Queensland

ANNO TERTIO DECIMO

ELIZABETHAE SECUNDAE REGINAE

No. 32 of 1964

An Act to Provide for the Exercise of the Jurisdiction of Justices under "The Justices Acts, 1886 to 1963," in a Magistrates Court, to amend the said Acts in certain particulars and for other purposes

[ASSENTED TO 14TH APRIL, 1964]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. (1) **Short title.** This Act may be cited as "*The Justices Acts Amendment Act of* 1964."

(2) **The Principal Act.** "*The Justices Acts*, 1886 *to* 1963," are in this Act referred to as the Principal Act.

(3) **Collective titles.** (*a*) The Principal Act and this Act may be collectively cited as "*The Justices Acts*, 1886 *to* 1964."

(*b*) "*The Magistrates Courts Acts*, 1921 *to* 1954" and this Act may be collectively cited as "*The Magistrates Courts Acts*, 1921 *to* 1964."

(4) **Commencement of Act.** This Act shall commence on a date to be fixed by the Governor in Council by Proclamation published in the *Gazette*.

2. Savings and application of Act. (1) Every district heretofore appointed by the Governor in Council under section twenty-two of the Principal Act for the purposes of Courts of Petty Sessions and subsisting at the commencement of this Act shall, without further appointment, be deemed to be a Magistrates Courts District appointed under "*The Justices Acts*, 1886 *to* 1964," with the name, if any, then assigned thereto, and the same may be abolished, subdivided, amalgamated or the boundaries thereof altered pursuant to those Acts and the name, if any, assigned thereto may be varied.

(2) Every place, heretofore appointed by the Governor in Council under section twenty-two of the Principal Act as a place for holding Courts of Petty Sessions and subsisting at the commencement of this Act shall, without further appointment, be deemed to be a place appointed under "*The Justices Acts*, 1886 *to* 1964," for holding Magistrates Courts and such appointment may be cancelled pursuant to those Acts.

(3) Every person who at the commencement of this Act is a clerk of petty sessions appointed by the Governor in Council under section twenty-two of the Principal Act shall, without further appointment, be deemed to be the clerk of every Magistrates Court at the place or the places, as the case may be, for which he is clerk of petty sessions at the commencement of this Act until he lawfully ceases to be such clerk.

(4) Every reference in any Act including the Principal Act, Proclamation, Order in Council, regulation, rule, by-law, ordinance, document or order or decision of any court including a decision within the meaning of the Principal Act, or otherwise to—

(*a*) Justices in petty sessions, a Court of Petty Sessions; or

(*b*) a place for holding Courts of Petty Sessions; or

(*c*) a clerk of Petty Sessions,

shall, unless inconsistent with the context, be deemed a reference to—

(i) a Magistrates Court constituted under "*The Justices Acts*, 1886 *to* 1964";

(ii) a place for holding Magistrates Courts appointed under "*The Justices Acts*, 1886 *to* 1964"; and

(iii) a clerk of such a Magistrates Court, respectively.

(5) Every reference in any Act, including the Principal Act, Proclamation, Order in Council, regulation, rule, by-law, ordinance, document or order or decision of any court, including a decision within the meaning of the Principal Act, or otherwise to a magistrate (by whatever title called) or a justice or justices wherein it is expressed or implied or the context of such reference is such that it is to be inferred that such magistrate, justice or justices constitute a Court of Petty Sessions shall be deemed to be a reference to a Magistrates Court constituted under and in accordance with "*The Justices Acts*, 1886 *to* 1964."

(6) In relation to any proceeding commenced under "*The Justices Act of* 1886" as amended from time to time, prior to the commencement of this Act, the provisions of "*The Justices Acts*, 1886 *to* 1964" shall apply with respect to every step to be taken and decision to be made therein or with respect thereto after the commencement of this Act (including the institution of an appeal from, and the enforcement of, any order made therein) and every Court of Petty Sessions which, at the commencement of this Act, has heard in part any such proceeding or is to give a decision in relation to any such proceeding shall, for the purpose of completing such hearing or, as the case may be, giving such decision, and for the purposes of this subsection, be a Magistrates Court constituted under and in accordance with "*The Justices Acts*, 1886 *to* 1964."

Every decision under "*The Justices Act of* 1886" as amended from time to time prior to the commencement of this Act, if unenforced at the commencement of this Act, may be enforced under "*The Justices Acts*, 1886 *to* 1964."

In this subsection the term "decision" has the same meaning assigned to that term by section four of "*The Justices Acts*, 1886 *to* 1964."

3. Amendments to The Magistrates Courts Acts. "*The Magistrates Courts Acts*, 1921 *to* 1954," are amended in the manner and to the extent set forth in the Schedule to this Act.

4. Repeal of and new s. 4. Section four of the Principal Act is repealed and the following section is inserted in its stead:—

"[**4.**] **Meaning of terms.** In this Act, unless the context otherwise indicates or requires, the following terms shall have the meanings respectively assigned to them, that is to say:—

"Breach of duty"—Any act or omission (not being a simple offence or a non-payment of a mere debt) upon complaint whereof a Magistrates Court may make an order on any person for the payment of money or for doing or refraining from doing any other act;

"Chairman of a Local Authority"—The mayor for the time being of a City or Town and the chairman for the time being of a Shire within the meaning of "*The City of Brisbane Acts*, 1924 *to* 1960," or "*The Local Government Acts*, 1936 *to* 1963";

"Charge of an indictable offence"—A charge of an indictable offence as such;

"Clerk of the court"—The person who for the time being is the clerk of every Magistrates Court at a place or places appointed, or deemed to have been appointed, under this Act for the holding of Magistrates Courts in question: The term includes any assistant clerk of the court, deputy clerk of the court and any person who for the time being occupies or performs the duties of such office;

"Complaint"—Includes the terms "information", "information and complaint", and "charge" when used in any Act, and, unless a contrary intention appears, means an information, complaint or charge before a Magistrates Court;

"Court"—A Magistrates Court;

"Decision"—Includes a committal for trial or for sentence, an admission to bail, a conviction, order, order of dismissal or striking out or other determination;

"Defendant"—A person complained against before a Magistrates Court or before justices for a simple offence, breach of duty or an indictable offence;

"District Court"—A court appointed under the authority of "*The District Courts Acts*, 1958 *to* 1963";

"Examination of witnesses in relation to an indictable offence"—An examination of witnesses or the taking of a statement of any person by justices in relation to a charge of an indictable offence;

" Hearing "—Includes an examination of witnesses in relation to an indictable offence ;

" Indictable offence "—An offence which may be prosecuted before the Supreme Court, a District Court, or other court having jurisdiction in that behalf, by indictment in the name of the Attorney-General or other authorized officer;

" Indictment "—A written charge for an indictable offence presented to a court having jurisdiction to try the accused person by the Attorney-General or other authorized officer;

" Jurisdiction "—Includes the place in which jurisdiction may be lawfully exercised;

" Justices " or " justice "—Justices of the peace or a justice of the peace having jurisdiction where the act in question is, or is to be, performed: The term includes a Stipendiary Magistrate and, where necessary, a Magistrates Court constituted under and in accordance with this Act;

" Magistrates Court "—A Magistrates Court constituted under this Act or deemed so to have been;

" Minister "—The Minister for Justice and Attorney-General of Queensland or other Minister of the Crown for the time being charged with the administration of this Act;

" Oath "—Includes a solemn affirmation or declaration when such affirmation or declaration may by law be made instead of taking an oath, and any promise or other undertaking to tell the truth that may be made under the provisions of any Act relating to the giving of evidence in Courts of Justice;

" Order "—Includes any order, adjudication, grant or refusal of any application, and any determination of whatsoever kind made by a Magistrates Court, and any refusal by a Magistrates Court to hear and determine any complaint or to entertain any application made to it: The term does not include any order made by justices committing a defendant for trial for an indictable offence, or dismissing a charge of an indictable offence or granting or refusing to grant bail and, in the lastmentioned case, whether or not the justices are sitting as a Magistrates Court or to hear an examination of witnesses in relation to an indictable offence;

" Police officer "—Any member of the Police Force;

" Police station "—Includes a police office, watch-house, and lock-up;

" Simple offence "—Any offence (indictable or not) punishable, on summary conviction before a Magistrates Court, by fine, imprisonment, or otherwise;

" Stipendiary Magistrate "—Includes the Chief Stipendiary Magistrate, a Senior Stipendiary Magistrate and an Acting Stipendiary Magistrate;

" Summary conviction " or " conviction "—A conviction by a Magistrates Court for a simple offence.

When by this section a meaning is assigned to any word, any derivative of that word, when used in this Act, shall bear a corresponding meaning."

5. Repeal of word "Colony". The word "Colony" wherever the same appears throughout the Principal Act is omitted and the word "State" is inserted in lieu thereof.

6. Amendment to s. 6. Section six of the Principal Act is amended by omitting from the first paragraph the words "or in any Municipal or other District therein" and omitting from the second paragraph the words "or for such Municipal or other District, as the case may be".

7. Amendment to s. 7. Section seven of the Principal Act is amended by omitting from the first paragraph the words "or for the Municipal or other District, as the case may be".

8. Amendment to s. 8. Section eight of the Principal Act is amended by omitting the words "The chairman for the time being of every Municipal District" and inserting in their stead the words "The chairman of a Local Authority" and by omitting the words "such Municipal District" appearing at the end of that section and inserting in their stead the words "the State".

9. Amendment to s. 9. Section nine of the Principal Act is amended by omitting the words "Municipal District" and inserting in their stead the words "Local Authority".

10. Amendment to s. 11. Section eleven of the Principal Act is amended by numbering the existing paragraph of that section as subsection (1) and by adding to that section the following subsections:—

"(2) The Governor in Council may appoint any justice to be—

(*a*) the Chief Stipendiary Magistrate;

(*b*) Senior Stipendiary Magistrate in relation to the place where he is stationed.

Every appointment of the Chief Stipendiary Magistrate or a Senior Stipendiary Magistrate made prior to the commencement of this Act is validated from and including the date of the appointment and is declared and deemed to be, and to have been at all times, a good and valid appointment.

(3) The Governor in Council may appoint any justice to be an Acting Stipendiary Magistrate for a term, either of definite or indefinite duration, or for any purpose, or otherwise howsoever, specified in the appointment.

(4) (*a*) The fact that a specific place, or specific places, may be indicated in the appointment (whether before or after the commencement of "*The Justices Acts Amendment Act of* 1964") of any person to be the Chief Stipendiary Magistrate or a Senior Stipendiary Magistrate or a Stipendiary Magistrate or Acting Stipendiary Magistrate as the place or places at which he is to be stationed as such shall not prejudice or otherwise derogate from and shall be deemed never to have prejudiced or otherwise derogated from the exercise by him, at any time, of his power and jurisdiction as a Stipendiary Magistrate at any other place in the State.

(*b*) The fact that a Stipendiary Magistrate sits in any particular court shall be conclusive evidence of his authority so to do.

(5) If at the determination by effluxion of time of any appointment under this section or the retirement from his appointment under this section of any Stipendiary Magistrate on account of his having attained a certain age there shall be any proceeding—

(*a*) partly heard; or

(*b*) standing for decision,

the appointment, notwithstanding any other Act to the contrary, shall for the purpose of determining such proceeding and so far as is necessary for that purpose remain in force until a decision shall have been given therein."

11. Amendment to s. 16. Section sixteen of the Principal Act is amended by omitting the words " or for a Municipal or other District " and the words " or for the same district ".

12. Repeal of and enactment of new s. 18. Section eighteen of the Principal Act is repealed and the following section is inserted in its stead:—

" [**18.**] **Titles and letters prima facie evidence of status.** (1) The words Chief Stipendiary Magistrate, Senior Stipendiary Magistrate, Stipendiary Magistrate or Acting Stipendiary Magistrate, or the letters C.S.M., S.S.M., S.M., or A.S.M., after the signature to any magisterial act, shall be *primâ facie* evidence that the person whose signature it purports to be is a justice of the peace and is respectively, the Chief Stipendiary Magistrate, a Senior Stipendiary Magistrate, a Stipendiary Magistrate or, as the case may be, Acting Stipendiary Magistrate having jurisdiction in the matter.

(2) The words Justice of the Peace or the letters J.P. after the signature to any magisterial act, shall be *primâ facie* evidence that the person whose signature it purports to be is a justice of the peace having jurisdiction in the matter."

13. Amendments to s. 19. Section nineteen of the Principal Act is amended by—

(*a*) omitting the words " a crime, or misdemeanour," and inserting in their stead the words " an indictable offence ";

(*b*) inserting before the words " two or more justices " the words " a Magistrates Court constituted, subject to this Act, by ".

14. Amendments to s. 22. Section twenty-two of the Principal Act is amended by—

(*a*) inserting as subsection (1) the following subsection:—

" (1) There shall be within the State courts of record to be called Magistrates Courts. Each such court shall possess civil and criminal jurisdiction and such other jurisdiction as may, prior to the commencement of " *The Justices Acts Amendment Act of* 1964," have been conferred upon Courts of Petty Sessions or upon justices sitting in Petty Sessions, and as may thereafter be conferred upon Magistrates Courts. Each Magistrates Court shall have a seal which shall be kept by the clerk of such court and shall be judicially noticed.";

(*b*) renumbering the subsection presently numbered (1) as subsection (2) and in that subsection as so renumbered:—

(i) omitting from paragraph (*a*) the words " Courts of Petty Sessions " and inserting in their stead the words " Magistrates Courts ";

(ii) omitting from paragraph (*b*) the words " Courts of Petty Sessions " and inserting in their stead the words " Magistrates Courts";

(*c*) renumbering the subsection presently numbered (2) as subsection (3) and in that subsection as so renumbered, omitting the words " Courts of Petty Sessions ", where those words appear, and inserting in their stead the words " Magistrates Courts ";

(*d*) renumbering the subsection presently numbered (3) as subsection (4) and in that subsection as so renumbered:—

(i) omitting the words " clerk of petty sessions " where those words firstly appear and inserting in their stead the words " clerk of the court ";

(ii) omitting the words " clerk of petty sessions " where those words secondly appear and inserting in their stead the words " such clerk ";

(iii) adding the following paragraphs:—

" The person appointed to be such clerk at any place, or deemed so to be, shall be the clerk of every Magistrates Court held at that place.

The Governor in Council may, from time to time, appoint such officers as he deems necessary to assist any such clerk for the effectual execution of this Act ";

(*e*) renumbering the subsection presently numbered (4) as subsection (5) and in that subsection as so renumbered:—

(i) omitting from the first paragraph the words " courts of petty sessions " and inserting in their stead the words " Magistrates Courts ";

(ii) omitting from the first paragraph the words " justices sitting in petty sessions " and inserting in their stead the words " the Magistrates Court ";

(iii) omitting from the first paragraph the words " clerk of petty sessions " where those words appear and inserting in their stead the words " clerk of the court ";

(iv) omitting from the second paragraph the words " clerk of petty sessions " and inserting in their stead the word " clerk ";

(v) omitting from the third paragraph the words " court of petty sessions or justices or the clerk of petty sessions " and inserting in their stead the words " Magistrates Court or justices or the clerk of the court ";

(*f*) adding the following subsection:—

" (6) Two or more Magistrates Courts may be held (and, for the purpose of allaying any doubts, it is hereby declared that two or more Courts of Petty Sessions always could be held) at any time at any place appointed for holding Magistrates Courts or, prior to the commencement of " *The Justices Acts Amendment Act of* 1964," Courts of Petty Sessions, and nothing in this Act, whether as it appeared before or after the enactment of this subsection, shall be construed as requiring the authority of the Governor in Council to the holding of any such court at any time."

15. Repeal of s. 23. Section twenty-three of the Principal Act is repealed.

16. Amendment to s. 24. Section twenty-four of the Principal Act is amended by omitting the words " out of sessions ".

17. Repeal of and enactment of new s. 27. Section twenty-seven of the Principal Act is repealed and the following section is inserted in its stead:—

"**[27.] Hearing of complaint.** Subject to the provisions of any other Act, every complaint shall be heard and determined by a Magistrates Court constituted by two or more justices.

If any Act authorizes a matter of complaint to be heard and determined by—

(*a*) a Magistrates Court constituted by one justice; or

(*b*) one justice,

that matter of complaint may be heard and determined by a Magistrates Court constituted by one justice."

18. Repeal of and enactment of new s. 30. Section thirty of the Principal Act is repealed and the following section is inserted in its stead:—

"**[30.] Stipendiary Magistrates.** (1) A Stipendiary Magistrate constituting a Magistrates Court shall have power to do alone whatever might be done by two or more justices constituting a Magistrates Court, and shall have power to do alone any act which by any Act may or shall be done by two or more justices.

(2) Unless otherwise expressly provided, when a Stipendiary Magistrate is present at a place appointed for holding Magistrates Courts and is available to constitute any such court to be held at that place the court shall be constituted by the Stipendiary Magistrate alone.

Nothing in this subsection shall be construed to abridge or prejudice the ministerial power of justices in taking an examination of witnesses in relation to an indictable offence, or the powers of justices to receive a complaint or to issue, grant or endorse a summons or warrant, to admit to bail or to adjourn a hearing of a complaint of a simple offence or breach of duty.

(3) Section two of "*The Justices Acts Amendment Act of* 1909" is repealed."

19. Repeal of and new s. 40. Section forty of the Principal Act is repealed and the following section is inserted in its stead:—

"**[40.] Penalty for insulting or interrupting justices.** (1) A person who—

(*a*) wilfully insults a justice or a witness or an officer of the court during his sitting as, or, as the case may be, attendance in a Magistrates Court or during his sitting or, as the case may be, attendance in any examination of witnesses in relation to an indictable offence or who is on his way to or from any such court or examination; or

(*b*) wilfully misbehaves himself in such a court or in the place where such an examination is being held; or

(*c*) wilfully interrupts the proceedings of such a court or examination; or

(*d*) unlawfully assaults, or wilfully obstructs a person in attendance at such a court or examination; or

(*e*) without lawful excuse, disobeys a lawful order or direction of such court or justice,

may by oral order of such court or justice, be excluded from such court or examination and, whether he is so excluded or not, may be summarily convicted by such court or justice of contempt.

(2) A person convicted of contempt under this section shall be liable to be imprisoned for a period not exceeding fourteen days or to a fine not exceeding fifty pounds and, in default of immediate payment of such fine, to be imprisoned for a period not exceeding fourteen days.

(3) A person referred to in subsection (1) of this section—

(*a*) may be dealt with under this section without a complaint being made or a summons being issued in respect of him;

(*b*) may be taken into custody by a police officer on order of such court or justice and without further warrant;

(*c*) may be called upon by such court or justice to show cause why he should not be convicted of contempt under this section;

(*d*) may be dealt with by such court or justice under this section upon the court's or justice's own view, or upon the evidence of a credible witness.

(4) A court or justice may, if it or he thinks fit, accept from any person convicted by it or him of contempt under this section, an apology for such contempt and may recommend that the Governor in Council remit or respite any fine or punishment imposed on such person in respect of such contempt."

20. Repeal of and new s. 42. Section forty-two of the Principal Act is repealed and the following section is inserted in its stead:—

"[**42.**] **Commencement of proceedings.** (1) Except where otherwise expressly provided or where the defendant has been arrested without warrant, all proceedings under this Act shall be commenced by a complaint in writing, which may be made by the complainant in person or by his counsel or solicitor or other person authorized in that behalf:

Provided that where a defendant is present at a proceeding and does not object, a further charge or an amended charge may be made against him and be proceeded with although no complaint in writing has been made in respect thereof.

(2) Where a defendant has been arrested on any charge and no complaint in writing has been made and in a case to which the proviso to subsection (1) of this section applies particulars of the charge against him shall be set out in the Bench Record Book."

21. Repeal of and new s. 43. Section forty-three of the Principal Act is repealed and the following section is inserted in its stead:—

"[**43.**] **Matter of complaint.** (1) Every complaint shall be for one matter only, and not for two or more matters, except—

(*a*) in the case of indictable offences if the matters of complaint are such that they may be charged in one indictment;

(*b*) in cases other than cases of indictable offences, if the matters of complaint—

(i) are alleged to be constituted by the same act or omission on the part of the defendant;

(ii) are alleged to be constituted by a series of acts done or omitted to be done in the prosecution of a single purpose;

(iii) are founded on substantially the same facts; or

(iv) are, or form part of, a series of offences or matters of complaint of the same or a similar character;

(*c*) when otherwise expressly provided.

(2) When two or more matters of complaint are joined in the one complaint each matter of complaint shall be set out in a separate paragraph.

(3) At the hearing of a complaint in which two or more matters of complaint have been joined but which does not comply with the provisions of this section—

(*a*) if an objection is taken to the complaint on the ground of such non-compliance, the court shall require the complainant to choose one matter of complaint on which to proceed at that hearing;

(*b*) if no such objection is taken to the complaint, the court may proceed with the hearing and may determine the matters of complaint, and may convict or acquit the defendant in accordance with such determination.

(4) If, at the hearing of a complaint, it appears to the court that a defendant may be prejudiced or embarrassed in his defence because the complaint contains more than one matter of complaint or that for any other reason it is desirable that one or more matters of complaint should be heard separately, the court may order that such one or more matters of complaint be heard separately."

22. Amendments to s. 47. Section forty-seven of the Principal Act is amended by—

(*a*) in subsection (2)—

(i) omitting the words "justices at any court of petty sessions" and inserting in their stead the words "a Magistrates Court";

(ii) omitting the word "justices" where that word appears and inserting in its stead the word "court";

(iii) omitting the word "they" and inserting in its stead the words "the court";

(*b*) in subsection (3)—

(i) omitting the words "A Police Officer" and inserting in their stead the words "Any person";

(ii) omitting the word "justices" and inserting in its stead the word "court";

(*c*) adding the following subsection:—

"(4) Unless otherwise expressly provided, if, for the purpose of the assessment of penalty in respect of a simple offence, it is intended to rely upon a circumstance which renders the defendant liable, upon conviction, to a greater penalty than that to which he would otherwise have been liable, that circumstance shall be expressly stated in the complaint made in respect of that offence except when that circumstance is that the defendant has been previously convicted summarily of an offence."

23. Repeal of and new s. 48. Section forty-eight of the Principal Act is repealed and the following section is inserted in its stead:—

"[**48.**] **Amendment of complaint.** If at the hearing of a complaint, it appears to the justices that—

(*a*) there is a defect therein, in substance or in form, other than a non-compliance with the provisions of section forty-three of this Act; or

(*b*) there is a defect in any summons or warrant to apprehend a defendant issued upon such complaint; or

(*c*) there is a variance between such complaint, summons or warrant and the evidence adduced at the hearing in support thereof,

then—

(i) if an objection is taken for any such defect or variance, the justices shall; or

(ii) if no such objection is taken the justices may,

make such order for the amendment of the complaint, summons or warrant as appears to them to be necessary or desirable in the interests of justice."

24. Repeal of and new s. 50. Section fifty of the Principal Act is repealed and the following section is inserted in its stead:—

"[**50.**] **Recording of amendment.** When an order for the amendment of a complaint, summons or warrant has been made, the Magistrates Court or, as the case may be, the justices taking an examination of witnesses in relation to an indictable offence, shall forthwith cause particulars thereof to be recorded in the Bench Record Book and, if thereunto required by the party against whom the order has been made, shall cause a minute thereof to be given to him."

25. Repeal of and new s. 51. Section fifty-one of the Principal Act is repealed and the following section is inserted in its stead:—

"[**51.**] **When complaint to be on oath and when not.** Unless otherwise expressly provided—

(*a*) when it is intended to issue a warrant in the first instance against the party charged, the complaint in writing must be on oath, which oath may be made by the complainant;

(*b*) when it is intended to issue a summons in the first instance against the party charged, the complaint in writing need not be on oath."

26. Repeal of and new s. 54. Section fifty-four of the Principal Act is repealed and the following section is inserted in its stead:—

"[**54.**] **Form of summons and filing of complaint and summons.** (1) Every summons shall be directed to the defendant and shall require him to appear at a certain time and place before the Magistrates Court, or, as the case may require, before justices taking an examination of witnesses in relation to an indictable offence, to answer the complaint and to be further dealt with according to law.

Every summons shall be served in accordance with this Act, and, where the summons has been issued on a complaint in writing, other than an entry of a charge in the Bench Record Book, a copy of such complaint shall be served with and in the same manner as the summons.

(2) Every summons and, where the summons has been issued on a complaint in writing, other than an entry of a charge in the Bench Record Book, a copy of such complaint, shall, before the hearing is proceeded with, be lodged with the clerk of the court at the place at which the defendant is required by the summons to appear, to be by such clerk kept and preserved.

(3) (*a*) Where a summons has not been served upon a defendant prior to the time at which the defendant is thereunder required to appear before a Magistrates Court, or, as the case may be, before justices taking an examination of witnesses in relation to an indictable offence, the clerk of the court at the place where the defendant is required by the summons to appear, being a justice, or other justice at such place authorized by such clerk, whether or not such clerk is a justice, may, from time to time and before, at or after the time appointed by the summons for the appearance of the defendant in accordance with the summons, extend the time so appointed.

(*b*) Every such extension shall be made under the hand of the justice making the same, who shall alter the time appointed in the summons and shall endorse and sign a memorandum in the margin of the summons, as nearly opposite such alteration as is practicable, stating that the time appointed has been extended and the date to which such time has been extended."

27. Repeal of and new s. 56. Section fifty-six of the Principal Act is repealed and the following section is inserted in its stead:—

" [**56.**] (1) A summons shall be served upon the person to whom it is directed by delivering a copy thereof to him personally or, if he cannot reasonably be found, by leaving such copy with some person for him at his last known or usual place of abode.

(2) The person who serves a summons shall within three days after service endorse on the summons the date and place of the service thereof and shall either—

(*a*) attend personally before the Magistrates Court, or, as the case may be, the justices taking the examination of witnesses in relation to an indictable offence, at the place and time for hearing mentioned in the summons and, if necessary, at any extended time therefor, to depose, if necessary, to the service thereof; or

(*b*) attend before any justice of the peace having jurisdiction in the State or part of the State or part of the Commonwealth in which such summons was served and depose, on oath and in writing endorsed on the summons, to the service thereof.

(3) Every such deposition shall, upon production to the Magistrates Court by which the complaint upon which the summons issued, is heard, or, as the case may be, to the justices who take the examination of witnesses in relation to an indictable offence in respect of that complaint, be sufficient proof of the service of the summons on the defendant."

28. Repeal of ss. 66, 67 and 68. Sections sixty-six, sixty-seven and sixty-eight of the Principal Act are repealed.

29. Repeal of and new s. 69A. Section 69A and the headnote thereto are repealed and the following headnote and section are inserted in their stead:—

" *Taking of bail by police officers.*

[**69A.**] **When police officer may take bail.** (1) When a person taken into custody for a simple offence whether with or without warrant, is delivered into the custody of any police officer during his attendance at any police station, and has not appeared before a justice in relation

to that offence, that police officer may, if he is satisfied that such person cannot be taken forthwith before a justice to be dealt with according to law and if he deems it prudent so to do, take bail—

(*a*) by recognizance, with or without sureties as he thinks fit and for such amount as he deems sufficient, from that person conditioned; or

(*b*) by accepting such deposit of money as he deems sufficient as security,

for that person's appearance in accordance with this section before a justice to be dealt with according to law.

(2) Every recognizance taken under this section shall be conditioned, and every deposit of money accepted under this section shall be as security, for the appearance of the person admitted to bail—

(*a*) in the case of a recognizance, before a justice at the day, time and place named in the recognizance; or

(*b*) in the case of a deposit of money, before a justice at the day, time and place appointed for such appearance and entered in pursuance of subsection (4) of this section by the police officer accepting such deposit of money in the book to be kept for that purpose at the police station.

(3) Every recognizance taken under this section shall oblige the parties entering into it, and the same proceedings shall lie to enforce it, as if it had been taken before a justice, and, for the purposes of this Act, shall be deemed to have been taken before a justice.

(4) The police officer taking any such recognizance or accepting any such deposit of money shall enter in the book to be kept for that purpose at the police station—

(*a*) the name, address and occupation of the person to be admitted to bail;

(*b*) in the case of a recognizance, the name, address and occupation of each surety, if there be any, and the condition of the recognizance;

(*c*) in the case of a deposit of money, the amount thereof and the day, time and place appointed for the appearance before a justice of the person admitted to bail,

and, in the case of a recognizance, shall lay the original recognizance before, or, in the case of a deposit of money, shall produce the said book to, the justice present at the day, time and place when and where the person admitted to bail is required to appear.

(5) In the case of a deposit of money, the police officer accepting such deposit shall—

(*a*) give to the person admitted to bail a statement in writing of; and

(*b*) when such deposit is accepted at a place other than a place appointed for holding Magistrates Courts, or deemed so to be, cause to be communicated to the watch-house keeper at the police station at the place where the person admitted to bail is required to appear,

the particulars entered by him as prescribed by subsection (4) of this section and the particulars of the charge in respect of which such person is admitted to bail.

Such watch-house keeper shall cause the particulars communicated to him to be entered in the book kept for the purposes of this section at the police station at which he is watch-house keeper, and shall produce such book to the justice present at the day, time and place when and where the person admitted to bail is, according to such particulars, required to appear.

(6) An apparently genuine document purporting to be a recognizance under this section, or a book purporting to be a book referred to in subsection (4) of this section, shall upon its production, and without further proof, be admitted before any court or justice as *primâ facie* evidence of all matters recorded or stated therein which are relevant to the proceeding before such court or justice.

Every such book shall be a Bench Record Book hereinafter in this Act provided for whether or not it be in the prescribed form.

(7) Admission to bail under this section of any person shall discharge any duty theretofore had of taking that person before a justice to be dealt with according to law."

30. Repeal of and new s. 77. Section seventy-seven of the Principal Act is repealed and the following section is inserted in its stead:—

" [77.] **Mode of taking evidence.** Subject to the provisions of any other Act, the deposition of every witness shall be reduced to writing and shall—

(*a*) in the case of an examination of witnesses in relation to an indictable offence, be read to the witness or, with the consent of the person charged with that offence, be read by the witness; or

(*b*) in any other case, be read to or by the witness; and

(*c*) in every case, be thereupon signed by the witness and by the justices constituting the Magistrates Court or, as the case may be, taking that examination."

31. Amendment to s. 79. Section seventy-nine of the Principal Act is amended by omitting the word " twenty " and by inserting in its stead the word " fifty ".

32. Amendments to s. 82. Section eighty-two of the Principal Act is amended by—

(*a*) omitting the word " justices " and inserting in its stead the words " a court or justices taking an examination of witnesses in relation to an indictable offence ";

(*b*) omitting the words " any justice then present and having there jurisdiction " and inserting in their stead the words " the court or justices ".

33. Repeal of and new s. 88. Section eighty-eight of the Principal Act is repealed and the following section is inserted in its stead:—

" [88.] **Adjournment of the hearing.** (1) In any case of a charge of a simple offence or breach of duty the justices present, or, if only one justice is present, that justice may—

(*a*) adjourn the hearing to a certain time and place to be then appointed and stated in the presence and hearing of the party or parties then present, or of his or their counsel, solicitors or agents then present;

(*b*) adjourn the hearing and leave the time and place at which the hearing is to be continued to be later determined by such justices, or, as the case may be, justice:

Provided that a hearing so adjourned shall not be continued at a time and place so determined unless the justices then present are satisfied that the parties thereto have been given reasonable notice of such determination.

(2) Upon adjourning a hearing the justices or, if only one justice is present, that justice, may—

(*a*) if he is in custody, order the discharge of the defendant either at large and without any recognizance, or upon his entering into a recognizance conditioned for his appearance at the time and place appointed for continuing the hearing or at a time and place to be determined, as the case may require; or

(*b*) if he is not in custody, suffer the defendant to go at large, but may require him to enter into a recognizance conditioned as aforesaid as the case may require; or

(*c*) if the hearing is adjourned to a certain time and place, commit the defendant.

(3) Upon an adjournment the justices or, as the case may be, the justice may order that costs of and occasioned by the adjournment be paid by any party to any other party as to the justices or justice may appear just."

34. Amendment to s. 92. Section ninety-two of the Principal Act is amended by adding to the first paragraph of that section the words " or which is to be determined ".

35. Amendments to s. 93. Section ninety-three of the Principal Act is amended by—

(*a*) repealing subsection (1) and inserting in its stead the following subsection:—

" (1) If a defendant, witness or other person does not appear at any time and place for his appearance at which the recognizance is conditioned or which is mentioned in the recognizance or which has been determined the justices who are then present may do any one or more of the following things:—

(*a*) adjourn the hearing;

(*b*) issue a warrant for his apprehension;

(*c*) in the case of a defendant who appears at such time and place by his counsel or solicitor, upon application made in that behalf, enlarge the recognizance in accordance with the provisions of this Act, in such manner as they may think fit.";

(*b*) repealing subsection (2) and inserting in its stead the following subsection:—

" (2) When a person is admitted to bail under section 69A of this Act by the acceptance of a deposit of money as security for that person's appearance before a justice and that person—

(*a*) does not appear in accordance with the terms of his bail, subject to subsection (3) of this section, the justice or justices who are there present—

(i) shall order such bail to be forfeited and the same shall be forfeited accordingly; and

(ii) may adjourn the hearing and may issue a warrant for his apprehension;

(*b*) appears in accordance with the terms of his bail, the amount of such deposit shall be paid over to the person who made the deposit unless such justice or justices order the same or any part thereof to be applied in or towards payment of any penalty or costs imposed or unless, where the hearing is adjourned and that person is permitted to go at large, the justice or justices order the same or any part thereof to be applied as security for that person's appearance at the time and place to which the hearing is adjourned (which the justice or justices are hereby empowered to do).";

(*c*) in subsection (3)—

(i) adding to the first paragraph the words " or to be determined for that purpose.";

(ii) inserting after the word " appointed " in the second paragraph the words " or determined ";

(iii) adding the following paragraph:—

" The provisions of this subsection and of the last preceding subsection apply in relation to the proceedings before the justice or justices present at every time and place to which the hearing is, from time to time, adjourned."

(*d*) adding the following subsection:—

" (5) When a defendant who has entered into a recognizance conditioned for his appearance at a time and place to be determined or who has deposited money which pursuant to this section is deemed to have been deposited as security by way of bail conditioned for his appearance at a time and place to be determined, does not appear at a time and place so determined, no step shall be taken to forfeit or estreat such bail or recognizance or to issue a warrant for his apprehension unless the justices are satisfied that such defendant has been given reasonable notice of such determination."

36. Amendments to s. 94. Section ninety-four of the Principal Act is amended by—

(*a*) numbering the existing paragraph as subsection (1);

(*b*) adding the following subsection:—

" (2) If it is inconvenient for a surety or sureties to attend to join with a principal in his recognizance the recognizance of the surety or of any one or more of them may be taken by any person authorised by this Act in that behalf notwithstanding that he is not the person who has taken or will take the recognizance of the principal or of any other surety or sureties anything in this Act or any other Act notwithstanding."

37. New s. 98A inserted. The Principal Act is amended by inserting after section ninety-eight the following section:—

" **[98A.] Bench Record Book.** (1) There shall be kept for use by justices constituting a Magistrates Court under this Act or sitting to take an examination of witnesses in relation to an indictable offence, a Bench Record Book.

(2) A Bench Record Book shall be in the prescribed form.

(3) A Bench Record Book, and a copy of or extract from a Bench Record Book purporting to be under the hand of the officer ordinarily having custody of such book, shall be received by every court or other tribunal without further proof in every proceeding as evidence of the particulars therein contained."

38. Repeal of and new s. 101. Section one hundred and one of the Principal Act is repealed and the following section is inserted in its stead:—

"**[101.]** Upon its being proved on oath before justices that a person apprehended under a warrant issued under section one hundred of this Act or issued by order of a Judge of the Supreme Court, or of a District Court, is identical with the person who has been informed against, the justices shall, without further inquiry or examination commit him to be dealt with according to law by the court in which the information concerned has been presented and, in the meantime, may commit that person to gaol or admit him to bail and the provisions of this Part relating to the committal to gaol and the admission to bail of a defendant committed by justices to be tried for an indictable offence shall apply with respect to a person committed to a court under this section who, for this purpose, shall be deemed to be a person charged before the justices with the offence with which he has been charged in the information presented against him."

39. Amendment to s. 103. Section one hundred and three of the Principal Act is amended by inserting after the word "oath" the words "or by deposition as provided in section fifty-six of this Act with respect to the service of a summons,".

40. Repeal of and new s. 104. Section one hundred and four of the Principal Act is repealed and the following section is inserted in its stead:—

"**[104.] Proceedings upon an examination of witnesses in relation to an indictable offence.** (1) The examination of witnesses in relation to an indictable offence—

(*a*) may be conducted by a single justice;

(*b*) subject to the provisions of section forty of this Act, shall be conducted in the presence and hearing of the defendant and of his counsel and solicitor, if any.

(2) When, upon such an examination all the evidence to be offered on the part of the prosecution has been adduced and the evidence, in the opinion of the justices then present, is not sufficient to put the defendant upon his trial for any indictable offence, the justices shall order the defendant, if he is in custody, to be discharged as to the charge the subject of that examination; but if in the opinion of such justices (or if there be more justices than one then present, in the opinion of any one of such justices) the evidence is sufficient to put the defendant upon his trial for an indictable offence then the justices or one of them shall—

(*a*) cause to be read to the defendant the deposition of the witnesses who may have given evidence at the examination in the defendant's absence;

(*b*) address to the defendant the following words or words to like effect—

"You will have an opportunity to give evidence on oath before us and to call witnesses. But first I am going to ask you whether you wish to say anything in answer to the charge. You need not say anything unless you wish to do so; and you have nothing to hope from any promise, and nothing to fear from any threat that may have been held out to induce you to make any admission or confession of guilt. Anything you say will be taken down and may be given in evidence at your trial. Do you wish to say anything in answer to the charge?".

(3) Whatever the defendant may say in answer to the words addressed to him pursuant to the last preceding subsection shall be reduced to writing and read to him and shall thereupon be signed by the justices and by the defendant, if he so desires, and shall be kept with the depositions of the witnesses and shall, if the defendant is committed to be tried or for sentence, be transmitted with such depositions in accordance with the provisions of section one hundred and twenty-six of this Act.

(4) If the defendant desires to offer evidence with respect to the charge the subject of the examination the justices shall hear and receive all admissible evidence tendered on behalf of the defendant which tends to show whether or not he is guilty of the offence with which he is charged."

41. Repeal of s. 107. Section one hundred and seven of the Principal Act is repealed.

42. Repeal of and new s. 108. Section one hundred and eight of the Principal Act is repealed and the following section is inserted in its stead:—

"**[108.] Procedure upon a consideration of all the evidence.** (1) If upon a consideration of all the evidence adduced upon an examination of witnesses in relation to an indictable offence (including any answer made by the defendant to the words addressed to him pursuant to the provisions of subsection (2) of section one hundred and four of this Act) the justices are of the opinion that the evidence is not sufficient to put the defendant upon his trial for any indictable offence, the justices shall order the defendant, if he is in custody, to be discharged as to the charge the subject of the examination; but if the justices are of the opinion that the evidence is sufficient to put the defendant upon his trial for an indictable offence they shall, subject to section one hundred and thirteen of this Act, order him to be committed to be tried for the offence before a court of competent jurisdiction, and in the meantime shall by their warrant commit him to gaol, to be there safely kept until the sittings of the court before which he is to be tried, or until he is delivered by due course of law or admitted to bail as hereinafter in this Act provided.

(2) If, having regard to the length of time which should elapse before a court of competent jurisdiction next sits at a place to which the defendant would in the absence of this subsection be committed to be tried, the justices are of the opinion that it would be just that the trial of the defendant should be held at some other place before a court of competent jurisdiction, the justices may, with the prior consent in writing of the defendant (which consent shall be kept with the deposition of the witnesses) order him to be committed to be tried for the offence at such other place before such a court."

43. Amendments to s. 111. Section one hundred and eleven of the Principal Act is amended by—

(*a*) omitting from the first paragraph the words " When any person has been charged before justices with an indictable offence and has been committed for trial, the deposition of any person taken before the justices" and inserting in their stead the words " When a defendant has been committed by justices to be tried for any indictable offence, the deposition of any person taken before justices with respect to the transaction or set of circumstances out of which has arisen the charge on which the defendant has been committed to be tried ";

(*b*) inserting in subparagraph (*b*) of the third paragraph immediately after the word "accused" where that word first appears in that subparagraph the words "unless he was excluded from the proceeding whereat such deposition was taken pursuant to the provisions of section forty of this Act,".

44. Repeal of s. 112. Section one hundred and twelve of the Principal Act is repealed.

45. Repeal of and new s. 113. Section one hundred and thirteen of the Principal Act is repealed and the following section is inserted in its stead:—

"[113.] **Procedure if defendant pleads guilty.** (1) If the defendant, upon being addressed by the justices pursuant to subsection (2) of section one hundred and four of this Act says that he is guilty of the charge the justices, instead of committing the defendant to be tried as hereinbefore in this Act provided, shall order him to be committed for sentence before some court of competent jurisdiction, and, in the meantime shall, by their warrant, commit him to gaol to be there safely kept until the sittings of that court, or until he is delivered by due course of law or admitted to bail as hereinafter in this section provided.

(2) When a Stipendiary Magistrate has committed a defendant charged with an indictable offence, other than a crime referred to in section one hundred and fourteen of this Act, for sentence in respect of an indictable offence other than such a crime he may admit the defendant to bail upon his entering into a recognizance without any surety or with such surety or sureties as, in the opinion of the Stipendiary Magistrate, will be sufficient to ensure his appearance at the time and place to which he has been committed for sentence.

If the defendant fails to enter into the recognizance as ordered, the Stipendiary Magistrate shall, by his warrant, commit the defendant to gaol, to be there safely kept until the sittings of the court to which he has been committed for sentence or until he is delivered by due process of law.

(3) When justices other than a Stipendiary Magistrate have committed a defendant for sentence they shall have no jurisdiction to grant him bail, but the defendant may, except in a case where a Stipendiary Magistrate would have no jurisdiction to grant him bail, apply for bail to any Stipendiary Magistrate who may admit the defendant to bail upon his entering into a recognizance without any surety or with such surety or sureties as, in the opinion of the Stipendiary Magistrate, will be sufficient to ensure his appearance at the time and place to which he has been committed for sentence.

If the defendant fails to enter into the recognizance as ordered, the warrant of commitment of the justices issued in respect of the defendant shall continue in full force and effect.

(4) If, having regard to the length of time which should elapse before a court of competent jurisdiction next sits at a place to which the defendant would, in the absence of this subsection, be committed for sentence, the justices are of the opinion that it would be just that the defendant should be sentenced for the offence at some other place, before a court of competent jurisdiction, the justices may, with the prior consent in writing of the defendant (which consent shall be kept with the depositions of the witnesses) order him to be committed for sentence for the offence at such other place before such a court.

(5) When a defendant who has been committed for sentence is committed to gaol pursuant to this section any Stipendiary Magistrate may, subject to section one hundred and fourteen of this Act, admit the defendant to bail in accordance with this section at any time before the first day of the sittings of the court to which he has been committed for sentence and at any time before the date to which such sittings may be adjourned."

46. Repeal of and new s. 114. Section one hundred and fourteen of the Principal Act is repealed and the following section is inserted in its stead:—

"**[114.] Justices not to admit to bail in certain cases.** (1) No justice shall admit to bail any defendant charged with the commission of any of the following crimes:—

Treason;

Wilful murder or murder;

Any crime defined in the second paragraph of section eighty-one of "*The Criminal Code*";

Any crime defined in section eighty-two of "*The Criminal Code*".

(2) No person charged with the commission of any of the crimes referred to in the preceding subsection shall be admitted to bail except by order of the Supreme Court or of a Judge thereof."

47. Repeal of and new s. 115. Section one hundred and fifteen of the Principal Act is repealed and the following section is inserted in its stead:—

"**[115.] Justices may admit to bail in other cases.** (1) When a defendant is charged with the commission of any indictable offence other than a crime referred to in section one hundred and fourteen of this Act and is committed to be tried for any indictable offence other than such a crime, the justices by whom he is committed may admit that defendant to bail upon his entering into a recognizance, without a surety, or with such surety or sureties as, in the opinion of the justices, will be sufficient to ensure his appearance at the time and place when and where he is to be tried for the offence.

(2) When justices commit a defendant charged with any such offence to be tried and, in the meantime, commit him to gaol in accordance with the provisions of this Act, they may, at any time before the first day of the sittings of the court before which he is to be tried and at any time before the date to which such sittings may be adjourned, admit the defendant to bail."

48. Repeal of and new s. 116. Section one hundred and sixteen of the Principal Act is repealed and the following section is inserted in its stead :—

"**[116.] Committing justices to indicate bail.** (1) When the justices who commit to gaol a defendant charged with any indictable offence are empowered by this Act to admit him to bail, and are of opinion that he ought to be admitted to bail, they shall certify on the back of the warrant of commitment their consent to the defendant's being admitted to bail and the amount of bail which ought to be required and whether or not any surety ought to be required.

(2) In any such case referred to in the preceding subsection, any justice attending or being at the gaol where the defendant is being kept or the keeper of that gaol may, on production of such certificate, admit the defendant to bail in the same manner and subject to the same conditions as the committing justices might have done as evidenced by their certificate."

49. Repeal of s. 117. Section one hundred and seventeen of the Principal Act is repealed.

50. Amendments to s. 118. Section one hundred and eighteen of the Principal Act is amended by:—

(*a*) numbering the existing paragraph as subsection (1);

(*b*) omitting from subsection (1) the words " or sureties " where those words last occur in that subsection and inserting in their stead the words " or any one or more of them ";

(*c*) adding the following subsection:—

" (2) Upon the recognizance of the surety or each of them being duly taken and produced, together with the certificate on the back of the warrant of commitment, to the keeper of the gaol in which the defendant is detained and upon the defendant's entering into his recognizance in accordance with the certificate the defendant shall be discharged out of custody as to that commitment."

51. Repeal of s. 119. Section one hundred and nineteen of the Principal Act is repealed.

52. Repeal of s. 120. Section one hundred and twenty of the Principal Act is repealed.

53. Repeal of and new s. 121. Section one hundred and twenty-one of the Principal Act is repealed and the following section is inserted in its stead:—

" [**121.**] **Transmission of recognizance.** When a recognizance has been taken by a person authorised by this Act in that behalf, other than the committing justices and the clerk of the court at the place where the commitment was ordered, such person shall forthwith transmit the recognizance to the committing justices, or one of them, or to the clerk aforesaid, who shall transmit it with the depositions in accordance with the provisions of section one hundred and twenty-six of this Act."

54. Repeal of and new s. 122. Section one hundred and twenty-two of the Principal Act is repealed and the following section is inserted in its stead:—

" [**122.**] **Admission to bail of a person in custody.** (1) When justices admit to bail any person then in any gaol charged with an offence for which he is so admitted to bail, such justices shall issue a certificate as to the conditions of such bail.

(2) Upon production to the keeper of the gaol in which such person is being kept of—

(*a*) such certificate; and

(*b*) the recognizance of the surety or each of them,

and upon such person's entering into his recognizance in accordance with the certificate such person shall be discharged out of custody if he is not being detained for any other lawful cause."

55. Repeal of and new s. 126. Section one hundred and twenty-six of the Principal Act is repealed and the following section is inserted in its stead:—

"[126.] **Transmission of depositions.** (1) When a defendant is committed to be tried or for sentence the committing justices shall, as soon as practicable after such committal, transmit, or cause to be transmitted, all informations, depositions, statements and recognizances relating to such committal, in the following manner:—

(*a*) when the committal is to a sittings of a court to be held within the Northern District, to a Crown Prosecutor stationed in that district;

(*b*) in all other cases, to the Attorney-General or Solicitor-General for the State.

(2) In this section the term "Northern District" means that part of the State defined as such in "*The Supreme Court Act of* 1895"."

56. Repeal of and new s. 132. Section one hundred and thirty-two of the Principal Act is repealed and the following section is inserted in its stead:—

"[132.] **Examination by justices for an offence committed in another Magistrates Court District.** When a person is charged before justices with an indictable offence alleged to have been committed in a place situated elsewhere than within the Magistrates Courts District within which the justices are then sitting but within the jurisdiction of the Supreme Court of Queensland the justices shall receive such evidence in proof of the charge as shall be produced before them and if, in their opinion, such evidence is sufficient on which to commit the defendant to be tried, or for sentence, for any indictable offence the justices may—

(*a*) commit the defendant to be tried, or for sentence, as the case may require, for the indictable offence established by such evidence in the opinion of the justices and shall commit the defendant to gaol or admit him to bail as hereinbefore in this Act provided and shall bind over the witnesses by recognizance accordingly; or

(*b*) proceed in accordance with the provisions of section one hundred and thirty-three of this Act."

57. Repeal of and new s. 133. Section one hundred and thirty-three of the Principal Act is repealed and the following section is inserted in its stead:—

"[133.] **Remand to another place.** (1) If, in any such case as is referred to in section one hundred and thirty-two of this Act, the evidence is not, in the opinion of the justices, sufficient on which to commit the defendant to be tried, or for sentence, for any indictable offence or, if the justices elect to proceed in accordance with the provisions of this section notwithstanding the sufficiency of the evidence, the justices—

(*a*) may adjourn the hearing to the place where the offence is alleged to have been committed or where any of the witnesses to be examined are, or to a place convenient to any such place; and

(*b*) shall order that the witnesses whose evidence they have received be bound over by recognizance to give evidence.

(2) When justices have adjourned a hearing pursuant to the provisions of this section they may—

(*a*) by warrant order the defendant to be taken before justices at the place to which the hearing has been adjourned; or

(*b*) subject to the provisions of this Act in that behalf, admit the defendant to bail conditioned for his appearance at the time and place to which the hearing is adjourned, or which is named in the recognizance, or which is to be determined pursuant to the provisions of this Act.

(3) (*a*) When a warrant is issued pursuant to subsection (2) of this section, the justices shall deliver the complaint, or a copy thereof and every deposition, statement and recognizance taken in relation to the proceeding to the police officer who first has custody of the warrant to be delivered by him or any other police officer to the justices before whom the hearing is resumed at the place to which the hearing has been adjourned.

(*b*) When the defendant is admitted to bail pursuant to subsection (2) of this section, the justices shall deliver the complaint, or a copy thereof, and every deposition, statement and recognizance taken in relation to the proceeding to the clerk of the court at the place where they conducted the examination of witnesses in relation to an indictable offence to be by him transmitted by post to the justices before whom the hearing is to be resumed at the place to which the hearing has been adjourned."

58. Repeal of and new s. 134. Section one hundred and thirty-four of the Principal Act is repealed and the following section is inserted in its stead:—

"[**134.**] **Effect of depositions and recognizances taken elsewhere than at place of committal.** Every deposition and recognizance delivered to justices pursuant to section one hundred and thirty-three of this Act shall be deemed to have been taken in the case, and shall be considered as if they had been taken by or before the justices who commit the defendant to be tried or for sentence or pursuant to their order, and shall, together with such depositions and recognizances as are taken in the matter of the charge against the defendant by or before such lastmentioned justices or pursuant to their order, be transmitted to the proper officer at the time and in the manner hereinbefore in this Act provided if the defendant is committed to be tried, or for sentence, for any indictable offence:

Provided that if such lastmentioned justices are of opinion that the evidence is not sufficient on which to commit the defendant to be tried or for sentence and order that he be discharged as to the charge the subject matter of the examination then every recognizance so taken and delivered shall be null and void."

59. Repeal of ss. 135, 136, 137 and 138. Sections one hundred and thirty-five, one hundred and thirty-six, one hundred and thirty-seven and one hundred and thirty-eight of the Principal Act are repealed.

60. Repeal of and new s. 139. Section one hundred and thirty-nine of the Principal Act is repealed and the following section is inserted in its stead:—

"**[139.] Where summary cases to be heard.** (1) Subject to the provisions of any other Act in that behalf, a complaint of a simple offence or breach of duty shall be heard and determined—

(*a*) at a place appointed for holding Magistrates Courts within the district within which the offence or breach of duty was committed; or

(*b*) at a place appointed for holding Magistrates Courts within the district within twenty miles of the boundary of which the offence or breach of duty was committed; or

(*c*) where the offence or breach of duty has occurred in or on or in relation to any vehicle or a vessel (other than an aircraft) in the course of a journey and the evidence to be adduced on behalf of the complainant does not disclose with certainty in which district the offence or breach of duty has occurred, at a place appointed for holding Magistrates Courts within any of the districts through which, or any part of which, such vehicle or vessel has passed in the course of such journey; or

(*d*) where the offence or breach has occurred in or on or in relation to an aircraft in the course of a flight which commenced and is scheduled to terminate within Queensland and the evidence to be adduced on behalf of the complainant does not disclose with certainty over which district the offence or breach occurred, at a place appointed for holding Magistrates Courts within any district over which, or any part of which, such aircraft has passed in the course of such flight.

(2) When a complaint for a simple offence or breach of duty is before a Magistrates Court at any place at which that complaint may lawfully be heard and determined and it appears to the court that the hearing would more conveniently take place at another place in Queensland, the court may, before any evidence is adduced, adjourn the hearing to such other place and to a time to be then stated or to be determined as hereinbefore in this Act provided.

The resumed hearing may proceed and the complaint may be heard and determined before a Magistrates Court at such other place constituted in accordance with this Act by such justices as may then be there.

Upon an adjournment under this subsection the clerk of the court at the place where such adjournment was ordered shall forthwith transmit by post to the clerk of the court at the place whence the hearing has been adjourned the complaint, the summons issued thereon and all other documents relevant to the complaint which he has in his possession."

61. Amendments to s. 140. Section one hundred and forty of the Principal Act is amended by—

(*a*) inserting after the word " place " where that word firstly appears the words " or the decision be more conveniently given ";

(*b*) omitting the word " matter " and inserting in its stead the words " hearing or, as the case may require, the giving of the decision ";

(*c*) inserting after the word " hearing " where that word lastly appears the words " or, as the case may be, the giving of the decision "; and

(*d*) omitting the words "And the defendant and every witness summoned to give evidence shall be bound to attend at such time and place accordingly." and adding the following paragraph:—

" Upon such adjournment, the defendant and, in the case of an adjournment of the hearing, every witness summoned to give evidence and who has not been discharged by the court from further attendance, shall be bound to attend at such time and place accordingly."

62. Amendments to s. 142. Section one hundred and forty-two of the Principal Act is amended by—

(*a*) in subsection (1)—

(i) omitting from paragraph (*c*), the symbol "." and inserting in its stead the symbol and word "; or ";

(ii) adding the following paragraph—

" (*d*) because of the absence of any witness or any other reasonable cause, adjourn the hearing to a time and place to be then stated or to be determined as hereinbefore in this Act provided before a court constituted in accordance with this Act by such justices as may then be present.";

(*b*) adding the following subsection—

" (6) (*a*) Where a case is, at any place, heard and determined *ex parte* under paragraph (*a*) of subsection (1) of this section, any Magistrates Court at that place, upon application made in that behalf by the defendant or on his behalf by counsel or solicitor within seven days after such determination, may, for such reason as it thinks proper, grant a re-hearing of the complaint upon such terms and subject to the payment of such costs as it thinks fit.

(*b*) When a re-hearing is granted—

(i) the conviction or order made upon the first hearing shall, subject to the provisions of paragraph (*c*) of this subsection, forthwith cease to have effect;

(ii) the court may proceed with the re-hearing forthwith or may set down the re-hearing for a later date;

(iii) on such re-hearing, the court shall have the same powers and shall follow the same procedures as if the re-hearing were an original hearing;

(*c*) If the defendant does not appear at the time and place for which the re-hearing is set down, the court may, if it thinks fit, without re-hearing the case, direct that the original conviction or order be restored when it shall be restored to effect accordingly and shall be deemed to be of effect on and from the date it was first pronounced."

63. Amendments to s. 143. Section one hundred and forty-three of the Principal Act is amended by—

(*a*) omitting the words " until he can be brought up before the justices at a convenient time and place, of which the complainant shall have due notice " and inserting in their stead the words " and shall be brought, as soon as practicable, before a court to be dealt with according to law ";

(*b*) adding the following paragraph—

" The complainant shall be given reasonable notice of the time and place at which the defendant will be brought before such court."

64. Amendment to s. 144. Section one hundred and forty-four of the Principal Act is amended by omitting the word " shall " and inserting in its stead the word " may ".

65. Repeal of and new s. 145. Section one hundred and forty-five of the Principal Act is repealed and the following section is inserted in its stead:—

" [**145.**] **Defendant to be asked to plead.** (1) When the defendant is present at the hearing the substance of the complaint shall be stated to him and he shall be asked how he pleads.

(2) If the defendant pleads guilty, the Magistrates Court shall convict him or make an order against him or deal with him in any other manner authorized by law."

66. Repeal of and new s. 146. Section one hundred and forty-six of the Principal Act is repealed and the following section is inserted in its stead:—

" [**146.**] **Where defendant pleads not guilty.** (1) If the defendant pleads not guilty then the court may—

(*a*) proceed to hear the complainant and his witnesses, and the defendant and his witnesses, and the complainant and such witnesses as he may examine in reply if the defendant has given evidence other than as to his general character and, upon consideration of all the evidence adduced, determine the matter and shall convict the defendant or make an order against him or dismiss the complaint as justice may require; or

(*b*) upon good reason appearing therefor, before any evidence is adduced, adjourn the hearing.

(2) A hearing may be adjourned pursuant to the preceding subsection from time to time provided no evidence has been adduced before any court in respect of the complaint.

When a hearing is adjourned pursuant to the preceding subsection the provisions of section eighty-eight of this Act shall, with all necessary adaptations, apply thereto. The hearing so adjourned may proceed at the time and place to which it is adjourned before a court constituted in accordance with this Act by such justices as may then be present, notwithstanding that the defendant has pleaded to the complaint."

67. Amendment to s. 146A. Section 146A of the Principal Act is amended by, in subsection (5) omitting the words " Police Officer " and inserting in their stead the word " person ".

68. Amendments to s. 150. Section one hundred and fifty of the Principal Act is amended by—

(*a*) inserting after the word " them ", the words " in the Bench Record Book ";

(*b*) inserting after the word " thereof ", the words ", under the hand of the clerk of the court by which the conviction was pronounced or the order was made,";

(*c*) inserting after the word " made ", the words "at the address of such person last known to the clerk aforesaid ".

69. Amendments to s. 154. Section one hundred and fifty-four of the Principal Act is amended by—

(*a*) omitting the words " all parties " and inserting, in their stead, the words " all persons ";

(*b*) omitting the words " but not exceeding threepence for each folio of seventy-two words " and inserting in their stead the words " under section two hundred and sixty-six of this Act ".

70. Repeal of and new s. 156. Section one hundred and fifty-six of the Principal Act is repealed and the following section is inserted in its stead:—

" [**156.**] **Imposition of imprisonment.** (1) Where a defendant convicted of any simple offence or breach of duty is, at the time of such conviction, serving a term of imprisonment for any offence, the Magistrates Court before which he is convicted may direct that any sentence of imprisonment imposed in respect of his conviction of such simple offence or breach of duty shall commence at the expiration of the term of imprisonment the defendant is serving at the time of his conviction.

(2) Where a defendant is convicted of two or more simple offences or breaches of duty or of one or more simple offences and one or more breaches of duty before the same Magistrates Court at the same sitting and is sentenced to more than one term of imprisonment then, whether or not the Court directs pursuant to subsection (1) of this section with respect to any one of those sentences, the Court may direct that such sentences be concurrent or cumulative.

(3) When two or more sentences are directed to be cumulative they shall take effect one after the other in accordance with the order in which the convictions are recorded or as the Court directs.

(4) Subject to section twenty-six of " *The Prisons Acts*, 1958 *to* 1964," a sentence of imprisonment in respect of a conviction of a simple offence or breach of duty shall take effect from the commencement of the defendant's custody under that sentence.

(5) A sentence of imprisonment ordered to be served in default of payment of a fine or sum of money shall be deemed to be a sentence of imprisonment within the meaning of this section."

71. Amendment to s. 157. Section one hundred and fifty-seven of the Principal Act is amended by inserting after the word " orders " the words " including such a conviction for an indictable offence,".

72. Amendments to s. 158. Section one hundred and fifty-eight of the Principal Act is amended by—

(*a*) numbering the existing paragraph as subsection (1);

(*b*) adding the following subsection—

" (2) When a complaint is before a Magistrates Court which the court has not jurisdiction to hear and determine the court shall order the complaint to be struck out for want of jurisdiction and may order that the complainant pay to the defendant such costs as to the court seem just and reasonable.

Any such order for costs may be enforced in the same manner as if the court by which it was made had jurisdiction in the matter of the complaint before it."

73. Amendment to s. 159. Section one hundred and fifty-nine of the Principal Act is amended by adding the words " or order striking out a complaint for want of jurisdiction ".

74. Amendments to s. 166A. Section 166A of the Principal Act is amended by—

(*a*) omitting the words "Any justices or justice to whom " and inserting in their stead the words "Any court to which, or any justice being the clerk of the court at the place where the decision was given or a justice at that place authorized by such clerk, whether or not such clerk is a justice, to whom,";

(*b*) omitting the words " they or he deem " and inserting in their stead the words " it or he deems ";

(*c*) omitting the word " them " and inserting in its stead the word " it ".

75. Repeal of s. 170. Section one hundred and seventy of the Principal Act is repealed.

76. Amendments to s. 171. Section one hundred and seventy-one of the Principal Act is amended by—

(*a*) omitting the words " and endorsement ";

(*b*) omitting the words " or by any police officer in such lastmentioned jurisdiction,";

(*c*) omitting the words " in such other jurisdiction or place ".

77. Amendments to s. 174. Section one hundred and seventy-four of the Principal Act is amended by—

(*a*) omitting the scale commencing with the words " Where the amount " and concluding with the words " 6 months " and inserting in its stead the following scale:—

" Where the amount of the sum or sums of money adjudged or required to be paid (including costs)—	The period of imprisonment shall not exceed—
Does not exceed £5	7 days
Exceeds £5 but does not exceed £25	14 days
Exceeds £25 but does not exceed £100	1 month
Exceeds £100 but does not exceed £250	3 months
Exceeds £250	6 months ";

(*b*) omitting the paragraph commencing with the words "And such imprisonment " and inserting in its stead the following paragraphs—

" Such imprisonment shall be awarded without hard labour, except where hard labour is provided for by way of penalty or default by the Act by virtue of which such penalty, compensation or sum of money is ordered to be paid, in which case the imprisonment may be with hard labour, if the justice of the case requires it.

In no case shall the term of imprisonment awarded exceed the maximum imprisonment provided for by such Act.";

(*c*) omitting the first proviso;

(*d*) omitting from the second proviso the word " further ".

78. Repeal of s. 176. Section one hundred and seventy-six of the Principal Act is repealed.

79. Repeal of s. 197. Section one hundred and ninety-seven of the Principal Act is repealed.

80. Repeal of Part VIII. Part VIII of the Principal Act is repealed.

81. Amendment to s. 209. Section two hundred and nine of the Principal Act is amended by, in subsection (5) omitting the words " five pounds " and inserting in their stead the words " twenty-five pounds ".

82. Amendment to s. 212. Section two hundred and twelve of the Principal Act is amended by adding to subsection (2) the following paragraph:—

" This subsection applies whether the order to review is returnable before the Supreme Court sitting as the Full Court or before a Judge and in this subsection the term " stay of proceedings " includes suspension of an order of disqualification or otherwise affecting status."

83. Amendments to s. 222. Section two hundred and twenty-two of the Principal Act is amended by—

(*a*) in subsection (1), omitting from paragraph (*b*) the words " seven days " and inserting in their stead the words " twenty-eight days ";

(*b*) in subsection (2), omitting from subparagraph (*a*) of paragraph (i) the words " Within seven days after the decision or after " and inserting in their stead the words " Within twenty-eight days after the decision or within seven days after ".

84. Amendment to s. 252. Section two hundred and fifty-two of the Principal Act is amended by omitting the words " either personally or by leaving the same for him with some person at his last known place of abode," and by inserting in their stead the words " in accordance with this Act,".

85. Amendment to s. 262. Section two hundred and sixty-two of the Principal Act is amended by omitting the words " Small Debts Court " and inserting in their stead the words " Magistrates Court ".

86. Repeal of and new s. 266. Section two hundred and sixty-six of the Principal Act is repealed and the following section is inserted in its stead.

" **[266.] Governor in Council to prescribe fees, &c.** The Governor in Council may, from time to time, by Order in Council published in the *Gazette* prescribe—

(*a*) fees to be paid under and in pursuance of this Act;

(*b*) the purposes for which and the documents in relation to which such fees are payable;

(*c*) the circumstances in which and the conditions on which any document in relation to which such fees are payable shall be lodged with the clerk of the court; and

(*d*) a penalty not exceeding fifty pounds for any contravention of or non-compliance with a provision of such Order in Council.

Every such Order in Council shall, upon its publication in the *Gazette*, have force and effect as if its provisions were enacted in this Act.

All fees prescribed to be paid shall be paid to and received by the clerk of the court to which they are payable for the purpose so prescribed."

SCHEDULE

Section 3

AMENDMENTS TO "THE MAGISTRATES COURTS ACTS, 1921 TO 1954"

Provision amended	Manner and extent of amendment
Section two ..	(*a*) omitting the definition "District" and inserting in its stead the following definition:— "" District"—A district for the time being appointed for the purposes of Magistrates Courts or deemed to be a Magistrates Courts District appointed under "*The Justices Acts*, 1886 *to* 1964";"; (*b*) in the definition "Magistrates Court" or "Court", omitting the words "A Court of Petty Sessions" and inserting in their stead the words "A Magistrates Court"; (*c*) omitting the definition "Registrar" and inserting in its stead the following definition:— "" Registrar"—Includes any person who for the time being acts as registrar of the court in question or who for the time being occupies or performs the duties of such office;".
Section three ..	repealing subsection (4) and inserting in its stead the following subsection:— "(4) (*a*) Every district for the time being appointed for the purposes of Magistrates Courts or deemed to be a Magistrates Courts District appointed under "*The Justices Acts*, 1886 *to* 1964," shall be a district for the purposes of this Act with the name, if any, for the time being assigned thereto under those Acts. (*b*) Every place for the holding of Magistrates Courts within such a district appointed under "*The Justices Acts*, 1886 *to* 1964," or deemed so to be, shall be a place for holding Magistrates Courts for the purposes of this Act. (*c*) Every person for the time being holding the appointment of or deemed to be the clerk of the court within the meaning of that expression in "*The Justices Acts*, 1886 *to* 1964" at any place or places appointed for holding Magistrates Courts, or deemed so to be, under those Acts shall be the registrar of every Magistrates Court held at that place or those places for the purposes of this Act."

SCHEDULE—*continued*

Provision amended	Manner and extent of amendment
Section four ..	in subsection (1), omitting the words " and all Courts of Petty Sessions now established or that may hereafter be established, sitting as such Magistrates Courts," and inserting in their stead the words " and all Magistrates Courts ".
Section seven ..	in subsection (2), omitting the words " clerk of petty sessions or acting clerk of petty sessions," where those words appear, and inserting in each case in their stead the word " registrar ".
Section eight ..	omitting the first paragraph.