place –

(a) anything upon or in respect of which any indictable offence has been or is suspected to have been committed for which, according to any written law for the time being in force, the offender may be arrested without warrant; or

(b) anything which there is reasonable ground for believing will afford evidence as to the commission of that offence; or

Fourth Schedule. Form 18

(c) anything which there is reasonable ground for believing is intended to be used for the purpose of committing any indictable offence against the person for which, according to any written law for the time being in force, the offender may be arrested without warrant,

may at any time issue a warrant under his hand authorising some police or other constable named therein to search that building, ship, carriage, box, receptacle, or place for the thing, and to seize and take it before the magistrate issuing the warrant, or some other magistrate, to be by him dealt with according to law.

(2) Every search warrant may be issued and executed on a Sunday, and shall be executed between the hours of five o'clock in the morning and eight o'clock at night:

Provided that the magistrate, in his discretion, may by the warrant authorise the constable to execute it at any hour.

(3) When the thing is seized and brought before a magistrate, he may detain it or cause it to be detained, taking reasonable care that it is preserved until the conclusion of the inquiry; and, if any person is committed for trial, he may order it further to be detained for the purpose of evidence on the trial, but if no person is committed the magistrate shall direct the thing to be restored to the person from whom it was taken, except in the cases hereafter in this section mentioned, unless he is authorised or required by law to dispose of it otherwise.

(4) If, under any warrant aforesaid, there is brought before any magistrate any forged bank note, bank note paper, instrument or other thing, the possession of

which, in the absence of lawful excuse, is an indictable offence according to any written law for the time being in force, the court if the person is committed for trial, or if there is no commitment for trial the magistrate, may cause it to be defaced or destroyed.

(5) If, under any warrant aforesaid, there is brought before a magistrate any counterfeit coin or other thing, the possession of which, with knowledge of its nature and without lawful excuse, is an indictable offence according to any written law for the time being in force, it shall be delivered up to the Commissioner of Police, or to any person authorised by him to receive it, as soon as it has been produced in evidence, or as soon as it appears that it will not be required to be so produced.

(6) If the thing to be searched for is gunpowder, or any other explosive or dangerous or noxious substance or thing, the person making the search shall have the same powers and protections as are given by any written law for the time being in force to any person lawfully authorised to search for that substance or thing, and the thing itself shall be disposed of in the same manner as directed by that written law, or, in default of that direction, as ordered by the Commissioner of Police.

Complaint or Information

Reception of complaint or information. Fourth Schedule. Form 1.

51. Upon any complaint or information given to a magistrate that an indictable offence has been committed by any person whose appearance he has power to compel, the magistrate shall consider the allegations of the complainant or informant, and, if he is of opinion that a case for so doing is made out, he shall issue a summons or warrant, as the case may be, in the manner hereinafter mentioned; and he shall not refuse to issue the summons or warrant only because the alleged offence is one for which an offender may be arrested without warrant.

Summons to Accused Persons

Issue, contents and service of summons. Fourth Schedule. Forms 5 and 6. [33 of 1955]

52. (1) The magistrate may issue a summons although there is not any complaint or information in writing or upon oath.

(2) The summons shall be directed to the accused person, and shall require him to appear at a certain time and place to be therein mentioned.

(3) The summons shall not be signed in blank.

(4) The summons shall be served by a police or other constable upon the accused person, either by delivering it to him personally, or, if he cannot, with the exercise of reasonable diligence, be encountered, by leaving it with some person for him at his last or most usual place of abode.

Proof of service of process by bailiff or constable. [51 of 1932]

(5) Where it becomes necessary to prove the service of any summons, notice, order or other process whatsoever issued under this Act which has been served by a bailiff or constable a return of service in Form 6 in the Fourth Schedule, purporting to be signed by the bailiff or constable, shall be received in all courts as *prima facie* evidence of the facts stated in the return without proof of the signature or official character of the bailiff or constable.

Warrant for Apprehension of Accused Person

Issue of warrant of apprehension in first instance. Fourth Schedule. Form 7

53. (1) If there is an information in writing and upon oath, the magistrate may, if he is of opinion that a case for so doing is made out, issue a warrant for the apprehension of the accused person.

(2) The fact that a summons has been issued shall not prevent any magistrate from issuing that warrant at any time before or after the time mentioned in the summons for the appearance of the accused person; and where the service

of the summons for the appearance of the accused person has been proved and he makes no appearance, or where it appears that the summons cannot be served, the warrant may issue.

(3) The magistrate who would have heard the charge if the person summoned had appeared may issue the warrant, on information in writing and upon oath taken either before himself or before another magistrate or any justice of the peace, either before or after the summons was issued.

Power of justice of the peace to issue warrant in certain cases.

54. In any case where, from the absence from any place of a magistrate, or from any other cause, it is not practicable to make immediate application to a magistrate for the issue of a search warrant or of a warrant for the apprehension of an accused person, and the ends of justice would be likely to be defeated by the delay required for the making of the application to a magistrate, any justice of the peace may and shall take the necessary information, and, if he is of opinion that a case for so doing is made out, issue the warrant in the same manner as a magistrate could do; but all subsequent proceedings in the case shall be taken before a magistrate.

Magistrate may direct security to be taken. [22 of 1961]

55. (1) Every magistrate issuing a warrant under section 53 for the arrest of any person in respect of any offence other than murder or treason shall, if in his opinion such person should be admitted to bail on his arrest, by endorsement on the warrant direct that if such person executes a bond with sufficient sureties for his attendance before a magistrate at a specified time and thereafter until otherwise directed by the magistrate, the officer in charge of the police station to which such person is brought on his arrest shall take such security and release such person from custody.

(2) The endorsement shall state –

(a) the number of sureties;

(b) the amount in which they and the person for whose arrest the warrant is issued are to be respectively bound; and

(c) the time at which he is to attend before the magistrate.

(3) The officer in charge of any police station to which any such person is brought on his arrest shall comply with the directions endorsed on the warrant of arrest and whenever security is taken under this section he shall forward the bond to the magistrate.

TITLE 4 – PROCEEDINGS ON APPEARANCE OF ACCUSED PERSON

Disposal of person apprehended upon warrant.

56. When any person is apprehended upon a warrant he shall be brought before a magistrate as soon after he is so arrested as practicable, and the magistrate shall either proceed with the preliminary inquiry or postpone it to a future time, in which latter case he shall either commit the accused person to prison, or admit him to bail, or permit him to be at large on his own recognisance, according to the provisions hereinafter contained.

Offence committed out of jurisdiction of investigating magistrate.

57. (1) If an accused person is brought before a magistrate charged with an offence committed without the limits of his jurisdiction, he may, after hearing both sides, order the accused person, at any stage of the inquiry, to be taken by a police or other constable before the magistrate

having jurisdiction in the place where the offence was committed.

Fourth Schedule. Form 16.

(2) The magistrate so ordering shall give a warrant for that purpose to a police or other constable, and shall deliver to the constable the information, depositions, and recognisances, if any, taken in the cause, to be delivered to the magistrate before whom the accused person is to be taken, and the information, depositions, and recognisances shall be treated to all intents as if they had been taken by the last-mentioned magistrate.

Director of Public Prosecutions may order a change of venue in the case of a preliminary inquiry. [21 of 1932]

58. (l) Where in the opinion of the Director of Public Prosecutions by reason of the difficulty of communication it is expedient that a preliminary inquiry should be held by a magistrate of a district other than the magistrate of the district having jurisdiction in the matter he may by order under his hand transfer the holding of the preliminary inquiry to the magistrate of such other district.

(2) The Director of Public Prosecutions on the making of an order as aforesaid shall cause to be sent the order to the magistrate of the district to whom the preliminary inquiry is transferred and a copy to the magistrate from whom it is transferred. On receipt of the order the first-mentioned magistrate shall have full power and jurisdiction to proceed and hold the inquiry, and shall have and may exercise the same powers, authorities and jurisdiction as if the case were one within the limits of his jurisdiction.

(3) The last-mentioned magistrate on receipt of the copy of the order shall order the accused person to be taken by a police or other constable before the magistrate to whom the holding of the inquiry is transferred and shall give a warrant for that purpose to a police or other constable, and shall deliver to the constable the information, depositions, and recognisances, if any, taken in the cause, to be delivered

to the magistrate before whom the accused person is to be taken, and the information, depositions, and recognisances shall be treated to all intents as if they had been taken by such magistrate.

(4) The magistrate if in pursuance of section 71 he commits the accused person for trial, shall commit him to the court to which he would have been liable to be committed by the magistrate from whom the holding of the preliminary inquiry has been transferred.

Irregularity

Irregularity in summons, warrant, service or arrest.

59. (1) No irregularity or defect in the substance or form of the warrant, and no variance between the charge contained in the warrant and the charge contained in the information, or between either and the evidence adduced on the part of the prosecution at the preliminary inquiry, shall affect the validity of any proceeding at or subsequent to the hearing.

(2) When any accused person is before a magistrate, whether voluntarily or upon summons, or after being apprehended with or without warrant, or while in custody for the same or any other offence, the preliminary inquiry may be held notwithstanding any irregularity, illegality, defect, or error in the summons or warrant, or the issuing, service, or execution thereof, and notwithstanding the want of any information upon oath, or any defect in the information or any irregularity or illegality in the arrest or custody of the accused person:

Provided that –

(a) the magistrate, if he thinks that the ends of justice require it, may adjourn the hearing of the cause, at the request of the accused person, to some future

day, and in the meantime may remand the accused person or admit him to bail; and

(b) upon the adjournment, the accused person shall not be committed to prison unless, before his committal, an information in writing and upon oath has been taken.

Witnesses

Application of law with respect to witnesses. Fourth Schedule. Form 5. Form 7.

60. Subject to this Act, the provisions of law for the time being in force with respect to witnesses on the hearing of a complaint for an offence punishable on summary conviction in a magistrate's court shall, *mutatis mutandis,* apply to witnesses on the holding of a preliminary inquiry before a magistrate in respect of an indictable offence, with the addition that any of those witnesses shall be liable to be dealt with as hereinafter provided for refusing, without reasonable excuse, to sign his deposition or to enter into a recognisance.

Local inspection and examination of injured person. [6 of 1997]

61. (1) It shall be the duty of the magistrate holding any preliminary inquiry to make or cause to be made any local inspection the circumstances of the case require; and, in any case of serious injury to the person, to cause the body of the person injured to be examined by some duly qualified medical practitioner, if one can be had, and, if not, then by the most competent person that can be obtained, and the deposition of the medical practitioner or other person shall afterwards, if necessary, be taken.

Penalty for non-compliance with order to examine.

(2) Every medical practitioner or other person aforesaid who refuses or neglects, without reasonable excuse, to comply with any order or direction of a magistrate given under this section shall be liable to a fine of nine thousand seven hundred and fifty dollars.

Proceedings at Preliminary Inquiry

General discretionary powers of magistrate with respect to mode of holding inquiry

62. The magistrate holding a preliminary inquiry may, in his discretion –

(a) give or refuse permission to the prosecutor to address him in support of the charge, either by way of opening or summing up the case, or by way of reply upon any evidence produced by the accused person;

(b) receive further evidence on the part of the prosecutor, after hearing any evidence given on behalf of the accused person;

(c) adjourn the hearing of the inquiry from time to time and change the place of hearing, if, from the absence of a witness, the inability of a witness who is ill to attend at the place where the magistrate usually sits, or any other reasonable cause, it appears desirable to do so, and may remand the accused person if required, but the remand shall not be for more than eight days, the day following that on which the remand is made being counted as the first day;

(d) order that no person, other than the officers of the magistrate's court, the persons engaged in the prosecution, and the accused person, and his counsel (if any), shall have access to or remain in the room or building in which the inquiry is being held

(which shall not be deemed an open court) if it appears to him that the ends of justice will be best answered by so doing; and

(e) regulate the course of the inquiry in any way appearing to him desirable and not inconsistent with this Act or any other written law for the time being in force.

Restriction on publication of report of preliminary inquiry. [57 of 1952 19 of 1991]

63. (1) It shall not be lawful to print or publish or cause or procure to be printed or published, in relation to any preliminary inquiry under this Act, any particulars other than the following:

(a) the names, addresses and occupation of the accused person and the witnesses;

(b) a concise statement of the charge and the defence in support of which evidence has been given;

(c) submissions on any point of law arising in the course of the inquiry and the decision of the magistrate thereon:

Provided that subject to the further proviso following nothing herein shall apply to the printing or reproduction by any other method of any pleading, transcript of evidence or other documents for use in connection with any judicial proceedings or the communication thereof to persons concerned in the proceedings, or to the printing or publishing of any notice or report in pursuance of the directions of the magistrate:

Provided further that in respect of a rape offence no matter likely to lead members of the public to identify a person as the complainant in relation to that offence shall either be published in Guyana in a written publication available to the public or be broadcast in Guyana except as authorised by a direction given in pursuance of section 77A of the Criminal Law (Offences) Act.

(1A) In this section "complainant" "rape offence" "written publication" have the same meanings as in section 77A of the Criminal Law (Offences) Act.

(2) Any person who contravenes this section shall be liable on summary conviction to a fine of forty-eight thousand seven hundred and fifty dollars or to imprisonment for six months.

Proceedings *in camera*. [19 of 1991] Cap.8:01

63A. All proceedings at the preliminary inquiry under this Act relating to offences under sections 66, 67, 69, 70, 71, 75, 76, 77 and 87(1) of the Criminal Law (Offences) Act are to be held *in camera* unless the Court otherwise orders.

Taking of evidence for prosecution.

64. (1) When an accused person is before a magistrate holding a preliminary inquiry, the magistrate shall take the evidence of the witnesses on the part of the prosecutor.

(2) The evidence of those witnesses shall be given in the presence of the accused person; and the accused person shall be entitled to cross-examine them.

Fourth Schedule. Form 2.

(3) The evidence of each witness shall be taken down in writing in the form of a deposition, and as nearly as possible in the witness's own words.

(4) The deposition shall, at some time before the accused person is called on for his defence, be read over to and signed by the witness and the magistrate; the accused person, the witness, and the magistrate being all present

together at the time of the reading and signing.

(5) Any witness who refuses, without reasonable excuse, to sign his deposition may be committed by the magistrate holding the inquiry by a warrant to prison, there to be kept until after the trial, or until the witness signs his deposition before a magistrate:

Provided that, if the accused person is afterwards discharged, any magistrate may order the witness to be discharged.

(6) The signature of the magistrate shall be at the end of the deposition of each witness, in such a form as to show that it is meant to authenticate the deposition.

(7) Every magistrate holding a preliminary inquiry is hereby required to cause the depositions to be written in a legible hand, and on one side only of each sheet of paper on which they are written, and the paper shall be white, of ordinary foolscap size and of good quality, and shall have a margin of about two inches in width.

Charging accused person. [21 of 1932 4 of 1972]

65.(1) After the examination of the witnesses called on the part of the prosecutor has been completed, and after the depositions have been signed as aforesaid, the magistrate, if of the opinion that the evidence has established a *prima facie* case against the accused, shall address him in these words, or to the like effect:

"Do you wish to say anything in answer to the charge? You are not obliged to say anything unless you desire to do so, but whatever you say will be taken down in writing and may be given in evidence upon your trial."

Fourth Schedule. Form 3.

(2) Whatever the accused person then says in answer thereto shall be taken down in writing, as nearly as possible in the accused person's own words, and shall be

signed by the accused person, if he will, and by the magistrate, and kept with the depositions of the witnesses and dealt with as hereinafter mentioned.

Taking evidence for defence.

66. (1) After the proceedings required by the preceding section are completed, the magistrate shall ask the accused person if he wishes to call any witnesses.

(2) Every witness called by the accused person who testifies to any fact relevant to the case shall be heard, and his deposition shall be taken, signed, and authenticated in the same manner as the deposition of a witness for the prosecution.

Marking exhibits.

67. The magistrate shall cause all writings and other articles exhibited by the witnesses, or any of them, to be inventorised and labelled, or otherwise marked, in the presence of the person producing them, so that they may be identified at the trial.

Deposition of witness not able to attend through illness.

68. (1) Where any person able to give material evidence in respect of an indictable offence is from illness unable to attend at the place where the magistrate usually sits, the magistrate of the district within which that person is shall have power to take his deposition at the place where he is, notwithstanding that the offence was not committed in the district of that magistrate.

(2) Section 76 shall, so far as it is applicable, apply to depositions taken under this section, and for that purpose the magistrate taking the deposition may exercise all the powers conferred upon a magistrate by that section:

Provided that those powers may be exercised whether the person accused of the indictable offence has been committed for trial or not.

(3) Every deposition taken under this section shall be transmitted to the magistrate by whom the preliminary inquiry into the indictable offence is being, or has been held, if it was taken by some other magistrate, and it shall be treated in all respects in the same way, and shall be considered for all purposes as a deposition taken upon the preliminary inquiry.

(4) The deposition, whether taken for or against an accused person, may be produced and given in evidence at his trial in the cases in which a deposition taken under this Part may be produced and given in evidence.

Discharge

Discharge of accused person. [22 of 1961 4 of 1972]

69. If at the close of the case for the prosecution, or after hearing the accused or any witnesses he may produce, the magistrate is of the opinion that no sufficient case is made out to put the accused person upon his trial for any indictable offence, he shall discharge the accused and in that case any recognisance taken in respect of the charge shall become void.

Costs and expenses of frivolous or vexatious complaint or information.

70. (1) In every case of a complaint or information for an indictable offence where the accused person has been discharged, the magistrate, if he is of opinion that the complaint or information was frivolous or vexatious, may order the prosecutor, or other person by whom or at whose instance it was made or given, to pay to the accused person his just and reasonable costs, charges, and expenses, and those of his witnesses, caused or occasioned by, or consequent upon, the making of the complaint or giving of the information.

(2) The amount of the costs, charges, and expenses shall be fixed by the magistrate and payment thereof may be enforced by distress in manner provided in Part IV of the Summary Jurisdiction (Procedure) Act.

c. 10:02

Appeal.

c. 3:04

(3) Every order made under this section shall be subject to appeal in the manner and subject to the conditions prescribed in the Summary Jurisdiction (Appeals) Act.

Committal for Trial

Committal of accused person for trial.
[22 of 1961]
Fourth Schedule.
Form 15.

71. If, upon the whole of the evidence, the magistrate is of opinion that a sufficient case is made out to put the accused person upon his trial for any indictable offence he shall, subject to section 9, commit him for trial to the next practicable sitting of the court for the county in which the inquiry is held.

Committal or discharge on consideration of statements, documents, etc.
[17 of 2008]

71A. (1) The Magistrate holding a preliminary inquiry into an indictable offence may admit as evidence on the part of the prosecutor or the accused any statements, documents, writings and other articles tendered to the court in the absence of the witness and cause them to be inventorised and labelled, or otherwise marked as exhibits.

(2) Notwithstanding anything contained in any written law but subject to section 9, if the Magistrate is of opinion that a *prima facie* case is made out to put the accused person upon trial for any indictable offence on a consideration of the statements, documents, writings and other articles admitted as evidence on the part of the prosecutor or the accused he may commit the accused person for trial for the offence.

(3) The Magistrate shall not commit an accused person for trial for the offence where he is not represented by an Attorney-at-Law, or where he is represented by an Attorney-at-Law, if the Attorney-at-Law requests the court to consider a submission that the statements disclose insufficient evidence to put the accused on trial for the offence.

(4) Where on consideration of any statements, documents, writings and other articles and on consideration

of any submissions made on behalf of the accused person, the Magistrate is of opinion that a *prima facie* case is not made out to put the accused person upon his trial for any indictable offence, he may discharge him and in that case any recognisance taken in respect of the charge shall become void.

(5) In addition to any statements, documents, writings and other articles tendered to the court that may be admissible as evidence under this section, the Magistrate –

(a) may on his own motion or on an application by any party to the proceedings, require any witness to attend before him and give evidence; and

(b) shall allow any party to the proceedings to cross-examine the witness,

and the evidence shall be considered for the purposes of this section to ascertain whether the prosecution has made out a *prima facie* case.

(6) The provisions in sections 60 to 68, section 70 and sections 72 to 74 shall *mutatis mutandis* apply in relation to the proceedings under this section.

Power of Director of Public Prosecutions to remit case for committal. [4 of 1972]

72.(1) In any case where the magistrate discharges an accused person, the Director of Public Prosecutions may require the magistrate to send to him the depositions taken in the cause, or a copy thereof, and any other documents or things connected with the cause which he thinks fit.

(2) (i) Where before the discharge of the accused person the provisions of sections 65 and 66 have been complied with, the Director of Public

Prosecutions may, if after the receipt of those documents and things he is of the opinion that the accused should have been committed for trial, remit those documents and things to the magistrate with directions to reopen the inquiry and to commit the accused for trial, and may give such further directions as he may think proper.

(ii) (a) Where before the discharge of the accused person the provisions of sections 65 and 66 have not been complied with and the Director of Public Prosecutions, after the receipt of those documents and things, is of opinion that the evidence given on behalf of the prosecution had established a *prima facie* case against the accused, the Director of Public Prosecutions may remit those documents and things to the magistrate with directions to reopen the inquiry and to comply with sections 65 and 66, and may give such further directions as he may think proper.

(b) After complying with the directions given by the Director of Public Prosecutions under subparagraph (a), the magistrate may either commit the accused for trial or he may adjourn the inquiry and, subject

to any directions on the matter given by the Director of Public Prosecutions, forthwith notify the Director of Public Prosecutions who shall give any further directions as he may deem fit and, if of opinion that a sufficient case has been made out for the accused to answer, may direct the magistrate to commit the accused for trial.

(3) Any directions given by the Director of Public Prosecutions under this section shall be in writing signed by him, and shall be followed by the magistrate, who shall have all necessary power for that purpose.

(4) The Director of Public Prosecutions may at any time add to, alter, or revoke any of his directions.

Copy of depositions for accused person. [33 of 1955]

73. Every person committed for trial, whether bailed or not, shall be entitled, at any reasonable time before the trial, to have copies of the depositions and of his own statement (if any) from the clerk of the magistrate's court, or, if the documents relating to the inquiry have been transmitted by the magistrate as hereinafter provided, from the Registrar.

Binding over to give evidence.

74. (1) When an accused person is committed for trial, the magistrate holding the preliminary inquiry shall bind over every witness for the prosecution whose deposition has been taken, and every witness for the defence whose evidence is, in his opinion material, to give evidence at the trial of the accused person before the court.

(2) Every recognisance so entered into shall specify the forename and surname of the person entering into it, his occupation or profession (if any), the place of his residence,

and the name and number (if any) of any street in which it is.

Fourth Schedule. Form 2. Form 12

(3) The recognisance may be either at the foot of the deposition or separate therefrom, and shall be acknowledged by the person entering into it and subscribed by the magistrate before whom it is acknowledged.

(4) Any witness who refuses without reasonable excuse to enter into the recognisance may be committed to prison by the warrant of the magistrate holding the inquiry, there to be kept until after the trial, or until the witness enters into the recognisance before a magistrate:

Provided that, if the accused person is afterwards discharged, any magistrate may order the witness to be discharged.

Form 8.

(5) On binding over a witness, the magistrate shall deliver or cause to be delivered to him a notice in writing informing him of the day on which the sitting of the court will commence, and of the manner in which he can ascertain the day fixed for the trial of the cause.

TITLE 5 – PROCEEDINGS SUBSEQUENT TO COMMITTAL OF ACCUSED PERSON

Transmission of documents relating to cause.

75. (1) The following documents shall, as soon as may be after the committal of the accused person, be transmitted by the magistrate to the Registrar, that is to say, the information (if any), the depositions of the witnesses, the documentary exhibits thereto, the statement of the accused person, and the recognisances entered into.

(2) A copy of those documents shall at the same time be transmitted by the magistrate to the Director of Public Prosecutions.

(3) All exhibits, other than documentary exhibits, shall, unless the magistrate otherwise directs, be taken charge of by the police, who shall produce them at the trial.

Deposition of witness after committal of accused person.

76. (1) After an accused person has been committed for trial, proof upon oath may be given, either by the prosecutor or by the accused person, that any person who has not been examined as a witness is able to give evidence tending to prove either the guilt or the innocence of the accused person.

(2) That proof shall, if practicable, be given before the magistrate by whom the accused person was committed, and, if not so practicable, before some other magistrate, and shall be taken in the form of a deposition as hereinbefore provided.

(3) The magistrate, if he is satisfied by the proof that it is for the interests of justice that the examination should take place, shall appoint a time and place for the examination of the person intended to be examined, and if that person is able to attend the magistrate shall have the same powers for compelling the person's attendance as he has for compelling the attendance of witnesses at the preliminary inquiry.

Fourth Schedule. Form 21.

(4) The person making the application shall give reasonable notice in writing to the accused person or the prosecutor, as the case may be, and to the Director of Public Prosecutions, of the time and place at which the examination is to take place, and the magistrate shall, before taking the deposition, be satisfied that that notice has been given.

(5) If the application is made by the prosecutor and if the accused person is in prison, the magistrate may, by an order in writing under the magistrate's hand, direct the keeper of the prison having the custody of the accused person

to convey him, or cause him to be conveyed, to the place where the examination is to be taken, for the purpose of being present when it is taken, and to take him back to prison afterwards.

(6) At the time and place appointed, the magistrate shall take the deposition of the person to be examined in the same way in which other depositions are taken, and all the provisions of law relating to the reading over and signing of depositions, and to their admissibility in evidence, shall apply to that deposition:

Provided that—

(a) if the party against whom the deposition is to be read neglects to attend at the time when it is taken, after receiving due notice thereof, it shall be admissible in evidence against him, although it was taken and signed in his absence; and

(b) if the accused person or the prosecutor does not himself attend at the taking of the deposition, but causes his counsel to attend, the counsel shall be entitled to cross-examine the witness.

(7) Every deposition taken under this section shall be transmitted, together with a copy thereof, by the magistrate and shall be treated in all respects in the same way as, and shall be considered as being for all purposes, a deposition taken upon the preliminary inquiry.

Power to Director of Public Prosecutions to

77. (1) At any time within six months after the receipt of any documents mentioned in this Title, the Director of Public Prosecutions may, if he thinks fit, remit the cause to the

remit cause for further inquiry. [21 of 1978]

magistrate with directions to re-open the inquiry for the purpose of taking evidence or further evidence on a certain point or points to be specified, and with any other directions he thinks proper.

(2) Subject to any express directions given by the Director of Public Prosecutions, the effect of remission to the magistrate shall be that the inquiry shall be re-opened and dealt with in all respects as if the accused person had not been committed for trial.

Power of Director of Public Prosecutions to remit cause to be dealt with summarily.

78. If, after the receipt of any documents mentioned in this Title, the Director of Public Prosecutions is of opinion that the accused person should not have been committed for trial but that the matter should have been dealt with summarily, the Director of Public Prosecutions may, if he thinks fit, at any time after that receipt, remit the cause to the magistrate with directions to deal with it accordingly, and with any other directions he thinks proper.

Further provisions as to remission of case.

79. (1) Any directions given by the Director of Public Prosecutions under either of the last two preceding sections shall be in writing signed by him, and shall be followed by the magistrate.

(2) The Director of Public Prosecutions may at any time add to, alter, or revoke any of the directions.

(3) The Registrar, at the request in writing of the Director of Public Prosecutions, shall send back to the magistrate the original documents transmitted to him by the magistrate.

(4) When the Director of Public Prosecutions directs that an inquiry shall be re-opened under section 77, or that a matter shall be dealt with summarily under section 78, the following provisions shall have effect:

(a) where the accused person is in custody, the magistrate may, by an order in writing under his hand, direct the keeper of the prison having his custody to convey him or cause him to be conveyed to the place where the proceedings are to be held for the purpose of being dealt with as the magistrate directs;

(b) where the accused person is on bail, the magistrate shall issue a summons for his attendance at the time and place when and where the proceedings are to be held; and

(c) thereafter the proceedings shall be continued under this Act or the Summary Jurisdiction (Procedure) Act, as the case may be, and, if under the last-mentioned Act, in the same manner as if the magistrate had himself formed an opinion in terms of section 33 of that Act.

c. 10:02

Condition under which witnesses at a preliminary inquiry need not be called at the trial.

80. (1) Where any person has been committed for trial by a magistrate, if it appears to the Director of Public Prosecutions that attendance at the trial of any witness who has been examined for the prosecution and bound over is unnecessary, the Director of Public Prosecutions may cause a notice to be given to such person that the witness will not be called at the trial, and shall at the same time instruct the Commissioner of Police to serve notice on the witness not to attend the trial.

(2) Where notice under subsection (1) has been given to the person committed for trial he may give notice at any time to the Registrar of the Supreme Court that he desires

the witness to attend at the trial, and the Registrar shall forthwith inform the Commissioner of Police of the fact and he shall thereupon cause notice to be served on the witness that he is required to attend in pursuance of his recognisance and the witness shall be bound to attend accordingly

(3) Where a magistrate commits a person for trial the magistrate shall ask such person to state the address at which a notice may be delivered for him under subsection (1) if he shall be on bail, and the magistrate shall note the address at the end of the depositions and shall inform the person committed for trial of his right to require the attendance at the trial of any such witness whose evidence he requires and of the steps which he must take for the purpose of enforcing such attendance.

(4) Any notice to a person committed for trial or to the Registrar shall be in writing, and a notice to a person committed for trial shall be sufficiently served if it is delivered to the keeper of the prison in which the person is confined, or if he is on bail at the address given to the magistrate by him.

Seventh Schedule.

(5) Service of a notice under this section shall be made by a constable and a return of service in the form in the Seventh Schedule endorsed on a copy of the notice purporting to be signed by the constable shall be sufficient evidence of the facts stated therein without proof of the signature or of the official character of the constable.

TITLE 6 – BAIL

Right of accused person to bail.

81. With respect to bail, the following provisions shall have effect –

Continuous bail.

(a) where a person is remanded on bail the recognisance may be conditioned for his appearance at every time and

place to which during the course of the proceedings the hearing is from time to time adjourned, without prejudice, however, to the power of the court to vary the order at any subsequent hearing;

Saving.

(b) the provisions of the preceding paragraph are in addition to, and not in derogation of, any other enactment governing the taking of recognisances in any Act passed before those provisions came into force;

(c) where the offence with which the accused person is charged is a misdemeanour punishable with fine or with imprisonment for any term not exceeding two years, the accused person shall be entitled to be admitted to bail as hereinafter mentioned;

(d) where the offence with which the accused person is charged is a misdemeanour punishable otherwise than as in this section before-mentioned, or, subject to the exceptions hereafter in this section mentioned, is a felony, the magistrate may, in his discretion, admit the accused person to bail as hereinafter mentioned; and

(e) a magistrate shall not admit to bail any person charged with treason, misprision of treason, treason felony, or murder.

Bailing of accused on adjournment of inquiry. Fourth Schedule. Form 12.

82. (1) Every accused person whether committed to prison or not shall or may, as the case may be, be admitted to bail, upon providing a surety or sureties sufficient, in the opinion of the magistrate, to secure his appearance, or upon his own recognisance, if the magistrate thinks fit; and where, by any written law for the time being in force, bail may be allowed or refused in the discretion of the magistrate, that discretion may be exercised at any stage of the proceedings.

(2) Whenever the preliminary inquiry is for any reason adjourned or interrupted, the magistrate holding it shall or may, as the case may be, instead of remanding the accused person to prison, admit him to bail on condition of his appearing at the time to which the inquiry is adjourned, or at an earlier day if so required.

(3) If an accused person who has appeared and has been admitted to bail (either on the recognisance of sureties or on his own recognisance) to appear at any adjournment, fails to appear according to the condition of the recognisance, the magistrate before whom he ought to have appeared may issue a warrant for his apprehension, whether there has been any information in writing and upon oath or not.

Form 9.

Committal of accused person to prison for safe custody pending preliminary inquiry.

83. (1) An accused person who is not admitted to bail shall be committed for safe custody to prison, or as the case may require.

(2) If the magistrate adjourns the preliminary inquiry and remands the accused person, the remand shall be by warrant.

(3) The magistrate may, whilst the accused person is under remand and before the expiration of the period of remand, order the accused person to be brought before him, and the keeper of the prison shall obey the order, or, if the accused person is on bail, the magistrate may summon him to appear at an earlier day than that to which he was remanded;

Fourth Schedule. Form 15.

and if that summons is not obeyed, a warrant may issue to enforce his attendance, and may be executed like any other warrant.

Bailing accused person on committal for trial. [22 of 1961] Fourth Schedule. Form 12.

84. (1) If an accused person who is committed for trial is admitted to bail, the recognisance of bail shall be taken in writing, either from the accused person and one or more surety or sureties, or from the accused person alone, in the discretion of the magistrate, according to the nature and circumstances of the case, and shall be signed by the accused person and his surety or sureties, if any.

(2) The condition of the recognisance shall be that the accused person shall personally appear before the High Court at its next practicable sitting (which shall be specified) to be held in Georgetown, Suddie, or New Amsterdam, or elsewhere, as the case may be, there and then, or at any time within twelve months from the date of the recognisance, to answer to any indictment that may be filed against him in the said Court, and that he will not depart the said Court without leave of the Court, and that he will accept service of the indictment at the magistrate's court nominated by him in pursuance of section 115.

Conveying accused person to prison after committal for trial. Fourth Schedule. Form 22.

85. (1) If an accused person who is committed for trial is not released on bail, the police or other constable to whom the warrant of commitment is directed shall convey him to the prison and there deliver him, together with the warrant, to the keeper of the prison, who shall thereupon give the police or other constable a receipt for him, which shall set forth the condition in which he was when he was delivered into the custody of the keeper.

(2) It shall not be necessary to address any warrant of commitment under this or any other section of this Act to the keeper of the prison, but upon delivery of the warrant to the keeper by the person charged with the execution thereof,

the keeper shall receive and detain the person named therein (or detain him, if already in the keeper's custody) for the period and the purpose directed by the warrant. In case of adjournments or remands, the keeper shall bring him, or cause him to be brought, at the time and place fixed by the warrant for that purpose, before the magistrate.

(3) This section shall apply to every person committed to prison under any provision of this Act.

Bailing accused person after committal for trial.
Fourth Schedule.
Forms 10 or 11.

86. (1) If an accused person who is entitled to be admitted to bail, or if an accused person whom the magistrate has power to bail and who, in his opinion, ought to be bailed, is committed to prison only because he does not, at the time of his committal for trial, procure a sufficient surety or sureties for appearing to take his trial, the magistrate shall endorse on the warrant of commitment, or on a separate paper, a certificate of his consent to the accused person being bailed, and shall state the amount of bail which ought to be required; and any magistrate attending or being at the prison whilst the accused person is confined therein, shall, on the production of that certificate, admit him to bail accordingly and order him to be discharged by a warrant of deliverance.

(2) (a) The magistrate holding the preliminary inquiry, shall, if required at any time before the trial, by or on behalf of the accused person, make and sign one or more duplicate copies of the aforesaid certificate, and, on the production of a duplicate to any justice of the peace, the justice may take the recognisance of one or more sureties in conformity therewith, and shall thereupon transmit the recognisance to the magistrate of the district in which the accused person was committed.

(b) When the recognisances of all the sureties required have been received, the committing magistrate shall issue his warrant of deliverance to the keeper, requiring him to take the recognisance of the accused person and to discharge him, and the keeper is hereby authorised to take that recognisance, and shall forthwith do so and discharge the accused person, unless he is in his custody for some other reason.

Form 17.

Power of the Court or judge to bail accused persons.

87. The Court or a judge may at any time, on the petition of an accused person, order him, whether he has been committed for trial or not, to be admitted to bail, and the recognisance of bail may, if the order so directs, be taken before any magistrate or justice of the peace.

Apprehension of accused person on bail but about to abscond.

88. Where an accused person has been bailed in manner aforesaid, the magistrate by whom he has been bailed, or any other magistrate or justice of the peace, if he sees fit, on the application of the surety or of either of the sureties of the person, and on information being laid in writing, and upon oath by that surety, or by some person on the surety's behalf, that there is reason to believe that the person so bailed is about to abscond for the purpose of evading justice, may issue his warrant for the apprehension of the person so bailed, and afterwards, on being satisfied that the ends of justice would otherwise be defeated, may commit him when so arrested to prison until his trial, or until he produces another sufficient surety or other sufficient sureties, as the case may be, in like manner as before.

Amount of bail. [19 of 1990]

89. (1) The amount to be taken in any case shall be in the discretion of the magistrate, or of the Court or the judge, by whom the order for the taking of the bail is made, but no

accused person shall be required to give excessive bail.

(2) The magistrate, or the Court, or the judge, may accept a deposit of money from or on account of any person in lieu of a surety or sureties, and on any breach of the condition of his recognisance that deposit shall be forfeited and shall be dealt with in the same manner as sums of money recovered in respect of forfeited recognisances.

Bailing infant.

(3) If an accused person who is admitted to bail is an infant, the recognisance of bail shall be taken only from the surety or sureties.

PART III
PROCEEDINGS IN THE COURT
TITLE 7 – MODE OF TRIAL

General mode of trial.

90. (1) Every person committed for trial shall be tried on an indictment in the Court.

(2) Subject to the next succeeding section, the trial shall be had by and before a judge of the Court and a jury constituted under this Act.

Trial at bar.

91. On motion made by the Director of Public Prosecutions, a judge shall order that the trial of any indictment shall be had at bar, that is to say by and before two or three judges of the Court and a jury constituted under this Act, and that trial shall be had accordingly.

Saving right of Director of Public Prosecutions to file information for misdemeanour.

92. (1) Nothing in this Act shall affect the right of the Director of Public Prosecutions to file an information in the Court against any person for any misdemeanour.

(2) Subject to this Act or any other written law for the time being in force, the law, practice, and procedure in respect of an information shall be, as nearly as may be, the same as the law, practice, and procedure for the time being in

force in relation to informations filed by the Attorney-General of England in the High Court of Justice in England, so far as that law, practice, and procedure is applicable to the circumstances of Guyana.

Meaning of "the rules".

93. For the purposes of the next five succeeding sections, unless the context otherwise requires –

"the rules" means the rules with respect to indictments (which shall have effect as if enacted herein), contained in the Fifth Schedule; and includes any further or other rules made under the provisions of the next succeeding section;

Fifth Schedule.

"the court" means the court before which any offence punishable on indictment is tried or prosecuted.

Rule Committee.

94. (1) There shall be established a rule committee consisting of the judges of the Supreme Court, or a majority of them including the Chancellor and the Chief Justice, the Director of Public Prosecutions, and the State Counsel, and another person having experience in criminal procedure appointed by the Chancellor.

(2) Subject to negative resolution of the National Assembly, the rule committee may make further rules with respect to the matters dealt with in the rules, and the rules shall have effect subject thereto.

(3) The term of office of the person appointed to be a member of the committee as aforesaid shall be that specified in the appointment

Presentation and sufficiency of indictment.

95. (1) Every indictment shall be presented by and in the name of the Director of Public Prosecutions and shall contain and be sufficient if it contains, a statement of the specific offence or offences with which the accused person is charged, together with the particulars necessary for giving

reasonable information as to the nature of the charge.

(2) Notwithstanding any rule of law or practice, an indictment shall not, subject to this Act, be open to objection in respect of its form or contents if it is framed in accordance with the rules.

Joinder of charges in the same indictment.

96. Subject to the rules, charges for more than one felony or for more than one misdemeanour, and charges for both felonies and misdemeanours, may be joined in the same indictment, but where a felony is tried together with any misdemeanour, the jury shall be sworn and the person accused shall have the same right of challenging jurors as if all the offences charged in the indictment were felonies.

Orders for amendment of indictment, separate trial and postponement of trial.

97. (1) Where, before trial, or at any stage of a trial, it appears to the Court that the indictment is defective, the Court shall make any order for the amendment of the indictment the Court thinks necessary to meet the circumstances of the case, unless, having regard to the merits of the case, the required amendments cannot be made without injustice.

(2) Where an indictment is so amended, a note of the order for amendment shall be endorsed on the indictment, and the indictment shall be treated, for the purposes of the trial and for the purposes of all proceedings in connection therewith, as if it had been originally framed as amended.

(3) Where, before trial, or at any stage of a trial, the Court is of opinion that a person accused may be prejudiced or embarrassed in his defence by reason of being charged with more than one offence in the same indictment, or that for any other reason it is desirable to direct that the person should be tried separately for any one or more offences charged in an indictment, the Court may order a separate trial of any count or counts of that indictment.

(4) Where, before trial, or at any stage of a trial, the Court is of opinion that the postponement of the trial of a person accused is expedient as a consequence of the exercise of any power of the Court under this Act to amend an indictment or to order a separate trial of a count, the Court shall make such order as to the postponement of the trial as appears necessary.

(5) Where an order of the Court is made under this section for a separate trial or for the postponement of a trial –

(a) if the order is made during a trial, the Court may order that the jury are to be discharged from giving a verdict on the count or counts the trial of which is postponed, or on the indictment, as the case may be; and

(b) the procedure on the separate trial of a count shall be the same in all respects as if the count had been laid in a separate indictment, and the procedure on the postponed trial shall be the same in all respects (if the jury has been discharged) as if the trial had not commenced; and

(c) the Court may make any order as to admission of the accused person to bail and enlargement of recognisance and otherwise the Court thinks fit.

(6) Any power of the Court under this section shall be in addition to and not in derogation of any power of the Court for the same or similar purposes.

Saving.

98. Nothing in the Act or the rules shall affect the law or practice relating to the jurisdiction of a Court or the place

where an accused person can be tried, or prejudice or diminish in any respect the obligation to establish by evidence according to law any acts, omissions, or intentions legally necessary to constitute the offence with which the person accused is charged, or otherwise affect the laws of evidence in criminal causes.

TITLE 8 – PLEADING

Indictment

Variances and amendments.

99. (1) If, on the trial of any indictment, there appears to be a variance between the proof and the charge in any count in the indictment, either as preferred, or as amended, the Court may amend the indictment, or any count in it, or any particulars, so as to make it conformable with the proof; and if the Court is of opinion that the accused person has not been misled or prejudiced in his defence by the variance, it shall make the amendment.

(2) The trial may then proceed in all respects as if the indictment or count had been originally framed as amended:

Provided that, if the Court is of opinion that the accused person has been misled or prejudiced in his defence by the variance, or omission, or defective statement aforesaid, but that the effect of his being misled or prejudiced may be removed by adjourning or postponing the trial, the Court may, in its discretion, make the amendment and adjourn the trial to a future day, or discharge the jury and postpone the trial, on any terms it thinks just.

(3) In determining whether the accused person has been misled or prejudiced in his defence or not, the Court shall consider the contents of the depositions as well as the other circumstances of the case.

When full offence charged and attempt proved.

100. Where the complete commission of the offence charged is not proved, but the evidence establishes an attempt to commit the offence, the accused person may be convicted of the attempt, and punished accordingly:

Provided that, after a conviction for the attempt, the accused person shall not be liable to be prosecuted again for the offence which he was charged with committing.

Case of attempt charged – full of offence proved.

101. Where an attempt to commit an offence is charged, but the evidence establishes the commission of the full offence, the accused person shall not be entitled to be acquitted, but he may be convicted of the attempt and punished accordingly:

Provided that, after a conviction for the attempt, the accused person shall not be liable to be prosecuted again for the offence which he was charged with attempting to commit.

Full offence charged – part proved.
[20 of 1939]

102. Every count shall be deemed divisible; and if the commission of the offence charged, as is described in the enactment creating the offence, or as charged in the count, includes the commission of any other offence, the accused person may be convicted of any offence so included which is proved, although the whole offence charged is not proved, or he may be convicted of an attempt to commit any offence so included:

Provided that on a count charging murder, if the evidence proves manslaughter, but does not prove murder, the jury may find the accused person not guilty of murder but guilty of manslaughter.

Misdemeanour charged – felony proved.

103. Where a misdemeanour is charged, and the evidence establishes the commission of a felony the accused person shall not by reason thereof be entitled to be acquitted of the misdemeanour:

Provided that no person tried for a misdemeanour shall be liable to be afterwards prosecuted for felony on the same facts, unless the Court before which that trial is had thinks fit, in its discretion, to discharge the jury from giving any verdict thereon, and to direct the person to be indicted for felony, in which case he may be dealt with in all respects as if he had not been put upon his trial for the misdemeanour.

Embezzlement charged – larceny proved and *vice versa*.

104. (1) Where embezzlement, or the fraudulent application or disposition of anything, is charged, and the evidence establishes the commission of larceny of any kind, the accused person shall not be entitled to be acquitted, but he may be convicted of the larceny and punished accordingly.

(2) Where larceny of any kind is charged, and the evidence establishes the commission of embezzlement, or the fraudulent application or disposition of anything, the accused person shall not be entitled to be acquitted, but he may be convicted of the embezzlement or fraudulent application or disposition, and punished accordingly.

(3) No person so tried for embezzlement, fraudulent application or disposition, or larceny, as aforesaid shall be liable to be afterwards prosecuted for larceny, fraudulent application or disposition, or embezzlement upon the same facts.

Joiner of counts and proceedings.

105. (1) Any number of counts for any offences whatever may be joined in the same indictment, and shall be sufficiently distinguished:

Provided that to a count charging murder no count charging any offence other than murder shall be joined.

(2) Where there are more counts than one in an indictment, each count may be treated as a separate indictment.

(3) (a) If the Court thinks it conducive to the ends of justice to do so, it may direct that the accused person shall be tried upon any one or more of the counts separately.

(b) That order may be made either before or in the course of the trial, and, if it is made in the course of the trial, the jury shall be discharged from giving a verdict upon the counts on which the trial is not to proceed.

(c) The counts in the indictment which are not then tried shall be proceeded upon in all respects as if they had been contained in a separate indictment:

Provided that, unless there are special reasons for so doing, no order shall be made preventing the trial at the same time of any number of distinct charges of larceny or embezzlement, not exceeding five, alleged to have been committed within six months from the first to last of those offences, whether against the same person or not.

(4) If one sentence is passed upon any verdict of guilty on an indictment containing more counts than one, the sentence shall be good if any of those counts would have justified the sentence.

Objection to substance of indictment.

106. (1) No objection to an indictment shall be taken by way of demurrer, but if an indictment does not state in substance an indictable offence or states an offence not triable by the Court, the accused person may move the Court to quash it or in arrest of judgment as provided in Title 11.

(2) If the motion is made before the accused person

pleads, the Court shall either quash the indictment or, if the Court thinks that it ought to be amended, amend it.

(3) If the defect in the indictment appears to the Court during the trial, and the Court does not think fit to amend it, the Court may, in its discretion, quash the indictment, or leave the objection to be taken in arrest of judgment.

(4) If the indictment is quashed, the Court may direct the accused person to plead to another indictment, when called on at the same sitting of the Court.

Pleas

Special pleas allowed to be pleaded.

107. (1) The following special pleas, and no others, may be pleaded according to the provisions hereinafter contained, that is to say, a plea of *autrefois acquit*, a plea of *autrefois convict*, a plea of pardon, and in cases of defamatory libel the plea hereinafter mentioned.

(2) All other grounds of defence may be relied on under the plea of not guilty.

(3) The plea of *autrefois acquit*, *autrefois convict*, and pardon may be pleaded together, and if pleaded shall be disposed of before the accused person is called on to plead further; and if all those pleas are disposed of against the accused person, he shall be allowed to plead not guilty.

(4) In any plea of *autrefois acquit* or *autrefois convict*, it shall be sufficient for the accused person to state that he has been lawfully acquitted or convicted, as the case may be, of the offence charged in the count or counts to which that plea is pleaded.

(5) Every special plea shall be in writing, and shall be filed with the Registrar not less than twenty-four hours

before the arraignment of the accused person.

General effect of pleas *autrefois acquit and convict.*

108. (1) On the trial of an issue on a plea of *autrefois acquit* or *autrefois convict* to any count or counts, if it appears that the matter on which the accused person was tried on the former trial is the same, in whole or in part, as that on which it is proposed to try him, and that he might, on the former trial, have been convicted of all the offences of which he may be convicted on the count or counts to which that plea is pleaded, the Court shall give judgment that he be discharged from that count or those counts.

(2) If it appears that the accused person might, on the former trial, have been convicted of any offence of which he may be convicted on the count or counts to which that plea is pleaded, but that he may be convicted on the count or counts of some offence or offences of which he could not have been convicted on the former trial, the Court shall direct that he shall not be convicted on the count or counts of any offence of which he might have been convicted on the former trial, but that he shall plead over as to the other offence or offences charged.

Effect where previous offence charged was without aggravation.

109. (1) Where an indictment charges substantially the same offences as that charged in the indictment on which the accused person was given in charge on a former trial, but adds a statement of intention or circumstances of aggravation tending, if proved, to increase the punishment, the previous acquittal or conviction shall be a bar to the subsequent indictment.

(2) A previous acquittal or conviction on an indictment for murder shall be a bar to a second indictment for the same homicide charging it as manslaughter, and a previous acquittal or conviction on an indictment for manslaughter shall be a bar to a second indictment for the same homicide charging it as murder.

Use of depositions on former trial on pleas.

110. On the trial of an issue on a plea of *autrefois acquit or autrefois convict*, the depositions transmitted to the Registrar on the former trial, together with the judge's notes, if available, and the depositions transmitted to the Registrar on the subsequent charge, shall be admissible in evidence to prove or disprove the identity of the charges.

Plea of justification in case of libel.

111. (1) Where any person accused of publishing a defamatory libel pleads that the defamatory matter published by him was true, and that it was for the public benefit that the matters charged should be published in the manner in which and at the time when they were published, that plea may justify the defamatory matter in the sense specified (if any) in the count, or in the sense which the defamatory matter bears without any specification; or separate pleas justifying the defamatory matter in each sense may be pleaded separately, as if two libels had been charged in separate counts.

(2) The plea must be in writing, and must set forth the particular fact or facts by reason of which it was for the public good that the matters should be so published, and the State may reply generally denying the truth thereof.

(3) The truth of the matters charged in an alleged libel shall not in any case be inquired into without the plea of justification, unless the accused person is put upon his trial on any indictment alleging that he published the libel knowing it to be false, when evidence of the truth may be given in order to negative that allegation.

(4) The accused person may, in addition to the plea, plead not guilty, and inquiry shall be made of those pleas together, but no plea of justification herein provided for shall be pleaded to any indictment or count so far as it charges a libel to be a seditious, or blasphemous, or obscene libel.

(5) If when a plea of justification is pleaded the

accused person is convicted, the Court may, in pronouncing sentence, consider whether his guilt is aggravated or mitigated by the plea.

(6) If, when a plea of justification is pleaded, the issue thereon is found against the accused person, the State shall be entitled to recover from the accused person the costs sustained by the State by reason of the plea, to be taxed by the Registrar.

Application of previous provisions to criminal information.

112. The provisions of this Part relating to indictments shall apply to criminal information, and those of sections 95, 96, 97 and 89 shall (with any modifications by the rules made under section 94) apply to any plea, replication, or other criminal pleading.

TITLE 9 – PROCEEDINGS PRELIMINARY TO TRIAL

Institution of proceedings by Director of Public Prosecutions. [22 of 1961 5 of 1962]

113. (1) On receipt of the documents relating to the preliminary inquiry, the Director of Public Prosecutions, if he sees fit to do so, shall at any time institute those criminal proceedings in the Court against the accused person which to him seem legal and proper.

(2) The indictment against the accused person may include, either in substitution for or in addition to counts charging the offence for which he was committed, any counts founded on facts or evidence disclosed in any examination or deposition taken before a magistrate in his presence, being counts which may lawfully be joined in the same indictment.

(3) No objection to any indictment presented against an accused person (whether before or after the commencement of this subsection) shall be allowed on the ground that the indictment has been filed after the end of that sitting of the Court to which he was committed for trial.

Right of

114. (1) At any time after the receipt of the documents

Director of Public Prosecutions to enter *noelle prosequi*.

aforesaid, and either before or at the trial and at any time before verdict, the Director of Public Prosecutions may enter *nolle prosequi* either by stating in Court or by informing the Court in writing that the State intends that the proceedings shall not continue, and, thereupon, the accused person shall be at once discharged in respect of the charge for which *nolle prosequi* is entered, and if he has been committed to prison, shall be released, or if he is on bail, his recognisance shall be discharged, but his discharge shall not operate as a bar to any subsequent proceedings against him on the same facts.

(2) If the accused is not before the Court when *nolle prosequi* is entered, the Registrar shall cause notice in writing of the entry to be given to the keeper of the prison in which the accused is detained, and also to the magistrate of the district in which he was committed for trial, and the magistrate shall forthwith cause a similar notice in writing to be given to any witnesses bound over to give evidence at the trial and to the accused and his sureties if he has been admitted to bail.

Filing and service of copy of indictment. [22 of 1961]

115. (1) Subject to the provisions hereafter in this section contained, every indictment shall be filed in the registry three days at least before the day of trial of the accused person charged in the indictment.

(2) The Registrar shall two days at least before the day of trial deliver or cause to be delivered –

(a) to the keeper of the prison to which the accused person has been committed to await trial; or

(b) to the clerk of the magistrate's court nominated for the purpose by the accused person if and when he is admitted to bail,

a certified copy of the indictment and the copy shall be given to the accused person, if he is in custody by the keeper of the prison, or if he has been admitted to bail, by the clerk of the magistrate's court if and when he calls for it at the magistrate's court.

(3) For the purposes of the last preceding subsection –

(a) the delivery to the keeper or to the clerk of the magistrate's court of the copy may be made by transmitting it in a registered letter by post properly addressed to him;

(b) any receipt purporting to be given by any officer of the post office for the registered letter shall be deemed *prima facie* evidence of the posting on the day stated therein of the letter addressed as described in the receipt; and

(c) a certificate, signed by the Registrar, that a certified copy of an indictment was enclosed in the registered letter shall be deemed *prima facie* evidence that that copy reached the accused person charged in the indictment.

(4) An accused person may dispense with either or both of the requirements as to time hereinbefore contained.

(5) Whenever the Court orders or allows another indictment to be preferred at the same sitting of the Court for the same offence or for a minor offence, the accused person shall not be entitled to have a copy served upon him for a longer period than twenty-four hours before his arraignment

on the other indictment.

Bench warrant where accused person does not appear.

116. Where any person against whom an indictment has been duly presented and who is then at large does not appear to plead thereto, whether he is under recognisance to appear or not, the Court may issue a warrant for his apprehension.

Abolition of trial on coroner's inquisition.

117. After the commencement of this Act no person shall be tried upon any coroner's inquisition.

Change of venue and proceedings thereon.

118. (1) Where an accused person is committed for trial, the Court or a judge, on motion made by or on behalf of the Director of Public Prosecutions or by the accused person, and on sufficient grounds shown upon oath to the satisfaction of the Court or judge, may order that the trial of the cause shall take place in some other county than that in which the accused person has been committed for trial.

(2) On that order being made, the cause shall be tried and determined in the county directed by the order; and all recognisances, subpoenas, and proceedings in or relating to the cause, shall thereupon be deemed to be returnable, and shall, by virtue of the order, be forthwith transferred and returned, into that county, and all witnesses who are bound by recognisance or summoned to attend the trial shall attend in that county, and any final judgment, sentence, or order in the cause shall be carried into execution in the county or place directed by the Court before which the trial is had.

Abolition of outlawry.

119. Outlawry in criminal cases is abolished.

TITLE 10 – WITNESSES

Attendance of Witness

Attendance of witness bound by recognisance

120. Everyone bound by recognisance to attend any sitting of the Court as a witness, whether for the prosecution

to attend.

or for the defence, in any cause to be tried at the sitting, shall be bound to attend the Court, without any subpoena or notice, on the day appointed for the trial of the cause and on subsequent days of the sitting, until it has been disposed of, or until he has been discharged by the Court from further attendance:

Provided that on satisfying the Registrar that he has attended the Court on any day in the sitting earlier than the day appointed for the trial of the cause in which he is a witness, and that he resides more than five miles from a place mentioned in section 4, he shall be entitled to have his expenses for that day allowed.

Writ of subpoena for witness.

121. Every person whose attendance as a witness, whether for the prosecution or for the defence, is required in any cause, and who has not been bound by recognisance to attend as a witness at the sitting of the Court at which the cause is to be tried, shall be summoned by a writ of subpoena which shall issue in the name of the Registrar of the Supreme Court.

Preparation and issue of writ.
[33 of 1995
4 of 1972
6 of 1997]

122. (1) On being furnished at any time before or during any sitting of the Court, with the names and places of abode of any witnesses on behalf of the prosecution or of the defence whose attendance at the trial of any cause is required to be secured by subpoena, the Registrar shall prepare, and deliver to the police officer in charge of the county in which the Court is sitting, a writ or writs of subpoena, together with as many copies thereof as there are witnesses named in the writ or writs.

(2) Where a writ is applied for and obtained by any accused person who has been committed for trial on a charge of having committed any indictable offence other than a capital offence, the Registrar shall insert in the margin of the writ the name of the person who applied for and obtained it, and that person shall pay to the Registrar the sum of sixty-

five dollars:

Provided that the Court may, on the application of an accused person, direct the registrar to prepare and issue a writ, free of charge, where the Court is satisfied that such person has not the means to pay the charge prescribed in this subsection.

(3) Where application is made to the Court to postpone the trial of any cause on the ground of the absence of any witness stated to be material, it shall be taken as *prima facie* evidence, liable, nevertheless, to be rebutted, that the party applying for the postponement has not exercised due diligence to secure the attendance of that witness, if it appears that no subpoena to him was served in time to enable him to attend on the day of trial.

Service of writ. [4 of 1972]

123. (1) The police officer shall with all diligence cause a member of the police force to serve a writ of subpoena upon every person named therein by delivering a copy thereof to him personally, or, if he cannot, with the exercise of reasonable diligence, be encountered, by leaving a copy of it with some person for him at his last or most usual place of abode.

(2) The officer serving the writ shall note the service, with the date thereof, upon the original writ and shall forthwith deliver the original writ to the office of the Registrar, with a certificate thereon endorsed and subscribed as to the service or non-service thereof, as the circumstances of the case may require; and in all cases the return of the officer, duly certified as aforesaid shall be received and taken as *prima facie* evidence of the facts in the return.

(3) No fee shall be payable for the service of the writ, except in respect of any witness required for the defence, in any event other than that of a capital offence, whose deposition has not been taken at the preliminary inquiry and transmitted with the documents in the cause, and in that case

the officer shall not serve the writ until a reasonable sum has been lodged with the Registrar by the accused person for the expense of the service.

Warrant for apprehension of witness disobeying summons.

124. If anyone to whom the writ is directed does not attend the Court at the time and place mentioned therein, and no reasonable excuse is offered for his non-attendance, then, after proof upon oath, to the satisfaction of the Court, that the writ was duly served or that that person wilfully avoids service, the Court, being satisfied, by proof upon oath, that he is likely to give material evidence, may issue a warrant to apprehend him, and to bring him, at a time to be mentioned in the warrant, before the Court in order to give evidence on behalf of the prosecution or of the defence, as the case may be.

Warrant for apprehension of witness not attending on recognisance.

125. If any person who has been bound by recognisance to attend as a witness, whether for the prosecution or for the defence, at the trial of any cause does not attend the Court on the day appointed for that trial, and no reasonable excuse is offered for his non-attendance, the Court may issue a warrant to apprehend him, and to bring him, at a time to be mentioned in the warrant, before the Court in order to give evidence on behalf of the prosecution or of the defence, as the case may be.

Penalty for non-attendance of witness. [6 of 1997]

126. Every person who makes default in attending as a witness in either of the cases mentioned in the last two preceding sections shall be liable, on the summary order of the Court, to a fine of nineteen thousand five hundred dollars and, in default of payment, to imprisonment for two months.

Warrant for apprehension of witness in first instance.

127. (1) If a judge is satisfied, by proof upon oath, that any person likely to give material evidence, either for the prosecution or for the defence, on the trial of any cause, will not attend to give evidence without being compelled to do so, he may order that, instead of a subpoena being issued, a warrant shall be issued in the first instance for the apprehension of that person.

(2) Every person arrested under the warrant shall, if the trial of the cause for which his evidence is required is appointed for a time which is more than twenty-four hours after the arrest, be taken before a judge, and the judge may, on his furnishing security by recognisance, to the satisfaction of the judge, for his appearance at the trial, order him to be released from custody, or shall on his failing to furnish that security order him to be detained for production at the trial.

List of witnesses not required to be filed.

128. Neither the State nor the accused person shall be required to file any list of the witnesses to be examined or of the documentary evidence to be produced at the trial on behalf of the prosecution or of the defence.

Examination of Witness

Mode of dealing with witness refusing to be sworn or to give or produce evidence. [6 of 1997]

129. (l) Where any person, attending the Court as a witness either on his recognisance, or in obedience to a subpoena, or by virtue of a warrant, or being present in Court and being verbally required by the Court to give evidence in any cause –

(a) refuses to be sworn as a witness; or

(b) having been so sworn, refuses to answer any question put to him by or with the sanction of the Court; or

(c) refuses or neglects to produce any document which he is required by the Court to produce,

without in any of those cases offering any sufficient excuse for the refusal or neglect, the Court may, if it thinks fit, adjourn or postpone the trial of the cause for any period not later than the ensuing sitting of the Court for the same county, and may in the meantime, by warrant, commit the person to prison.

(2) If the person, upon being brought before the Court at or before the adjourned or postponed trial, again refuses to do what is so required of him, the Court may, if it thinks fit, again adjourn or postpone the trial of the cause and commit him in like manner, and so again from time to time until he consents to do what is so required of him.

(3) Every person who is guilty of the refusal or neglect aforesaid shall also be liable, on the summary order of the Court, either in addition to or in lieu of that punishment, to a fine of nineteen thousand five hundred dollars, and, in default of payment, to imprisonment for two months.

(4) Nothing in this section contained shall affect the liability of the person to any other punishment or proceeding for refusing or neglecting to do what is so required of him, or shall prevent the Court from disposing of the case in the meantime, according to any other sufficient evidence produced before it.

Non-attendance of witness at adjourned trial.

130. Every witness present when the trial or further trial of a case is adjourned, or who has been duly notified of the time to which it is so adjourned, shall be bound to attend at that time, and, in default of so doing, may be dealt with in the same manner as if he had failed to attend before the Court in obedience to a subpoena to attend and give evidence.

Procedure with respect to witnesses where trial is postponed.

131. (1) Where the trial of any cause is postponed from one sitting of the Court to another sitting, the Court may respite the recognisance of every witness bound by recognisance to attend the first-mentioned sitting, and that witness shall be bound to attend to give evidence at the other sitting without entering into any fresh recognisance for that purpose, in the same manner as if he was originally bound by his recognisance to attend and give evidence at the other sitting.

(2) The Registrar shall deliver or cause to be delivered to every witness in any case so postponed a notice in writing informing him of the day on which the sitting of the Court to which the cause is postponed will commence and of the manner in which he can ascertain the day on which the cause will be tried.

Remuneration of Witness

Remuneration and travelling expense of witnesses. [31 of 1930]

132. (1) Every person who attends any sitting of the Court as a witness for the prosecution shall be entitled at the conclusion of the case and after his account has been duly taxed by the Registrar, whether he has been examined or not, to such sums for his attendance and his travelling expenses as are mentioned in the Sixth Schedule.

(2) A witness for the defence –

(a) who has given evidence at a preliminary inquiry and attends in pursuance of a recognisance; or

(b) who attends in obedience to a subpoena or by virtue of a warrant and gives evidence, if a reasonable explanation is given to the Court or a judge why he was not examined at the preliminary inquiry and the Court or a judge certifies that his evidence is material and he has attended in the interests of justice, or

(c) who attends in obedience to a subpoena or by virtue of a warrant but has not given evidence, if a reasonable explanation is given to the Court or a judge why he was not examined at the preliminary inquiry

and the Court or a judge certifies that he has attended at the trial in the interests of justice,

shall be entitled to be allowed and paid his allowance and travelling expenses after his account has been taxed by the Registrar as aforesaid.

(3) The judge may, if he thinks fit, order that the payment of any sum to any witness mentioned in the two preceding subsections be disallowed.

(4) Every witness who has received a notice in writing as hereinbefore mentioned shall produce it to the Registrar when his account is being taxed.

(5) On presentation of a taxed account to any officer for the time being directed by the Minister responsible for finance, it shall be paid out of the moneys provided by Parliament.

(6) No claim made by a witness for any sum aforesaid shall be entertained unless the claim is made within one month after the last day of the sitting of the Court in respect of which it is made.

TITLE 11 – TRIAL

Records

Form and particulars of minutes of proceedings on trial.

133. (1) It shall not in any case be necessary to draw up a formal record of the proceedings on any trial for an indictable offence, but the Registrar shall cause to be preserved all indictments, pleas, and depositions filed with or delivered to him, and he shall keep a book, to be called "the State Book", which shall be the property of the Court and be deemed a record thereof.

(2) In the State Book shall be entered the name of the judge, and a memorandum of the substance of all proceedings at every trial and of the result of every trial; and any certificate of any indictment trial, conviction, or acquittal, or of the substance thereof, shall be made up from the memorandum in the book, and shall be receivable in evidence for the same purpose and to the same extent as certificates of records, or the substantial parts thereof, are by law receivable:

Provided always that nothing herein contained shall dispense with the taking of notes by the judge presiding at the trial.

(3) Any erroneous or defective entry in the State Book may at any time be amended by a judge in accordance with the fact.

Original record of proceedings.

134. The indictment, the plea or pleas thereto, the names of the jurors, the verdict and the judgment or sentence of the Court shall form and be the record of the proceedings in each cause and shall be kept and preserved as of record in the registry.

Furnishing the Minister with copies of records.

135. It shall be the duty of the Registrar, whenever thereto required, to furnish the Minister with copies of and extracts from all records, minutes, and proceedings of the Court and all returns relating thereto that the Minister may require.

Arraignment

Bringing prisoner up for arraignment.

136. If the accused person is at the time confined for some other cause in any prison, the Court may, by order in writing, without writ of *habeas corpus*, direct the keeper of the prison to bring up the body of the accused, as often as may be required, for the purpose of the trial, and the keeper shall obey the order.

Postponement of trial.

137. If an application is made to the Court by the accused person or the Director of Public Prosecutions for a postponement of the trial, and the Court is of opinion that the accused person ought to be allowed a further time, either to prepare for his defence or otherwise, or that for any reason it is advisable in the interests of justice, the Court may postpone the trial, either to a later day in the same sitting of the Court, or to the next subsequent sitting of the Court for the same county, as the Court thinks fit, upon any terms as to bail or otherwise the Court deems proper.

Arraignment of accused person.

138. Every accused person, on being called upon to plead, shall be entitled to have the indictment on which he is to be tried read over to him.

Procedure on indictment containing count charging previous conviction.

139. Where an indictment contains a count charging the accused person with having been previously convicted, he shall not, at the time of his arraignment, be required to plead to it unless he pleads guilty to the rest of the indictment, nor shall that count be mentioned to the jury when the accused person is given in charge to them, or when they are sworn, nor shall he be tried upon it if he is acquitted on the other counts; but, if he is convicted on any other part of the indictment, he shall be asked whether he has been previously convicted as alleged or not; and, if he says that he has not or does not say that he has been so convicted, the jury shall be charged to inquire into the matter as in other causes.

Proof of previous conviction. [21 of 1932]

140. Where upon the trial of an indictment it is proposed to prove against the defendant the fact of a previous conviction –

(a) a copy of the conviction for the offence punishable on summary conviction, or a certificate containing the substance and effect only (omitting the formal part) of the indictment and conviction for the

indictable offence, or as the case may be, purporting to be signed by the officer having the custody of the records of the Court where the offender was convicted, or

(b) production of a copy of a warrant of commitment reciting the conviction purporting to be certified under the hand of the keeper of a prison, or production of a register kept under section 5 of the Prevention of Crimes Act containing an entry of the conviction,

c. 9:01

shall, upon proof of identity of the person, be sufficient evidence of the conviction.

Proof of previous trial on trial for perjury.

141. A certificate containing the substance and effect only (omitting the formal part) of the indictment and trial for any indictable offence, purporting to be signed by the Registrar, shall, on the trial of any indictment for perjury or subornation of perjury, be sufficient evidence of the trial of the previous indictment, without proof of the signature or official character of the person appearing to have signed the certificate.

PLEA

Abolition of pleas in abatement.

142. No plea in abatement shall be allowed after the commencement of this Act.

Pleading and refusal to plead.

143. (1) When the accused person is called upon to plead, he may plead either guilty or not guilty, or the special pleas hereinbefore mentioned.

(2) If the accused person wilfully refuses to plead or will not answer directly, the Court may, if it thinks fit,

order the Registrar to enter a plea of not guilty, and the plea so entered shall have the same force and effect as if the accused person had actually so pleaded.

Effect of plea of not guilty.

144. If the accused person pleads not guilty, he shall thereby without any further form, be deemed to have put himself upon the country for trial, and the Court shall order a jury for his trial accordingly.

Recording plea.

145. Every plea shall be entered by the Registrar on the back of the indictment or on a sheet of paper annexed thereto.

Abolition of inquiry as to property or flight in treason.

146. Where any person is indicted for treason or felony, the jury empanelled to try him shall not be charged to inquire concerning his movable or immovable property, or whether he fled for the treason or felony.

Further Proceedings at Trial

Case for the prosecution.

147. After the accused person has been given in charge to the jury, or when the jury have been sworn, counsel for the State may open the case against the accused person, and adduce evidence in support of the charge.

Case for the defence.

148. The accused person or his counsel shall be allowed, if he thinks fit, to open his case, and, after the conclusion of the opening, the accused person or his counsel shall be entitled to adduce evidence in support of the defence, and, when all the evidence is concluded, to sum up the evidence.

Right of reply.

149. Counsel for the State shall in all cases have the right to reply.

Procedure where person is committed for

150. (1) If, either before or during the trial of an accused person, it appears to the Court that he has been guilty of an offence punishable on summary conviction, the Court

trial through error.

may either order that the cause shall be remitted to a magistrate with any directions it thinks proper, or allow it to proceed, and, in case of conviction, impose any lawful and proper punishment upon the person so convicted.

(2) It shall be the duty of a magistrate to obey any directions so addressed to him.

Adjournment, or discharge of jury and postponement, of trial.

151. (1) If the Court is of opinion that the accused person is taken by surprise, in a manner likely to be prejudicial to his defence, by the production on behalf of the State of a witness who has not made any deposition, and of the intention to produce whom the accused has not had sufficient notice, or if the Court is of opinion that the State is entitled to produce rebutting evidence, the Court may, on the application of the accused person, or of the Director of Public Prosecutions, as the case may be, adjourn the further trial of the cause, or discharge the jury from giving a verdict and postpone the trial.

(2) If the Court is of opinion that any witness who is not called for the prosecution ought to be so called, it may require the State to call him, and, if the witness is not in attendance, may make an order that his attendance be procured, and the Court may, if it thinks fit, adjourn the further hearing of the cause to some other time during the sitting until that witness attends.

(3) If, in that case, the Court is of opinion that it would be conducive to the ends of justice to do so, it may, on the application of the accused person or the Director of Public Prosecutions, discharge the jury and postpone the trial.

Recalling witness.

152 The Court shall have full power and authority during any part of the trial, or after the case on both sides has been closed, to call and examine any witness, whether produced before the Court in the course of the trial or not.

Summing up.

153. When the case on both sides is closed, the judge shall, if necessary, sum up the law and evidence therein.

Consideration of verdict.

154. After the judge's summing up, or, if there is no summing up, on the conclusion of the case on both sides, the jury shall consider their verdict.

Retirement of jury for consideration of verdict.

155. If the jury are not immediately prepared to return their verdict, they may, by the direction of the Court or otherwise, retire for the purpose of considering it, and in that case the Court shall direct that the jury shall be kept together and proper provision made for preventing them from holding communication with any person on the subject of the trial.

Communication with jury while in retirement considering verdict.

156. (1) If the jury retire to consider their verdict, none other than the officer of the Court who has charge of them shall be permitted to speak to, or to communicate in any way with, any of them, without the leave of the Court.

(2) Disobedience to the directions of this section shall not affect the validity of the proceedings:

Provided that, if the disobedience is discovered before the verdict of the jury is returned, the Court may, if it is of opinion that the disobedience has produced substantial mischief, discharge the jury, and direct a new jury to be empanelled and sworn during the same sitting of the Court, or may postpone the trial, on such terms as justice may require.

Accommodation of jury kept together or in retirement.

157. If the jury are not permitted to separate during an adjournment, and when the jury have retired to consider their verdict, the Court may give any directions it thinks fit with respect to their accommodation, custody, and refreshment.

Number of jurors required to find verdict. [20 of 1939]

158. With respect to the deliberation and verdict of the jury, the following provisions shall have effect:

(a) on the trial of a capital offence the verdict for that offence shall be unanimous:

Provided that where a person is arraigned for any offence punishable with death and the jury, by a majority of not less than ten, find such person guilty of a lesser crime, then the finding of the majority shall, subject to the provisions of paragraphs (b) and (c), be taken as the verdict and sentence shall follow accordingly;

(b) on the trial of any offence other than a capital offence, during the first and second hours after the jury begin to consider their verdict, the verdict shall be unanimous; and

(c) on the trial of any offence other than a capital offence, if, on the expiration of two hours from the time when the jury begin to consider their verdict, they are agreed in the proportion of eleven to one or ten to two, or, where the jury consist of eleven jurors, in the proportion of ten to one, the verdict of that majority shall be taken and have effect as the verdict of the jury.

Delivery of verdict. Recording of verdict.

159. The verdict of the jury shall be delivered verbally by the foreman of the jury in open court and in the presence of the other jurors, and when returned and accepted by the Court shall be entered by the Registrar on the back of the indictment or on a sheet of paper annexed thereto, before the jury are discharged.

Verdict of not guilty.

160. (l) If the jury find the accused person not guilty, he shall be immediately discharged from custody on that indictment.

Plea or verdict of guilty, motion in arrest of judgment and sentence.

(2) If the accused person pleads guilty or if the jury find the accused person guilty, it shall be the duty of the Registrar to ask him whether he has anything to say why sentence should not be passed upon him according to law; but the omission so to ask shall not affect the validity of the proceedings.

Motion in arrest of judgment.

161. (l) The accused person may, at any time before sentence, move in arrest of judgment on the ground that the indictment does not (after any amendment which the Court is willing and has power to make) state any indictable offence.

(2) (a) If that motion is made, the Court may, in its discretion, either hear and determine the matter during the same sitting, or adjourn the hearing thereof to a future time to be fixed for that purpose.

(b) If the Court decides in favour of the accused person, he shall be discharged from that indictment.

(c) If the motion is not made, or if the Court decides against the accused person upon the motion, the Court may either sentence the accused person at any time during the same sitting of the Court, or may, in its discretion, discharge him on his own recognisance or on that of the sureties whom the Court thinks fit, or both, to appear and receive judgment at the same or some future sitting of the Court, or when called upon.

Recording judgement.

162. The judgment or sentence of the Court shall be entered by the Registrar on the back of the indictment or on a

sheet of paper annexed thereto.

Sentence of death [9 of 1953]

163. Where any person is convicted of an offence punishable with death, the Court shall thereupon pronounce sentence of death, and the sentence may be carried into execution, and all other proceedings thereupon and in respect thereof may be had and taken, in the same manner as sentence of death might have been pronounced and carried into execution, and all other proceedings thereupon and in respect thereof might have been had and taken, before the commencement of this Act, on a conviction for any felony for which the person convicted might have been sentenced to suffer death as a felon, but subject to this Act:

Provided that sentence of death shall not be pronounced on or recorded against a person convicted of an offence if it appears to the Court that at the time when the offence was committed he was under the age of eighteen years; but in lieu thereof the Court shall sentence him to be detained during the President's pleasure; and if so sentenced he shall be liable to be detained in such place and under such conditions as the Minister may direct, and whilst so detained shall be deemed to be in lawful custody.

Special provision for saving validity of verdict in cases of larceny, embezzlement and the like.

164. (1) No verdict of any jury against any person, and no sentence of the Court on any person found guilty of larceny, embezzlement, fraudulent application or disposition of anything, or obtaining anything by false pretences, shall be set aside or reversed, if on the trial there was evidence to prove that that person committed any one of those offences.

(2) The punishment awarded against that person shall not exceed the punishment which could have been awarded for the offence actually committed, according to the proper legal designation thereof, and no person so convicted shall be liable to be afterwards prosecuted for any of those offences upon the same facts.

Abolition of attainder for forfeiture and escheat.

165. No confession, verdict, inquest, conviction, or judgment of or for any treason, or felony, or *felo de se* shall cause any attainder or corruption of blood, or any forfeiture or escheat.

Sentence of death not to be passed on pregnant woman.
[21 of 1932]

166. Where a woman convicted of an offence punishable with death is found in accordance with this Act to be pregnant, the sentence to be passed on her shall be a sentence of imprisonment for life instead of sentence of death.

Procedure where woman convicted of capital offence alleges she is pregnant.
[21 of 1932]

167. (l) Where a woman convicted of an offence punishable with death alleges that she is pregnant, or where the Court before whom a woman is so convicted thinks fit so to order, the question whether or not the woman is pregnant shall, before sentence is passed on her, be determined by a jury.

(2) Subject to this subsection, the said jury shall be the trial jury, that is to say the jury to whom she was given in charge to be tried for the offence, and the members of the jury need not be re-sworn:

Provided that –

(a) if any member of the trial jury, either before or after conviction, dies or is discharged by the Court as being through illness incapable of continuing to act or for any other cause, the inquiry as to whether or not the woman is pregnant shall proceed without him; and

(b) where there is no trial jury, or where a jury have disagreed as to whether the woman is or is not pregnant, or have been discharged by the Court without

giving a verdict on that question, the jury shall be constituted as if to try whether or not she was fit to plead and shall be sworn in such manner as the Court may direct.

(3) The question whether the woman is pregnant or not shall be determined by the jury on such evidence as may be laid before them either on the part of the woman or on the part of the State, and the jury shall find that the woman is not pregnant unless it is proved affirmatively to their satisfaction that she is pregnant.

(4) The rights conferred by this section on a woman convicted of an offence punishable with death shall be in substitution for the right of such woman to allege in stay of execution that she is quick with child and the last-mentioned right shall cease as from the 3rd May, 1932.

Where person convicted wishes other offences to be taken into consideration. [2 of 1948]

168. The Court may, if it thinks fit, take into consideration, when sentencing a person who has been convicted of an indictable offence, any other offence which such person admits that he has committed and which he asks to be taken into consideration as aforesaid; and any certificate issued as to such sentence shall contain a statement of the offence or offences taken into consideration as aforesaid.

Adjournment of trial.

169. (l) From the time when the accused person is given in charge to the jury or when the jury are sworn, the trial shall proceed continuously, subject to the power of the Court to adjourn it.

(2) No formal adjournment of the Court shall hereafter be required and no entry thereof in the State Book shall be necessary.

Mode of dealing with

170. (1) Upon any adjournment of a trial, the Court may in all cases, if it thinks fit, direct that during the

jury on adjournment of trial.

adjournment the jury shall be kept together and proper provision made for preventing them from holding communication with any person on the subject of the trial; if the direction is not given, the jury shall be permitted to separate.

(2) If the jury are permitted to separate, the Court shall admonish them of their duty not to converse with any person or among themselves on any subject connected with the trial, or to form or express any opinion on the case until it is finally submitted to them.

Discharge of jury in certain special cases.

171. (1) The Court may, in its discretion, in case of any emergency or casualty rendering it, in its opinion, expedient for the ends of justice to do so, discharge the jury without their giving a verdict, and direct a new jury to be empanelled during the same sitting of the Court, or may postpone the trial on such terms as justice may require.

(2) If the judge becomes incapable of trying the cause or directing the jury to be discharged, the Registrar shall discharge the jury.

(3) If one or more of the jurors, before they begin to consider their verdict, becomes or become, in the opinion of the Court, incapable of continuing to perform his or their duty, the Court may either discharge the jury and direct a new jury to be empanelled during the same sitting of the Court, or may postpone the trial, or may, in its discretion and with the consent of counsel for the State and of the accused person, in any case other than that of a capital offence, proceed with the remaining jurors and take their verdict, which shall have the same effect as the verdict of the whole number.

Effect on recognisance of postponement of trial.

172. Whenever the trial of an accused person is postponed, the Court may respite the recognisance of the accused person and his surety or sureties (if any) accordingly,

and in that case he shall be bound to appear to be tried at the time and place to which the trial is postponed, without entering into any fresh recognisance for that purpose, in the same manner as if he were originally bound by his recognisance to appear and be tried at the time and place to which the trial has been so postponed.

Presence of accused person at trial.
[21 of 1978]

173. (1) Every accused person shall be entitled to be present in Court during the whole of his trial, unless he misconducts himself by so interrupting the proceedings as to render their continuance in his presence impracticable.

(2) The Court may, if it thinks proper, permit the accused person to be out of Court during the whole or any part of the trial on any terms it deems right.

(3) Where an accused person absents himself or seeks to absent himself from trial on the ground of illness the Court may order him to submit himself for examination by a registered medical practitioner designated by the Court in order to determine whether or not he is fit to attend the trial and thereafter the Court may proceed with the trial in the absence of the accused person if –

(a) he does not submit himself for the examination; or

(b) the Court, having considered the report of that examination, together with any other report of any registered medical practitioner tendered by the accused person and, if necessary, the testimony on oath of any registered medical practitioner, is satisfied that the accused person is capable of attending the trial.

Validity of proceedings on Sunday.

174. The taking of the verdict of the jury or other proceeding of the Court shall not be invalid by reason of its happening on Sunday.

Publication of list of persons convicted.

175. As soon as practicable after the conclusion of every sitting of the Court, the Registrar shall publish in the Gazette and in one or more newspapers of Guyana a list containing the names of all persons convicted at the sitting, the offences for which they were indicted, the offences of which they were convicted, and the sentences of the Court in their respective cases.

Arraignment and Trial of Insane Persons

Procedure where person indicted appears on arraignment or during trial, to be insane.

176. If any accused person appears, either before or on arraignment, to be insane, the Court may order a jury to be empanelled to try the sanity of that person, and the jury shall thereupon, after hearing evidence for that purpose, find whether he is or is not insane and unfit to take his trial; but a verdict under this section shall not affect the trial of any person so found to be insane for the offence for which he was indicted, if he subsequently becomes of sound mind.

When accused found to be insane jury not to find verdict on indictment.

177. If, during the trial of any accused person, he appears, after the hearing of evidence to that effect or otherwise, to the jury charged with the indictment, to be insane, the Court shall in that case direct the jury to abstain from finding a verdict upon the indictment, and, in lieu thereof, to return a verdict that the accused is insane; but a verdict under this section shall not affect the trial of any person so found to be insane for the offence for which he was indicted, if he subsequently becomes of sound mind.

Special verdict where accused person found guilty, but insane at date of act or omission

178. Where in an indictment any act or omission is charged against any person as an offence, and it is given in evidence on the trial of that person for that offence that he was insane, so as not to be responsible, according to law, for his actions at the time when the act was done or the omission

charged.

made, then, if it appears to the jury before whom the person is tried that he did the act or made the omission charged, but was insane as aforesaid at the time when he did or made it, the jury shall return a special verdict to the effect that the accused person was guilty of the act or omission charged against him, but was insane as aforesaid at the time when he did the act or made the omission.

Provision for custody of accused person found insane.

179. (1) Where any person is found to be insane under sections 176 and 177, or has a special verdict found against him under the last preceding section, the Court shall direct the finding of the jury to be recorded, and thereupon may order the person to be detained in safe custody, in such place and manner as the Court thinks fit, until the President's pleasure is known.

Judge to report finding to the Minister.

(2) The judge shall immediately report the finding of the jury and the detention to the Minister, who shall order the person to be dealt with as a lunatic under the laws of Guyana for the time being in force for the care and custody of lunatics, or otherwise as he thinks proper.

PART IV
TITLE 12 – EXECUTION AND SENTENCES

By whom sentences to be executed.

180. The execution of the sentence of the Court, other than a sentence of death, shall be carried into effect by an officer appointed for that purpose, and every sentence of imprisonment pronounced by the Court shall take effect from the first day of the sitting at which it was passed, unless otherwise ordered.

Imprisonment

Sentences of imprisonment. c. 11:01

181. Every person sentenced to imprisonment shall be imprisoned in one of the prisons of Guyana under the Prison Act.

Suffering Punishment

Effect of undergoing sentence for felony not punishable with death.

182. Where any person convicted of any felony not punishable with death has suffered or shall suffer the punishment to which he has been or is sentenced therefor, the punishment so suffered has and shall have the like effects and consequences as a pardon under the public seal as to the felony whereof the offender was or is so convicted:

Provided that nothing herein contained, nor suffering that punishment, shall prevent or mitigate any punishment to which the offender might otherwise be lawfully sentenced on a subsequent conviction for any other felony.

Saving of powers of committal to reformatory.

183. Nothing in this Act shall interfere with any power of the Court to order a person to be committed to or detained in any reformatory or training school, or other similar institution.

Capital Punishment

Place where judgment of death to be executed. [4 of 1972]

184. (1) Judgment of death to be executed on a person sentenced to death shall be carried into effect, within the walls of the prison in which that person is confined at the time of execution.

Immateriality of time and place of execution mentioned in judgment.

(2) Nothing in any law or usage in Guyana shall be held or taken to constitute either the time or place of execution an essential part of any judgment of death pronounced by the Court upon any person convicted of an offence punishable with death, so as to render the judgment spent or vacated because that person was not executed at the time or place appointed by the Court.

Persons to be present at execution.

185. (1) The Director of Prisons, the keeper of the prison, and the medical officer of the prison, and any other officers of the prison the Director of Prisons requires, shall be present at the execution, and no other person shall be required to be so present.

(2) Any justice of the peace, and those relatives of the person sentenced, or other persons, whom the Director of Prisons thinks it proper to admit within the prison for the purpose, may also be present at the execution.

Post mortem examination. Fourth Schedule. Form 19.

186. (1) As soon as may be after judgment of death has been executed on the person sentenced, the medical officer of the prison shall examine the body and ascertain the fact of death, and shall sign a certificate thereof and deliver it to the Director of Prisons.

Form 20.

(2) The Director of Prisons, the keeper of the prison, and those officers and other persons present (if any) whom the Director of Prisons requires or allows to do so, shall also sign a declaration to the effect that judgment of death has been executed on the person sentenced.

Publication of certificate and declaration.

187. (1) Every certificate and declaration mentioned in the preceding section shall in each case be forthwith transmitted by the Director of Prisons to the Minister; and copies certified by the Director of Prisons of those several documents shall as soon as possible be exhibited and for twenty-four hours at least be kept exhibited on or near the principal entrance of the prison within which judgment of death has been executed.

Signing false certificate or declaration.

(2) Anyone who knowingly and wilfully signs any false certificate or declaration required by this Title relating to capital punishment shall be guilty of a misdemeanour and shall be liable to imprisonment for two years.

Saving as to non-compliance with directions.

188. The omission to comply with any provision of this Title relating to capital punishment shall not make the execution of judgment of death illegal in any case where it would otherwise have been legal.

Making of regulations.

189. The Minister may make any regulations he deems expedient for observance in every prison on the execution of judgment of death for the purpose as well of guarding against any abuse in the execution, as of giving greater solemnity thereto and of making known without the prison walls the fact that the execution is taking place.

General saving.

190. Except in so far as is in this Title otherwise provided, judgment of death shall be carried into effect in the same manner as if this Act had not passed.

Commutation of sentence of death.

191. Whenever the President is pleased to grant a pardon to any person sentenced to death for any offence by law punishable with death, the President may, by warrant under his hand and the public seal, order that that person shall be kept in imprisonment for his natural life or for a term of years specified in the warrant; and that warrant shall be as effectual in the law, and shall be carried to execution in the same manner, as if it had been a sentence of imprisonment for that term pronounced by the Court against that person and recorded for an offence in respect of which that sentence might have been pronounced by the Court.

TITLE 13 – MISCELLANEOUS MATTERS

Mode of conducting case.

192. (1) Every prosecutor and every accused person may conduct his case on the preliminary inquiry before a magistrate in person, or by counsel, and every accused person may conduct his case in the Court in person or by counsel.

(2) If an accused person is in custody, his counsel shall be entitled to have access to him for the purposes of the prosecution or of the defence, as the case may be, subject to any restrictions and conditions imposed by the regulations of the prison in which he is confined.

Ownership of Property

Mode of stating ownership of property of partners.

193. (1) Where in any document in any proceeding under this Act it is necessary to state the ownership of any property whatsoever, whether movable or immovable, which belongs to, or is in the possession of, more than one person, it shall be sufficient to name one of those persons, and to state the property to belong to the person so named and another, or others, as the case may be.

(2) Where in the document it is necessary to mention for any purpose whatsoever any partners or other joint owners or possessors, it shall be sufficient to describe them in manner aforesaid.

(3) This section shall be construed to extend to all joint stock companies and associations, societies, and trustees.

Mode of stating ownership of place of worship.

194. Where in any document in any proceeding under this Act it is necessary to state the ownership of any church, chapel, or building set apart for religious worship, or of anything belonging to or being in it, it shall be sufficient to state that the church, chapel, building, or thing, is the property of the clergyman, or of the officiating minister, or of the churchwarden or churchwardens of the church, chapel, or building, without its being necessary to name him or them.

Mode of stating ownership of public property.
[24 of 1969]

c. 28:01

195. Where in any document in any proceeding under this Act it is necessary to state the ownership of any work or building, made, erected, or maintained, either in whole or in part, at the expense of the inhabitants of Guyana, or of any city, town, local government district established under the Municipal and District Councils Act, or village thereof, or of anything belonging to or being in or used in relation to the work or building, or of anything provided for the use of the poor or of any public institution or establishment, or of any materials or tools provided or used for repairing the work or building or any public road or highway, or of any other property whatsoever, whether movable or immovable, of the inhabitants aforesaid, it shall be sufficient to state that that

property is the property of the inhabitants of Guyana, or of the city, town, local government district established under the Municipal and District Councils Act, or village, as the case may be, without naming any of them.

Criminal remedies of married woman against her husband and others in respect of property.

196. (1) Every married woman shall have in her own name against all persons whatsoever, including her husband (subject as regards her husband to the proviso hereafter in this section contained) the same remedies and redress, by way of criminal proceedings, for the protection and security of her own separate property as if that property belonged to her as an unmarried woman.

(2) In any indictment or other proceeding under this section, it shall be sufficient to allege the property to which the indictment or other proceeding relates to be the property of the married woman:

Provided that no proceeding shall be taken by any wife against her husband by virtue of this section, while they are living together as to or concerning any property claimed by her, or while they are living apart as to or concerning any act done by the husband while they were living together, concerning property claimed by the wife, unless that property has been wrongfully taken by the husband when leaving or deserting his wife, or about to leave or desert her.

Criminal liability of wife to husband.

197. A wife who does any act with respect to any property of her husband which, if done by the husband with respect to property of the wife, would make the husband liable to criminal proceedings by the wife under the preceding section, shall in like manner be liable to criminal proceedings by her husband.

Arrest

Summary apprehension

198. (1) Any person found committing any indictable offence may be apprehended by anyone without warrant, and

of offenders in certain cases.

anyone may, without warrant, arrest the person if that offence has actually been committed, or if the person arrested is being pursued by hue and cry, but not otherwise.

(2) Anyone to whom any property is offered to be sold, pawned, or delivered, and who has reasonable ground to suspect that an indictable offence has been or is about to be committed thereon or with respect thereto, may, and, if he can, shall, without warrant, apprehend the person offering the property, and take possession of the property so offered.

(3) Everyone who finds any person in possession of property which he, on reasonable grounds, suspects to have been obtained by any indictable offence, may arrest that person without warrant and take possession of the property.

(4) Everyone who arrests any person under any of the provisions in this section contained shall (if the person making the arrest is not himself a peace officer) deliver the person so arrested to some police or other constable, in order that he may be conveyed as soon as reasonably may be before a magistrate, to be by the magistrate dealt with according to law, or himself convey him before a magistrate as soon as reasonably may be.

(5) Nothing in this section shall affect the powers of apprehension conferred upon constables by the Police Act.

c. 16:01

Form and requisites of warrant of apprehension.

199. (1) Every warrant for the apprehension of any person, issued under this Act, or, unless the contrary is expressly provided, under any other statute for the time being in force relating to indictable offences, shall be dated of the day on which it is issued, and shall be signed by the magistrate or judge by whom it is issued.

(2) The warrant shall not be signed in blank, nor shall it be issued by a magistrate without an information or other statement in writing and upon oath.

(3) The warrant –

(a) may be directed either to any police or other constable by name, or to the police or other constable and all other police and other constables, or generally to all police and other constables, or, in the case of a warrant issued by the Court, to the Registrar and all marshals;

(b) may be executed by any police or other constable named therein, or by any one of the police or other constables to whom it is directed, or by the Registrar or any marshal, as the case may be; and

(c) shall state concisely the offence or matter for which it is issued, shall name or otherwise describe the person to be arrested, and shall order the police or other constable or constables to whom it is directed to apprehend that person, and bring him before a magistrate or before the Court or a judge, as the case may be, to answer to the offence or matter contained in the information or statement aforesaid, and to be further dealt with according to law.

(4) It shall not be necessary to make the warrant returnable at any particular time, but it shall remain in force until it is executed.

Execution of warrant.

200. (1) Every warrant of apprehension may be issued and executed on a Sunday.

(2) The police or other constable, or the marshal, executing the warrant must, before making the arrest, inform the person to be arrested that there is a warrant for his apprehension, unless there is reasonable cause for abstaining from giving that information on the ground that it is likely to occasion escape, resistance, or rescue.

(3) Subject to the provision hereafter in this section contained, it shall not be necessary for the police or other constable, or the marshal, executing the warrant to have it in his possession; but if he has it, he must, on request, show it to the person arrested or to be arrested.

(4) Every person arrested on the warrant shall be brought before a magistrate, or before the Court or a judge, as the case may be, as soon as is practicable after he is so arrested.

(5) Any police or other constable, or the marshal, authorised to execute the warrant may, for the purpose of executing it, either with or without assistance from any other person or persons, break open and enter any house, building, or enclosed place, if admittance cannot otherwise be obtained:

Provided that in that case he must be in possession of the warrant, and before so doing he must, as far as practicable, notify that possession.

Handcuffing person arrested.

201. A person arrested, whether with or without warrant, shall not be handcuffed or otherwise bound except in case of necessity, or of reasonable apprehension of violence, or of attempt to escape or to rescue, or by order of the Court or a judge, or of a magistrate.

Police station to be lock-up.

202. Every police station shall be deemed to be a lock-up house where persons charged with indictable offences may be received and detained according to law.

Seizure and Restitution of Property

Seizure of property the proceeds of indictable offence. [21 of 1978]

203. (1) Any magistrate, or the Court, may order the seizure or attachment of any property which there is reason to believe has been obtained by, or is the proceeds of, any indictable offence, or into which the proceeds of any indictable offence have been converted, and may direct that the property shall be kept or sold, and that it, or the proceeds thereof if sold, shall be held as the magistrate or the Court directs, until some person establishes, to the magistrate's or the Court's satisfaction, a right thereto, and if no person establishes the right within twelve months from the seizure or attachment, the property, or the proceeds thereof, shall become vested in the Accountant General for the public use and be disposed of accordingly.

Seizure of things intended to be used in commission of indictable offence.

(2) Any magistrate, or the Court, may order the seizure or attachment of any instruments, materials, or things which there is reason to believe are provided or prepared, or being prepared, with a view to the commission of any indictable offence, and may direct them to be held and dealt with in the same manner as property seized under the preceding subsection.

Enforcement of order of seizure.

(3) An order made under either of the two preceding subsections may be enforced by a search warrant under this Act.

(4) Prior to an order being made under subsection (1) directing that immovable property be attached, notice of the proceedings therefor shall be served on such persons whom the magistrate or the Court considers to have an interest in or right over the property and upon the Registrar of Deeds.

(5) Any person who has been served with a notice pursuant to subsection (4) or any other person whom the magistrate or the Court is satisfied has an interest in or right over the property attached may appear before the magistrate or the Court and show cause why the property should not be attached and the magistrate or the Court may thereafter make such order as he or it sees fit.

(6) Where directions have been given under subsection (1) that property be sold such directions shall not, except when the property is a live animal, bird or fish or is perishable, be carried out until –

(a) the period specified in that subsection has expired; or

(b) the period allowed for making an appeal against the order has expired; or

(c) where such an appeal is duly made, until the appeal has been finally determined or abandoned, whichever is the latest event:

Provided that, other than in those matters for which exceptions are made by the foregoing provisions, an order made under subsection (1) shall have effect as an order for the retention of the property by the State pending the disposal of any appeal which may have been filed against it and for that purpose the magistrate or the Court may as he or it sees fit direct that such steps be taken to ensure the safe custody of the property including any income arising therefrom.

(7) For so long as an order made under subsection (1) or any proceedings thereunder subsist the Registrar of Deeds, notwithstanding anything to the contrary in any other

law, shall not give effect to any transaction affecting any property the subject matter of the order.

(8) Nothing in this section shall be deemed to confer any power on a magistrate or the Court to order the seizure or attachment of any property in the possession of, or held in the name of, a bona fide purchaser for value who could not have been reasonably aware that such property was obtained by or was the proceeds of an indictable offence.

(9) Where any property which is sought to be attached or seized under subsection (1) is shown to have been purchased in the name of, or to have come into possession of, a person or his spouse, children or other dependants after the commission of an indictable offence of which that person is convicted and if, in proceedings instituted under this section within the period of ten years after the date of the commission of the offence, it is alleged that the proceeds of the subject matter of the offence were wholly or partly converted into that property, it shall be presumed until the contrary is shown that the property was obtained by or was the proceeds of the offence.

(10) In this section any reference to property having been obtained by, or being the proceeds of, an indictable offence or into which the proceeds of any indictable offence have been converted is a reference to property the value whereof at the time of its acquisition bears in the opinion of the magistrate or the Court a substantial ratio to the proceeds.

Report of property found upon person apprehended.

204. If, on the apprehension of any person charged with an indictable offence, any property is taken from him, a report shall be made by the police to the magistrate or the Court of that fact and of the particulars of the property.

Application of money found upon person

205. If, on the apprehension of any person charged with an indictable offence, any money is taken from him, the

apprehended.

Court may, in its discretion, in case of his conviction, order the money, or any part thereof, to be applied to the payment of any costs, or costs and compensation, directed to be paid by him.

Restitution of property in case of conviction.

206. (1) Subject as hereinafter provided, where anyone is convicted of an indictable offence, any property found in his possession, or in the possession of another for him, may be ordered by the Court to be delivered to the person who appears to the Court to be entitled thereto.

(2) (a) Where anyone is convicted before the Court of having stolen or dishonestly obtained any property, and it appears to the Court that the property has been pawned to a pawnbroker or other person, the Court may order the delivery thereof to the person who appears to the Court to be the owner, either on payment or without payment to the pawnbroker or other person of the amount of the loan or any part thereof, as to the Court, in all the circumstances of the case, seems just.

(b) If the person in whose favour that order is made pays the money to the pawnbroker or other person thereunder, and obtains the property, he shall not afterwards question the validity of the pawn; but, save to that extent, no order made under this section shall have any further effect than to change the possession, nor shall it prejudice any right of property or right of action in respect to

property existing or acquired in the goods either before or after the offence was committed.

(3) Nothing in this section shall prevent any magistrate or the Court from ordering the return to anyone charged with an indictable offence, or to any person named by the Court, of any property found in the possession of the person so charged or in the possession of any other person for him, or of any portion thereof, if the magistrate or the Court is of opinion that that property, or portion thereof, can be returned consistently with the interests of justice and with the safe custody or otherwise of the person so charged.

Restitution of stolen property by purchaser thereof.

207. Where anyone is convicted of larceny or of any other offence which includes the stealing of any property, and it appears to the Court that the convict has sold the stolen property to any person and that the purchaser had no knowledge that it was stolen, and any moneys have been taken from the convict on his apprehension, the Court, on the application of the purchaser and on the restitution of the stolen property to the person injured, may order that, out of those moneys, a sum not exceeding the proceeds of the sale be delivered to the purchaser.

Enforcing Recognisance

Preparation of list of persons making default on recognisances.

208. (1) The Registrar shall, before the close of the last day's sitting of the Court on each occasion of its sitting, make out a list of all persons bound by recognisance to appear or to do any other thing, or who have been bound for the appearance of any other person or his doing any other thing, at that sitting of the Court and have made default, or whose principal, or other person for whom they are so bound, has made default to appear or to do that other thing at that sitting of the Court; and the Registrar shall, if he is able to do so, state the cause why the default has been made.

(2) The list so made out shall be examined, and, if necessary, corrected, and signed by the judge, and shall be delivered by the Registrar to the marshal.

Issue of writ of execution. Fourth Schedule. Form 14

(3) A writ of execution shall be issued from the registry against every person so liable on a recognisance in respect of the default, and shall be delivered to the marshal; and that writ shall be the authority of the marshal for levying and recovering the forfeited recognisance on the movable and immovable property of that person, and for taking his body into custody if sufficient movable or immovable property is not found whereon levy may be made.

Apprehension and detention of person making default, where recognisance is unsatisfied.

(4) Every person arrested under the preceding subsection shall be committed to prison and be there kept until the next sitting of the Court for the same county, there to abide the decision of the Court, unless, in the meantime, the forfeited recognisance, or a sum of money in lieu or satisfaction thereof, is paid, together with all costs and expenses in consequence of his arrest and detention; but if any person so arrested and imprisoned gives to the marshal good and sufficient bail for his appearance at the next sitting of the Court to abide the decision of the Court and for the payment of the forfeited recognisance or of a sum of money in lieu or satisfaction thereof, together with any costs awarded by the Court, then the marshal is hereby required forthwith to cause the person to be discharged out of custody.

Failure of the person, when released, to appear at next sitting of the Court.

(5) If the person fails to appear at the next sitting of the Court in pursuance of his undertaking in that behalf, the Court may order that a writ of execution be issued from the registry against the surety or sureties of the person so bound as aforesaid, and the writ shall be delivered to the marshal, who shall proceed as therein directed:

Provided that the Court may, in its discretion, order the discharge of the whole or any part of the forfeited recognisance, or of the sum of money paid or to be paid in

lieu or satisfaction thereof.

Fines, Forfeitures and Contempts

Proceedings against person fined by the Court.

209. (1) The marshal shall, without further warrant or authority, arrest and detain in custody in a prison anyone upon whom a fine has been imposed by the Court, or by whom any forfeiture has been incurred, and who is adjudged to pay it by the Court, until the fine or forfeiture imposed on or incurred by him is paid and satisfied, together with all costs and expenses in consequence of his arrest and detention:

Provided that –

(a) the imprisonment shall not exceed twelve months in duration; and

(b) a judge may at any time order the discharge of the prisoner.

(2) The return of the marshal, or of the keeper of the prison to any writ of *habeas corpus* of an arrest or detainer under any judgment or order of the Court for non-payment of any fine or forfeiture imposed or incurred as aforesaid, shall be deemed sufficient in law, if there appears in or is attached to that return a certificate by the Registrar, setting forth the judgment or order by virtue of which the arrest or detainer was made.

(3) The Court or a judge shall have power to reduce or remit any fine or forfeiture imposed by the Court or incurred by any person in respect of the Court, at any time within three months after it has been imposed or incurred, provided it has not been already paid or satisfied.

Pardon

Effect of conditional pardon to

210. No conditional pardon granted by the President to any person convicted of a felony, nor the performance of

convicted felon. [4 of 1972]

the condition thereof, shall prevent or mitigate the punishment to which that person might otherwise be lawfully sentenced on a subsequent conviction for any other felony.

Power of the Court to grant conditional pardon.

211. The Court may, with the consent in writing of the Director of Public Prosecutions, order that a pardon be granted to any person accused or suspected of, or committed for trial for, an indictable offence, on condition of his giving full and true evidence on any preliminary inquiry or any trial; and that order shall have effect as a pardon by the President, but may be withdrawn by the Court on proof satisfying it that the person has withheld evidence or given false evidence.

Effect of pardon.

212. Wherever either a free or conditional pardon is granted to any person, the discharge of the offender in the case of a free pardon, and the performance of the condition in the case of a conditional pardon, shall have the same effect as a pardon has in the like cases under the public seal.

Recording pardon or warrant of commutation.

213. (1) Whenever the President is pleased to grant to any offender a pardon under the public seal, or to issue any warrant for the commutation of any sentence of death, the Registrar shall be bound, on the direction of the President, to record that pardon and that warrant in a book to be kept by him for that purpose, and to endorse the pardon and warrant with the word "Recorded" and with his signature.

(2) The pardon and warrant, when so recorded, and endorsed, shall be valid and effectual for all purposes whatsoever, and it shall be the duty of all courts, judges, officers, and others, on production thereof, to take notice thereof and to give effect thereto.

Power of President to remit fine or to release offender imprisoned for non-payment

214. (1) The President may remit in whole or in part, any sum of money imposed as penalty and as costs, charges and expenses in connection with the penalty on any person convicted of an indictable offence although the money may be in whole or in part due and payable, or has already been

thereof.
[4 of 1972]

paid, to the State for the public use or to some party other than the State, and may exercise his powers of pardon in favour of any person who may be imprisoned for non-payment of any sum of money so imposed, although the money may be in whole or in part payable to the State for the public use or to some party other than the State.

(2) The President may order the restoration of anything forfeited, seized or detained in connection with an indictable offence.

(3) Every remission or restoration aforesaid may be made in the manner and subject to the terms and conditions the President sees fit to direct.

Effect of acquiescence in remission.

215. Everyone who accepts or acquiesces in the remission aforesaid shall be thereby debarred from having, maintaining, or continuing any action or suit in respect of any matter to which the remission relates, and no further proceedings shall be taken against that person in relation to that matter.

Error and some other matters

Prohibition of proceeding in error.

216. No proceeding in error shall be taken upon any trial under this Act.

Remuneration of interpreter.

217. (1) Every interpreter before the Court shall be allowed the remuneration for his services taxed by the Registrar as fair and reasonable, subject to any direction of the Court.

(2) Such remuneration shall be paid out of moneys provided by Parliament.

(3) No claim made by an interpreter for any sum aforesaid shall be entertained unless it is made within one month after the last day of the sitting of the Court in respect

of which it is made.

Payment of costs by convicted person.

218. (l) Where any person is convicted of an indictable offence, the Court may order him to pay the costs of the prosecution in addition to any sentence passed upon him.

(2) The order, on being filed in the Court on its civil side, shall have the same effect as a judgment of the Court.

(3) The order shall not affect the claim of any witness to be paid his costs, allowances, or expenses as hereinbefore provided.

Matters excepted from the Act.

219. Nothing in this Act relating to pleading or procedure shall apply to or affect any information or indictment for any common nuisance, other than a common nuisance which endangers the lives, safety, or health of the public, or injures the person of any individual; but that information or indictment may be filed or preferred as if this Act had not been passed.

Procedure on charge of or trial for treason. [O. 15/1970]

220. The practice and procedure in respect of any charge of or trial for treason or misprision of treason shall be as nearly as possible, the same as the practice and procedure in respect of a charge of or trial for murder.

Use of forms. Second and Fourth Schedules.

221. The forms contained in the Second and Fourth Schedules may, with any variations and additions required by the circumstances of any particular case be used in the cases to which they respectively apply and, when so used, shall be good and sufficient in law:

Provided that nothing in this section shall affect the use of any special forms of process in respect of any indictable offences given by any statute relating to those offences.

Power to amend Third and Sixth Schedules. [27 of 1931]

222. Subject to negative resolution of the National Assembly, the Minister may by order from time to time amend the provisions of the Third or the Sixth Schedule.

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s. 21
[22 of 1961
O. 37/1966A
15/1970
O. 80/1980]

FIRST SCHEDULE

Persons exempted from service as Jurors

The Judges of the Supreme Court of Judicature.
Members of the Legislature.
The Mayor of Georgetown.
The Mayor of New Amsterdam.
Members of the Service Commissions.
Members of any military forces raised in any Commonwealth territory by the government of such territory.
The President's private secretary
Public Officers.
Consuls and diplomatic or consular officers of any foreign government.
Ministers of Religion and members of religious orders provided they follow no secular occupation.
Attorneys- at- law in practice and their clerks.
Registered medical and dental practitioners in practice.
Registered pharmacists.
Nurses practising their profession.
Registered sick-nurses and dispensers.
Overseers of local authorities.
Members of the Special Constabulary.

The following officers of the Georgetown City Council

The Town Clerk.
The Accountant.

The City Engineer.
The Clerk of Markets.
The Medical Officer of Health.
The Chief Public Health Inspector.

The following officers of the New Amsterdam Town Council

The Town Clerk.
The Accountant.
The Town Superintendent.
The Town Engineer.
The Chief Public Health Inspector.

The following officers of the Georgetown Sewerage and Water Commissioners

The Chief Engineer.
The Assistant Engineer.

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s. 221

SECOND SCHEDULE

FORMS RELATING TO JURIES AND JURORS
FORMS

s. 24

1.

Jury List

List of persons qualified and liable to serve as jurors in the county of .....for the year 20.....

Juror's name: surname – forename	Place of abode	Title, quality, calling, or business	Nature of qualifi-cation	Situation of immovable property, and nature of interest	Re-marks

s. 29

2.

Summons to juror

IN THE HIGH COURT OF GUYANA.
(CRIMINAL JURISDICTION.)
County of.....

To Mr.....

You are hereby required to be and attend at the sitting of the High Court for the said county to be held at .....on ..... day, the…….....day of…….. 20……, at.....in the forenoon, there and then to serve as a juror, and not to depart without leave of the Court or in due course of law.

Herein fail not, or you will be liable to such fine as the Court may award.

Dated this.....day of .....20 .....

(Signed).....
Marshal.

s. 32

3.

Challenge to array

IN THE HIGH COURT OF GUYANA.
(CRIMINAL JURISDICTION.)

County of.....

The State,

v.

C.D.

The Director of Public Prosecutions, who prosecutes for the State [or the said *C.D.*, *as the case may be*], challenges the array of the panel on the ground that it was returned by *E.F.*, Registrar of the Supreme Court, and that the said *E.F.* was guilty of partiality [*or* fraud, *or* wilful misconduct] in returning the said panel.

s. 38

4.

Challenge to poll

IN THE HIGH COURT OF GUYANA.

(CRIMINAL JURISDICTION.)

County of .....

The State,

v.

C.D.

The Director of Public Prosecutions, who prosecutes for the State [or the said *C.D.*, *as the case may be*], challenges *J.K* on the grounds that his name does not appear in the jurors' book for the said county [or that he is not indifferent between the State and the said *C.D.*, *or as the case may be*].

s.42

5.

Oath of juror

1. – In case of felony

You shall well and truly try and true deliverance make between the State of Guyana and the prisoner [*or* prisoners] at the bar, whom you shall have in charge, and a true verdict

give according to the evidence.
–So help you God.

2. – *In case of misdemeanour*

You shall well and truly try the issue joined between the State of Guyana and the defendant [*or* defendants], and a true verdict give according to the evidence.
–So help you God.

s. 42

6.

Affirmation of juror

I, *A.B.*, do solemnly, sincerely, and truly affirm and declare that the taking of an oath is, according to my religious belief, unlawful; and I do also solemnly, sincerely, and truly affirm and declare that I will *as in last form to* "evidence."

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s. 43
[21 of 1968
6 of 1997]

THIRD SCHEDULE
REMUNERATION OF JURORS

For each day that a juror is obliged to be absent from his home in the course of attending at the Court, he shall be entitled to be paid –

(a) a fee of two hundred and sixty dollars where the period of his absence exceeds two and one-half hours;

(b) a fee of one hundred and thirty dollars where the period of his absence does not exceed two and one-half hours;

Provided that no juror shall be paid any such fee unless he proves to the satisfaction of the Registrar that by reason of his attendance at the Court he has actually suffered loss in income but any juror who resides more than one mile from the place where the Court is held shall be entitled to be paid a reasonable sum not exceeding one hundred and twenty dollars in respect of any expenses incurred by him each day for sustenance as the Registrar may determine.

TRAVELLING EXPENSES

In addition to the payments to which he is entitled by virtue of the foregoing provisions of this Schedule, each juror residing more than one mile from the place where the Court is held shall be entitled to be paid such actual and necessary travelling expenses as he may prove to the satisfaction of the Registrar that he has reasonably incurred in travelling to and returning from the Court.

JUROR UNABLE TO RETURN HOME AT ADJOURNMENT OF COURT OR END OF TRIAL

If a juror satisfies the Registrar that by reason of the lack or inadequacy of facilities for transportation he was unable to return to his home at the final adjournment of the Court on any day or at the end of a trial he shall be allowed such reasonable expenses for lodging and sustenance as he may prove to the satisfaction of the Registrar that he has necessarily incurred.

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s. 221
[O. 22/1961]

FOURTH SCHEDULE

FORMS FOR USE IN PROCEEDINGS RELATING TO INDICTABLE OFFENCES

Table of Forms

PART I
PROOFS

FORMS

1. s. 51

Information upon Oath

.....DISTRICT.

The information of A.B., of .....who saith upon his oath (1).....that (2)..... (3).....

Taken before me this..... day of.....20 ....., at.....in the said district.

.....

(Signed).....

.....Magistrate, ...District

(1) *Or*, affirmation.
(2) *State concisely the substance of the information.*
(3) *Add, for the arrest of a witness* – And he further saith that *E.F.*, of can give material evidence, but is not likely to attend voluntarily [*or* and wilfully avoids personal service of the summons].

NOTE—*The informant may be bound to give evidence by the following form of recognisance at foot of his information*:—

And the said informant binds himself to attend at the next sitting of the High Court in its criminal jurisdiction for the county of .....to be held at ..... on the.....day of.....20....., to give evidence against the said *C.D* for the said offence; or otherwise to forfeit to the State the sum of

(Signed) .....

Deponent.

Taken before me this .....day of ..... 20. ....., at .....in the said district.

(Signed) .....

.....Magistrate,.....District

s. 64 and s. 74

2.

Deposition of witness

(1) *State concisely the substance of the charge*.
(2) *Or*, affirmation.
(3) *Deposition as nearly as possible in the words of the witness, to be signed by him and by the magistrate.*

.....DISTRICT.

The deposition of *E.F.*,of .....taken in the presence of *C.D.*, who stands charged [*or* after notice to *C.D.*, who stands com- mitted] for that (l).....The said deponent saith on his oath (2) ..... as follows: (3) .....

[*If depositions of several witnesses are taken at the same time, they may be taken and signed as follows:—*]

The depositions of *E.F.*, of .....*G.H.*, of ..... .*J.K.*, of .....etc., taken in the presence and hearing of *C.D.*, who stands charged for that (1).....

The deponent *E.F.* saith on his oath (2)..... as follows:(3) .....The deponent *G.H.* saith on his oath (2).....as follows:(3)..... The deponent *J.K* saith on his oath (2).....as follows:(3).....

[*The signature of the magistrate may be appended as follows*:–]

The foregoing deposition of E.F. was taken before me in the presence and hearing of *C.D.*, and signed by the said *E.F.* in his presence. In witness whereof I have, in the presence of the said C.D., signed my name, this.....day of.....20.....

.....

(Signed).....

.....Magistrate, ...District.

NOTE.—*The informant or witness may be bound to give evidence by the following form of recognisance at foot of his deposition:—*

And the said deponent binds himself to attend at the next sitting of the High Court in its criminal jurisdiction for the county of.....to be held at.....on the .....day of.....20....., to give evidence against [*or* for] the said C.D. for the said offence, or otherwise to forfeit to the State the sum of

(Signed).....

Deponent.

Taken before me this ..... 20....., at .....day of ..... in the said district.

(Signed).....

.....Magistrate,..... District.

s. 65

3.

Statement of accused person

(1) *State concisely the substance of the charge*.
(2) Statement of accused person in his very words, or as nearly so as possible, and to be signed by him, if he will.

.....DISTRICT.

A charge having been made against *C.D*. before the undersigned magistrate for that (l) .....and the said charge having been read to the said *C.D.*, and the witnesses for the prosecution having been severally examined in his presence, the said *C.D.* is addressed by me as follows:—"Do you wish to say anything in answer to the charge? You are not obliged to say anything, unless you desire to do so, but whatever you say will be taken down in writing and may be given in evidence upon your trial"; whereupon the said *C.D*. makes the following statement: (2).....

Taken before me this .....day of .....20....., at .....in the said district.

(Signed).....

.....Magistrate, ...District.

PART II
PROCESS TO ENFORCE APPEARANCE

s. 49

4.

Summons to witness under section 50

.....DISTRICT.

To .....of.....

(1) *State concisely the substance of the*

Whereas there is reason to believe that (l) .....and you are capable of giving material evidence concerning the

offence.

same:–This is to command you to appear at .....o'clock .....m., on .....day, the .....day of .....20....., at.....before the magistrate of the said district, to be examined upon oath concerning that offence.

Dated this .....day of .....20.....

(Signed).....

.....Magistrate, ...District.

s. 52 and s. 60

5.

Summons to accused person or witness

.....DISTRICT.

To..... of .....

Whereas information has been laid before me, the undersigned magistrate for the said district, for that (1)..... This is to command you to appear as (2).....on the hearing of the said information at.....o'clock .....m., on.....day, the..... day of.....20 ....., at.....before the magistrate of the said district.

(1) *State concisely the substance of the charge*.

(2) *Insert:*– an accused person, *or*, a witness.

Dated this.....day of.....20.....

(Signed) .....

.....Magistrate,.....District.

s. 52

6.

Return of service by a bailiff or constable

In the.....Magisterial District Magistrate's Court.....Between.....

.....{Plaintiff. / Complainant, or / Informant.}

.....and.....

I, (1) ....., (2) ..... hereby certify that on the .....day of ..... 20....., at (3).....I served (4)....., a true copy of which is hereto annexed, on (5) ..... of (6)..... by (7).....

Dated this.....day of ..... 20.....

(Signed).....

(1) Full names.
(2) Official position (bailiff, police or other constable, etc.).
(3) Place where process served.
(4) State nature of process served (summons, order, etc.).
(5) Name of person on whom process served.
(6) Address of person served.
(7) State mode of service.

s.53

7.

Warrant of apprehension of accused person or witness

.....DISTRICT.

To .....Police [*or other*] Constable.

Whereas information has this day been laid before me, the undersigned magistrate for the.....district, for that *C.D.* (1)..... and (2) .....

(1) *State concisely the substance of the information.*
(2) *If the case is so, add:— for accused person:—* whereas a summons has been issued to *C.D. [the accused person]* or *E.F.* [*a witness*] and *C.D.* [or *E.F.*] has neglected to appear in obedience to the summons and oath has been made of the service of the summons.

For witness:– whereas oath has been made that *E.F.* can give material evidence, but is not likely to attend voluntarily; or, whereas oath has been made that *E.F.* wilfully avoids personal service of a summons.

(3) *Person against whom warrant is issued.*

This is to command you forthwith to apprehend the said (3).....of.....and to bring him before the magistrate of the said district, to answer the said information.

Dated this.....day of .....20.....

(Signed).....

.....Magistrate, ...District.

s. 74

8.

Notice to witness bound over

IN THE HIGH COURT OF GUYANA.

(CRIMINAL JURISDICTION.)

County of .....

The State,

v.

C.D.

To.....of ..... a witness for the.....

Take notice that the above-mentioned case will be tried at the next sitting of the said Court for the said county to be held at..... on the.....day of .....20.....; that you are bound to attend the trial; and that you can find out the day fixed for the trial by inquiring at any magistrate's court or police station in the said county on or after the .....day of.....20.....

Dated this.....day of.....20.....

(Signed).....
.....Magistrate,.....District.

s. 82

9.

Warrant of apprehension where accused person on bail has absconded

.....District

To.....police [*or other*] constable.

Whereas *C.D.*, who stands charged before me at ..... was admitted to bail to appear at ..... o'clock .....m., on.....day, the.....day of.....20....., at .....and has made default therein:– This is to command you, etc. (*as in form 7*).

PART III
BAIL

s. 86

10.

Certificate of consent to bail by committing magistrate endorsed on commitment

.....DISTRICT.

I hereby certify that I consent to the within-named *C.D.* being bailed by recognisance, himself in .....and [two] sureties in .....each.

Dated this.....day of.....20.....

(Signed).....
.....Magistrate,.....District.

s. 86

11.

The like on a separate paper

.....DISTRICT.

Whereas *C.D.* was, on the.....day of .....20..... committed by me to the.....prison charged with (1)..... I hereby certify that I consent to the said *C.D.* being bailed by recognisance, himself in .....and [two] sureties in.....each.

(1) *State concisely the substance of the charge.*

Dated this.....day of.....20.....

(Signed).....

.....Magistrate,.....District

PART IV
RECOGNISANCES

NOTE.–*In all recognisances there must be given the name and surname of the person bound, his occupation or profession (if any) and the place of his residence.*

s. 74, 81, 82 and 84

12.

Recognisance to appear

.....DISTRICT.

Whereas (1).....

(1) *State concisely the substance of the charge, or, if an accused person is remanded, recite—* Whereas *C.D.* stands charged before me for that and the hearing of the said charge has been [adjourned *or*

The undersigned L.M. binds himself to perform the

following obligations viz.: (2) .....

interrupted]. (2) *Obligation*:— to attend at o'clock, ...m., on day, the day of 20 , at or, to attend at the next sitting of the High Court in its criminal jurisdiction for the county of to be held at on the day of 20 , to give evidence against the said *C.D.*; or to appear personally before the High Court in its criminal jurisdiction at it next sitting for the county of to be held at on the, there and then, or at any time within twelve months from the date of this recognisance to answer any indictment that may be filed against him in the said court and to not depart the said court without leave of the court, and to accept service of the said

or otherwise to forfeit to the State the sum of..... [*or if bound over with sureties*]:—

The undersigned *L.M.*, the principal party to this recognisance, hereby binds himself to perform the following obligation, viz. (2).....

And the said principal party, together with the undersigned sureties hereby severally acknowledge themselves bound to forfeit to the State the sums following, viz., the said principal party the sum of ..... and the said sureties the sum of .....each, in case the said principal party fails to perform the above obligation.

(Signed).....

L.M.[*occupation or profession, if any*] of [*place of residence*]
principal party

N.O.[*occupation or profession, if any*] of [*place of residence*]
P.Q. [*occupation or profession, if any*] of [*place of residence*]

indictment and of all other documents at prison; *or*, to keep the peace [and be of good behaviour towards the State and all its citizens, and especially towards *A.B.* for the space of *or*, (*in the case of a remand or adjournment*) to appear at the time to which the hearing is adjourned, or at an earlier date, if so required.
c. 10:01

sureties.

(Signed) .....

.....Magistrate, ...District.

s. 49

13.

Recognisance of witness examined under section 49.

..... DISTRICT.

Whereas *E.F.* was examined before me as a witness under section 49 of the Criminal Law (Procedure) Act:—The undersigned *E.F.* hereby binds himself to perform the following obligation, that is to say, that he will attend and give evidence before any magistrate or before the High Court in its criminal jurisdiction at any sitting held for the county of .....if called upon for that purpose, at any time within twelve months next ensuing; And the said E.F. acknowledge himself bound to forfeit to the State the sum of ..... in case he fails to perform the said obligation.

(Signed) .....

E.F. [*occupation or profession, if any*] of [*place of residence*].

Taken before me this.....day of.....20.....
(Signed).....
.....Magistrate, ...District.

s. 208

14.

Writ of execution for enforcement of forfeited recognisance.

IN THE HIGH COURT OF GUYANA.
(CRIMINAL JURISDICTION.)

The State of Guyana
His Excellency the President of Guyana
To.....Registrar.

You are commanded that of the movable and immovable property of *C.D.,* of .....you cause to be levied the sum of ..... which said sum of money the said *C.D*. was, by an order of the said Court, bearing date the.....day of .....20....., adjudged to pay in respect of a certain recognisance forfeited by him, and, in case you cannot find sufficient movable and immovable property of the said *C.D.*, then you are to take the body of the said *C.D.*, and lodge him in the .....prison, there to await the decision of our said Court at its sitting next thereafter to be held for the county of..... unless the said *C.D*. shall give sufficient security for his appearance at the said Court, for which you will be answerable; and have you then and there this writ.

Witness the Honourable Mr. Justice.....this .....day of.....20.....

By order,
(Signed).....
.....Registrar.

PART V
WARRANTS

s. 71 and s. 73

15

Warrant to commit [*or detain*] *accused person or refractory witness*

.....DISTRICT.

To.....police [or other] constable.

Whereas a charge was made on the.....day of .....20....., upon the oath of A.B. [or A.B. and others, as the case may be] for that C.D. (1).....

and (2) .....

(1) *State concisely the substance of the charge.*

(2) *Recitals*:— Trial:— Whereas I am of opinion that a *prima facie* case has been made out against the said *C.D.* Adjournment:— whereas the hearing of the said charge has been adjourned to the day of 20 , at *or*, whereas the hearing of the said charge was adjourned, etc., and the said *C.D.* was admitted to bail to appear on that day, or at an earlier date, if so required, and whereas the said *C.D.* was summoned to attend on the day of 20 , but did not appear according to his

recognisance.
Remand on arrest.—whereas the said *C.D.* has been brought before me under a warrant of apprehension, and the said charge is to be heard on the day of 20 , at
Refractory witness:—whereas *E.F.*, a material witness, has, without just excuse, refused to make oath as a witness *or*, to answer certain questions, *or* to enter into a recognisance to give evidence on the trial of the said C.D. in that behalf.
(3) *Name of person to be committed.*
(4) *Period of imprisonnent:*—*For trial*:—until his trial, or until he shall be discharged in due course of law.
For witness:—until the trial of the said C.D. unless he shall in the

This is to command you forthwith to lodge the said (3)..... of.....in the.....prison, there to be imprisoned by the keeper (4).....

And for this the present warrant shall be a sufficient authority to all whom it may concern.

Dated this.....day of..... 20.....

(Signed).....

.....Magistrate,.....District.

meantime enter into such recognisance as required (*or*, until the day of 20 , unless he shall in the meantime consent to answer as required). *For adjournment*:— until the above time of adjournment (or, hearing), or such earlier day as he may be required upon, when he shall have him at the above place.

s.57

16.

Warrant to convey accused person before the magistrate of another district

.....DISTRICT.

To.....police [*or other*] constable.

Whereas information has been laid before me, the undersigned magistrate for the.....district, for that *C.D.* (1).....

(1) *State concisely the substance of the charge*.

And whereas I have taken the deposition of A.B. as to the said offence; And whereas the charge is of an offence committed in the.....district:—This is to command you to convey the said *C.D.*, of .....before the magistrate of the last-mentioned district, and to deliver to him this warrant and the said deposition.

Dated this.....day of.....20.....

(Signed).....
.....Magistrate,..... District.

s. 86

17.

Warrant to discharge accused person from prison

.....DISTRICT.

To the Keeper of ..... prison.

Whereas a charge was made that *C.D*. (1).....and whereas .....of ..... (2).....

This is to command you to take the recognisance of the said *C.D*. in the sum of ..... to appear for that purpose, and then to discharge the said *C.D* unless he shall be in your custody for some other cause.

Dated this.....day of.....20.....

(Signed).....
.....Magistrate,..... District.

(1) *State concisely the substance of the information.*

(2) *Recitals— for accused person*:— was committed to take his trial for the said offence, but has now duly entered into a recognisance to appear for that purpose:— *for witness*:— was committed for refusing to enter into a recognisance to attend and give evidence or the trial of the said *C.D* for the said offence, but has now done so:— *or*, the said *C.D*. for want of evidence, has not been bailed or

committed:—
or, two sureties have duly entered into recognisances for his attendance for that purpose:—

s. 49

18.

Search Warrant

.....DISTRICT.

To.....police [*or other*] constable.

Whereas it appears, upon the oath of *A.B.*, of ..... that there is reason to suspect that (1).....are concealed in .....at .....:—This is therefore to authorise and require you to enter, between the hours of .....and ..... into the said premises, and to search for the said things, and to bring the same before me or some other magistrate.

(1) *Insert description of the things to be searched for, and of the offence in respect of which the search is made.*

Dated this.....day of..... 20.....

(Signed).....

.....Magistrate,.....District.

NOTE.—*The warrant must be executed between 5 a.m. and 8 p.m., unless the magistrate otherwise directs*.

PART VI
CAPITAL PUNISHMENT

s. 186

19.

Certificate of Medical Officer of Prison

I.....Medical Officer [*or as the case may be*] of the ..... prison, hereby certify that I this day examined

the body of.....on whom judgment of death was this day executed in the said prison, and that, on that examination, I found that the said.....was dead.

Dated this ..... day of ..... 20....

(Signed).....
Medical Officer of.....Prison.

20.

s. 186

Declaration of Superintendent of Prisons and others

We, the undersigned, hereby declare that judgment of death was this day executed on .....in the ..... prison in our presence.

Dated this.....day of.....20.....

(Signed).....
Superintendent of Prisons.
Justice of the Peace.
Keeper of
etc., etc., etc.,

PART VII
MISCELLANEOUS FORMS

21.

s.76

Notice of intention to take deposition of witness

To *C.D.*, of.....

(1) *Insert name and district of Magistrate.*
(2) *Insert name and full description of witness.*

Take notice that, whereas it has been proved upon the oath of .....of..... before (1)..... that (2)..... is able to give evidence tending to prove the guilt of the accused person, the examination of the said .....will be taken at.....o'clock.....m.,

on.....day, the.....day of .....20....., at.....on which occasion, if you think proper, you, your counsel, may attend and cross-examine the said.....and take notice that, whether you attend or not, the deposition then taken of the said.....may be given in evidence at the trial, notwithstanding your absence from the examination.

Dated this.....day of .....20.....

(Signed).....

A.B.

s. 85

22.

Receipt for prisoner

I hereby certify that I have received from *R.S.* (l).....of .....the body of *C.D.*, together with a warrant under the hand of..... Esquire, magistrate of the..... district, and that the said prisoner was (2).....at the time he was delivered into my custody.

(1) *Rank. etc.*

(2) *Sober or as the case may be.*

Dated this..... day of .....20.....

(Signed).....

Keeper of .....Prison.

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s. 93
[2 of 1948]

FIFTH SCHEDULE
RULES

Material, etc., for indictments.

1. (1) An indictment may be on parchment or durable paper, and may be either written or printed, or partly written or partly printed.

(2) Each sheet on which an indictment is set out

shall be not more than fourteen and not less than six inches in length, and not more than ten and not less than seven inches in width, and if more than one sheet is required the sheets shall be fastened together in book form.

(3) A proper margin not less than three inches in width shall be kept on the left-hand side of each sheet.

(4) Figures and abbreviations may be used as in an indictment for expressing anything which is commonly expressed thereby.

(5) An indictment shall not be open to objection by reason only of any failure to comply with this rule.

Commencement of the indictment.

2. The commencement of the indictment shall be in the following form:

The State v. A.B.

In the High Court of Guyana.
(Criminal Jurisdiction.)
County of.....
Presentment of the Director of Public Prosecutions of Guyana. A.B. is charged with the following offence (offences):—

Joining of charges in one indictment

3. Charges for any offences, whether felonies or misdemeanours, may be joined in the same indictment if those charges are founded on the same facts, or form or are a part of a series of offences of the same or a similar character.

Mode in which offences are to be charged.

4. (1) A description of the offence charged in an indictment, or, where more than one offence is charged in an indictment, of each offence so charged, shall be set out in the indictment in a separate paragraph called a count.

(2) A count of an indictment shall commence with

a statement of the offence charged, called the statement of offence.

(3) The statement of offence shall describe the offence shortly in ordinary language, avoiding as far as possible the use of technical terms, and without necessarily stating all the essential elements of the offence, and shall contain a reference to the section of the Act under which the charge is laid.

(4) After the statement of the offence, particulars of it shall be set out in ordinary language, in which the use of technical terms shall not be necessary:

Provided that where any rule of law or any statute limits the particulars of an offence required to be given in an indictment, nothing in this rule shall require any more particulars to be given than those so required.

(5) The forms set out in the Appendix to these Rules, or forms conforming therewith as nearly as may be, shall be used in cases to which they are applicable, and in other cases forms to the like effect, or conforming therewith as nearly as may be, shall be used, the statement of offence and the particulars of offence being varied according to the circumstances in each case.

(6) Where an indictment contains more than one count, the counts shall be numbered consecutively.

Provisions as to statutory offences.

5. (1) Where an enactment constituting an offence states the offence to be the doing or the omission to do any one of any different acts in the alternative, or the doing or the omission to do any act in any one of any different capacities, or with any one of any different intentions, or states any part of the offence in the alternative, the acts, omissions, capacities, or intentions or other matters stated in the alternative in the enactments, may be stated in the alternative in the count

charging the offence.

(2) It shall not be necessary, in any count charging a statutory offence, to negative any exception, or exemption from, or qualification to, the operation of the statute creating the offence.

Description of property.

6. (1) The description of property in a count in an indictment shall be in ordinary language and such as to indicate with reasonable clearness the property referred to, and if the property is so described it shall not be necessary (except when required for the purpose of describing an offence depending on any special ownership of property or special value of property) to name the person to whom the property belongs or the value of the property.

(2) Where property is vested in more than one person, and the owners of the property are referred to in an indictment, it shall be sufficient to describe the property as owned by one of those persons by name with others, and if the persons owning the property are a body of persons with a collective name, such as "inhabitants," "trustees," "commissioners," or "club," or other collective name, it shall be sufficient to use that name without naming any individual.

Description of persons.

7. The description or designation in an indictment of the accused person or of any other person to whom reference is made therein, shall be such as is reasonably sufficient to identify him, without necessarily stating his correct name, or his abode, style, degree, or occupation; and if, owing to the name of the person not being known, or for any other reason, it is impracticable to give that description or designation, such description or designation shall be given as is reasonably practicable in the circumstances, or the person may be described as "a person unknown."

Description of document.

8. Where it is necessary to refer to any document or instrument in an indictment, it shall be sufficient to describe it

by any name or designation by which it is usually known, or by the purport thereof, without setting out any copy thereof.

General rule as to description.

9. Subject to any other provisions of these Rules it shall be sufficient to describe any place, time, thing, matter, act, or omission whatsoever, to which it is necessary to refer in any indictment, in ordinary language in such a manner as to indicate with reasonable clearness that place, time, thing, matter, act, or omission.

Statement of intent.

10. It shall not be necessary in stating any intent to defraud, deceive, or injure, to state an intent to defraud, deceive or injure any particular person, where the statute creating the offence does not make an intent to defraud, deceive, or injure a particular person an essential ingredient of the offence.

Charge of previous conviction, habitual criminal or drunkard.

11. Any charge of a previous conviction of an offence, or of being an habitual criminal or an habitual drunkard, shall be charged at the end of the indictment by means of a statement, in the case of a previous conviction that the person accused has been previously convicted of that offence at a certain time and place without stating the particulars of the offence, and in the case of an habitual criminal or habitual drunkard, that the offender is an habitual criminal or an habitual drunkard, as the case may be.

Citation.

12. These rules may be cited as the Indictment Rules, and, together with any rules made under section 94 of this Act, may be cited together by any collective title prescribed by the last mentioned rules.

APPENDIX TO RULES

FORMS OF INDICTMENT

1

STATEMENT OF OFFENCE

Murder, contrary to section 100 of the Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

A.B. on the ..... day of..... 20 ..... murdered J.S.

2.

STATEMENT OF OFFENCE

Accessory after the fact to murder, contrary to section 105 of the Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

A.B. well knowing that *H.C*. had murdered *O.C.* did on the.....day of.....and on other days thereafter, receive, comfort, harbour, assist, and maintain the said *H.C.*

3.

STATEMENT OF OFFENCE

Manslaughter, contrary to section 94 of the Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

A.B., on the.....day of.....unlawfully killed *J.S.*

4.

STATEMENT OF OFFENCE

Rape, contrary to section 76 of the Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

A.B., on the.....day of.....had carnal knowledge of *E.F.*, without her consent.

5.

STATEMENT OF OFFENCE

First count

Wounding with intent, contrary to section 57 of the Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

A.B., on the.....day of .....wounded *C.D.* with intent to do him grievous bodily harm, or to maim, disfigure, or disable him, or to resist the lawful apprehension of him the said *A.B.*

STATEMENT OF OFFENCE

Second count

Wounding, contrary to section 50 of the Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

A.B., on the.....day of ..... maliciously wounded *C.D.*

6.

STATEMENT OF OFFENCE

Cruelty to a child, contrary to section 92 of the Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

A.B., between the.....day of.....and the.....day of.....being the guardian of *C.D.*, a child, ill-treated or neglected the said child, in a manner likely to cause the said child unnecessary suffering or injury to its health.

7.

STATEMENT OF OFFENCE

Larceny, contrary to section 184 of the Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

A.B., on the.....day of....., being clerk or servant to M.N., stole from the said M.N. ten yards of cloth.

8.

STATEMENT OF OFFENCE

Robbery with violence, contrary to section 222 of the

Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

A.B., on the.....day of.....robbed *C.D.* of a watch, and at the time of or immediately before or immediately after that robbery did use personal violence to the said *C.D.*

9.

STATEMENT OF OFFENCE

First count

Larceny, contrary to section 164 (or 167, as the case may be) of the Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

A.B., on the.....day of .....stole a bag the property of *C.D.*

STATEMENT OF OFFENCE

Second count

Receiving stolen goods contrary to section 236 of the Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

A.B., on the.....day of.....did receive a bag, the property of C.D., knowing the same to have been stolen.

A.B., has been previously convicted of felony, to wit, burglary, on the ..... day of .....at the

..... Supreme Criminal Court.

10.

STATEMENT OF OFFENCE

Burglary and larceny, contrary to section 228 of the Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

A.B., in the night of the.....day of..... did break and enter the dwelling-house of *C.D.*, with intent to steal therein, and did steal therein one watch, the property of *S.T.*, the said watch being of the value of one hundred and fifty dollars.

11.

STATEMENT OF OFFENCE

Sending threatening letter, contrary to section 42 of the Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

A.B., on the.....day of.....sent, delivered or uttered to, or caused to be received by C.D., a letter accusing or threatening to accuse the said *C.D.*, of an infamous crime with intent to extort money from the said *C.D.*

12.

STATEMENT OF OFFENCE

Obtaining goods by false pretences, contrary to section

194 of the Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

A.B., on the.....day of.....with intent to defraud, obtained from *S.P.* five yards of cloth by falsely pretending that he, the said *A.B.*, was a servant to *J.S.*, and that he, the said *A.B.* had then been sent by the said J.S. to *S.*P., for the said cloth, and that he the said *A.B.*, was then authorised by the said *J.*S. to receive the said cloth on behalf of the said *J.S.*

13.

STATEMENT OF OFFENCE

Conspiracy to defraud, contrary to section 33 of the Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

A.B., and C.D. on divers days between the..... day of .....and the .....day of ..... conspired together with other persons unknown to defraud such persons as should thereafter be induced to part with money to the said *A.B.* and *C.D.* by false representations that *A.B.* and *C.D.* were then carrying on a genuine business as jewellers at.....and that they were then willing and prepared to supply articles of jewellery to those persons.

14.

STATEMENT OF OFFENCE

First count

Arson, contrary to section 140 of the Criminal Law

(Offences) Act

PARTICULARS OF OFFENCE

A.B., on the.....day of .... maliciously set fire to a dwelling house, one *F.G.* being therein.

STATEMENT OF OFFENCE

Second count

Arson, contrary to section 141 of the Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

A.B., on the.....day of ..... maliciously set fire to a house with intent to injure or defraud.

15.

STATEMENT OF OFFENCES

A.B., arson, contrary to section 141 of the Criminal Law (Offences) Act. *C.D.*, accessory before the fact to same offence, contrary to the Criminal Law (Offences) Act, section 25.

PARTICULARS OF OFFENCES

A.B., on the.....day of .....set fire to a house with intent to injure or defraud.

C.D., on the same day ,..... did counsel, procure, and command the said A.B. to commit the said offence.

16.

STATEMENT OF OFFENCE

First count

Offence under section 128 of the Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

A.B., on the.....day of ..... displaced a sleeper belonging to the.....railway with intent to obstruct, upset, overthrow, destroy, or damage any engine, tender, carriage or truck using the said railway.

STATEMENT OF OFFENCE

Second count

Obstructing railway, contrary to section 129 of the Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

A.B., on the.....day of.....in the county of..... by unlawfully displacing a sleeper belonging to the..... railway did obstruct or cause to be obstructed an engine or carriage using the said railway.

17.

STATEMENT OF OFFENCE

First count

Forgery, contrary to section 255 of the Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

A.B., on the.....day of.....in the county of .....with intent to defraud, forged a certain will purporting to be the will of *C.D*.

STATEMENT OF OFFENCE

Second count

Uttering forged document, contrary to section 254 of the Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

A.B., on the .....day of .....in the county of.....uttered a certain forged will purporting to be the will of *C.D.,* knowing the same to be forged and with intent to defraud.

18.

STATEMENT OF OFFENCE

Uttering counterfeit coin, contrary to section 298 of the Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

A.B., on the.....day of.....at the public house called "The Red Lion," in the county of ..... uttered a counterfeit half-crown, knowing the same to be counterfeit.

19.

STATEMENT OF OFFENCE

Perjury, contrary to section 324 of the Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

A.B., on the.....day of.....in the county of .....being a witness upon the trial of an action in the court in which one.....was plaintiff, and one..... was defendant, knowingly, falsely swore that he saw one *M.N.* in the street called....., on the.....day of .....

20.

STATEMENT OF OFFENCE

Libel, contrary to section 113 of the Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

A.B., on the.....day of.....in the county of.....published a defamatory libel concerning *E.F.*, in the form of a letter [book, pamphlet, picture, or as the case may be] [innuendo should be stated where necessary.]

21.

STATEMENT OF OFFENCE

First count

Publishing obscene libel, contrary to section 350 of the Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

E.M., on the.....day of.....in the

county of.....published an obscene libel, the particulars of which are deposited with this indictment.

[Particulars to specify pages and lines complained of where necessary as in a book.]

22.

STATEMENT OF OFFENCE

A.B., undischarged insolvent obtaining credit, contrary to section 218 of the Criminal Law (Offences) Act.

C.D., being accessory to same offence, contrary to section 25 of the Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

A.B., on the.....day of.....in the county of.....being an undischarged insolvent, obtained credit to the extent of one hundred dollars:–from *H.S.* without informing the said *H.S.* that he was an undischarged insolvent.

C.D., at the same time and place did aid, abet, counsel and procure *A.B.* to commit the said offence.

23.

STATEMENT OF OFFENCE

First count

Falsification of accounts, contrary to section 208 of the Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

A.B., on the.....day of.....in the county of .....being clerk or servant to *C.D.*, with intent to defraud, made or concurred in making a false

entry in a cash book belonging to the said *C.D.*, his employer, purporting to show that on the said day one hundred dollars had been paid to *L.M.*

STATEMENT OF OFFENCE

Second count

Same as first count.

PARTICULARS OF OFFENCE.

A.B., on the.....day of.....in the county of.....being clerk or servant to *C.D.*, with intent to defraud, omitted or concurred in omitting from or in a cash book belonging to the said *C.D.*, his employer, a material particular, that is to say, the receipt on the said day of fifty dollars from *H.S.*

24.

STATEMENT OF OFFENCE

First count

Fraudulent conversion of property, contrary to section 197(1)(*a*) of the Criminal Law (Offences) Act.

PARTICULARS *OF* OFFENCE

A.B., on the.....day of.....in the county of.....fraudulently converted to his own use and benefit certain property, that is to say, one hundred dollars entrusted to him by *H.S.*, in order that he, the said *A.B.*, might retain the same in safe custody.

STATEMENT OF OFFENCE

Second count

Fraudulent conversion of property, contrary to section 197(1)(*b*) of the Criminal Law (Offences) Act.

PARTICULARS OF OFFENCE

A.B., on the.....day of.....in the county of.....fraudulently converted to his own use and benefit certain property, that is to say, the sum of two hundred dollars received by him for and on account of *L.M.*

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s. 132
[O. in C. 56/1947
6 of 1997]

SIXTH SCHEDULE
REMUNERATION OF WITNESSES

Each person in the following classes, for each day that person attends, or is travelling to attend, or to return from, any trial, provided the person is not in receipt of any salary or wages as a public officer or servant in Guyana, shall be remunerated as follows:

1. Medical and legal practitioners, ministers of religion, civil, mechanical and electrical engineers and persons professionally qualified in other branches of engineering, registered dentist, chartered accountants and persons registered as public auditors under the Companies Act and other persons professionally qualified, but not otherwise specified in this Schedule.	$325 00
2. Every merchant, attorney, director or manager of a mercantile firm, estate proprietor, estate manager or attorney	195 00
3. Every architect, surveyor, building contractor, chemist and druggist, auctioneer,	165 00

manufacturers agent, master of a sea-going vessel or other person similarly employed	
4. Every mercantile clerk, shop or store keeper, master tradesman, estate overseer, mate of a seagoing vessel or other person similarly employed	130 00
5. Every shop assistant, provision farmer, tradesman, stevedore porter, estate superintendent or other person similarly employed	100 00
6. Every pedlar, store porter, chauffeur, seamstress, labourer on a timber grant, balata grant, placer or mining claim, or other person similarly employed	80 00
7. Every domestic servant, agricultural labourer, gardener, huckster, groom or other person similarly employed	65 00
8. Every person between the ages of 6 and 16	35 00
9. Every person being the wife or unmarried daughter of any person in the classes above mentioned, one half of the allowance of that person, provided that such wife or daughter is over the age of 16 years and is not in employment	
10. Every person belonging to any class not specified	35 00
11. For qualifying to give evidence and for attendance in court of expert scientific or other witness such sum as may be fixed by the court not being less than $325.00 or more than $3,250.00.	

Note. (l) A witness in classes I and 2 who resides within the boundaries of the City of Georgetown, or within the boundaries of the Town of New Amsterdam, or within 1 mile of the Court House at Suddie shall not receive any remuneration unless he satisfies the Registrar that he has incurred loss by attending the court.

(2) In all cases a witness (including a public officer or servant when attending as a witness in a matter not arising out of his official duties) shall be entitled to such actual travelling and hotel expenses(where necessary) as the

Registrar shall in each case allow.

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s. 80
[21 of 1932]

SEVENTH SCHEDULE
FORM OF RETURN OF SERVICE OF NOTICE ON A PERSON COMMITTED FOR TRIAL OR A WITNESS

The Criminal Law (Procedure) Act, Cap. 10:01, section 80.

The State *v*.

I(1) ....., (2)..... hereby certify that on the.....day of .....20....., at (3)..... I served a document of which the within document is a true copy on (4).....of (5) .....by (6) .....

Dated this.....day of ..... 20.....

.....

Signature

(1) Name in full.
(2) Police or other constable.
(3) Place where notice served.
(4) Name of person
(5) Address of person served.
(6) Mode of service

SUBSIDIARY LEGISLATION

RUPUNUNI TRIALS ORDER

made under section 9(2)

Citation.

1. This Order may be cited as the Rupununi Trials Order.

Direction.

2. It is hereby directed that all persons, committed for trial from the Magisterial District mentioned in the first column of the Schedule shall be committed for trial to, and shall be tried at, a sitting of the High Court for the County indicated in the second column of the Schedule.

SCHEDULE

	District of committal	*County of trial*
O. in C. 20/3/1894	North West Magisterial District	Demerara
O. in C. 1/6/1923	Rupununi Magisterial District	Demerara
