

No. 16.—1871.

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*An Ordinance to give effect to certain Rules of Court in Criminal matters.*

Preamble.

**W**HEREAS by "*The Administration of Justice Ordinance, 1868*," it is provided that it shall be the duty of the Judges of the Supreme Court, and they are thereby required, so soon as any Rule, Order or Regulation has been framed by them, to transmit the same under their hands and the seal of the Court to the Governor, by whom the same shall be laid with all convenient despatch in the form of an Ordinance before the Legislative Council, to be considered and dealt with in such and the same manner as any other Ordinance, and that no Rule, Order or Regulation shall operate or take effect until the same shall have been duly enacted: **And** whereas the Judges have transmitted to the Governor, in the manner directed by the said Ordinance, certain Rules in the first section described: **IT IS HEREBY ENACTED BY THE GOVERNOR OF CEYLON, with the advice and consent of the Legislative Council thereof, as follows:—**

Certain Rules relating to Criminal Prosecutions in the District Courts, &c.

1. THE Rules in the Schedule to this Ordinance annexed, touching and concerning Criminal Prosecutions in the District Courts, and touching and concerning the proceedings by and before Justices of the Peace as to such prosecutions, and touching and respecting the proceedings of the Fiscals as to such prosecutions, shall operate and take effect from and after the passing of this Ordinance.

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## THE SCHEDULE.

**IT IS ORDERED**

1. **THAT** on and after the day on which these present Rules shall be enacted as an Ordinance, the Rules of Court contained in the 2nd, 3rd, 4th, 5th, 6th, and 10th sections of the Rules and Orders touching Criminal Prosecutions in the District Courts, except so much of the 10th section as relates to costs, dated 21st October, 1844, be revoked.

**AND IT IS FURTHER ORDERED THAT**

2. **FROM** and after the day first aforesaid, sittings of the District Court for the trial of criminal cases shall be held on the first and third Wednesdays of every month; on which days criminal business shall have precedence over all other business. Criminal cases, if any, then undisposed of are to be taken on the next day or, if not disposed of then, at such other time as may be consistent with the general business of the Court and due convenience of parties. These stated days may be changed in any District Court, with the sanction of the Supreme Court. Notice of such alteration shall be transmitted by the District Court to the Fiscal and to every Justice of the Peace in the District.

3. **IN** committals for trial before the District Court, and in recognizances for the appearance of the accused to take his trial, and in recognizances for the appearance of witnesses to give evidence, the committal and the recognizances shall specify the day of trial. The day specified shall be the next Wednesday after the committal which shall be a first or third Wednesday in the month, or any day to which it may be changed as aforesaid, and between which and the day of committal there shall be an interval of not less than ten clear days. It shall be the duty of Fiscals and Superintendents of Convict Establishments to produce prisoners for trial on the days so specified, and on all days to which the trial may be postponed or adjourned. No further notice of the first day of trial to either accused or witnesses shall be necessary. So also every summons or subpoena to attend as a witness or produce documents at a District Court criminal trial, shall be issued by the Justice of the Peace, and shall specify the day of trial as aforesaid. Every default in appearing, attending, or producing according to the exigency of such recognizance or summons or subpoena as aforesaid, shall be punishable by the District Court as similar defaults are punishable according to the present practice.

4. **ON** the day fixed for trial, if the parties are present, the Queen's Advocate or the Deputy Queen's Advocate in cases prosecuted by him shall present a written indictment, and in cases privately prosecuted the Secretary of the Court shall prepare and produce one. The plea of the accused shall be taken, and the trial shall be conducted in all matters of practice as nearly as may be according to the practice of the Supreme Court in Criminal Session.

5. **IF** in cases privately prosecuted, the complainant makes default in appearance at the day of trial, or if he appears and states that he desires to withdraw the charge, it shall be in the discretion of the District Judge to dismiss the charge, and discharge the prisoner if present. In such case the charge shall not be again entertained except on prosecution by the Crown. And it shall also be in the discretion of the District Judge to postpone the case to some other day; and it shall also be in the discretion of the District Judge to compel, by warrant of arrest, the appearance of the complainant on the day of such postponement.

6. **NOTHING** herein contained is to be understood as taking away or diminishing the right of the District Judge to summon Assessors, or any power or authority now possessed by the District Courts as to adjournment, or as to commitment, or as

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to remanding or otherwise. And the District Courts are to have as full powers, as to amendment of pleadings or process in Criminal cases, as are now exercised by any Criminal Court in the Island.

Passed in Council, the Sixth day of December, One thousand Eight hundred and Seventy-one.

JAMES SWAN,  
Clerk to the Council.

Assented to by His Excellency the Governor, the Thirteenth day of December, One thousand Eight hundred and Seventy-one, and published by his order.

HENRY T. IRVING,  
Colonial Secretary.

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