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CHAPTER VIII  
RULES OF COURT  
UNDER  
THE CRIMES ACT 1928  
PART V

## CHAPTER VIII.

## RULES OF COURT UNDER THE CRIMES ACT 1928, PART V.

In pursuance of the powers conferred by Part V. of the *Crimes Act* 1928 and all other powers hereunto enabling, the following Rules of Court are made :—

1. (a) *Citation and Commencement of Rules.*—These Rules may be cited as the Criminal Appeal Rules 1950 and shall come into force on the first day of February, 1951.

(b) *Repeal.*—All Rules of Court under Part V. of the *Crimes Act* 1928 or any corresponding previous enactment which were in force immediately prior to the first day of February, 1951, shall on that date be repealed and of no effect except so far as regards all proceedings then pending.

2. (a) *Definitions.*—The expression “The Act” shall mean the *Crimes Act* 1928, Part V.

The expression “Judge of the Court of Trial” shall mean the Judge or Chairman of any Court from the conviction before or the sentence of which a person desires to appeal under the Act.

The expression “Respondent” shall mean the person who under Section 603 of the Act has the duty of appearing for the Crown, or who undertakes the defence of the Appeal.

The expression “proper officer of the Court of Trial” means the officer who has the custody of the records of the Court of Trial.

The expression “Exhibits” shall include all books, papers, and documents, and all other property, matters, and things whatsoever connected with the proceedings against any person who is entitled or may be authorized to appeal under the Act, if the same have been forwarded to the Court of Trial on the person accused being committed for trial or have been produced and used in evidence during the trial, or other proceedings in relation to a person entitled or authorized under the Act to appeal, and any written statement handed in to the Judge of the Court of Trial by such person, but shall not include the original depositions of witnesses examined before the Committing Justice or Coroner nor any indictment or inquisition against any such person nor any plea filed in the Court of Trial.

The expression “Examiner” means the Judge, Officer of the Court, Justice, or other person appointed by the Court under Section 600 (b) of the Act.

(b) The *Acts Interpretation Act* 1928 shall apply to these Rules as it applies for the interpretation of an Act of Parliament.

3. The forms set out in the Schedule to these Rules, or forms as near thereto as circumstances permit, shall be used in all cases to which such forms are applicable.

## NOTICES OF APPEAL.

4. (a) Every Notice of Appeal or Notice of Application for leave to appeal or Notice of Application for extension of time within which such Notice shall be given under the Act shall be signed by the Appellant himself, except under the provisions of paragraphs (d) and (e) of this Rule.

## Chapter VIII.—Crimes.

Any other Notice required or authorized to be given for the purposes of the Act or these Rules shall be in writing and signed by the person giving the same or by his Solicitor. All Notices required or authorized to be given for the purposes of the Act or these Rules to the Full Court shall be addressed to "The Prothonotary of the Supreme Court, Melbourne".

(b) Any notice or other document which is required or authorized by the Act or these Rules to be given or sent shall be deemed to be duly given or sent if forwarded by Registered Post addressed to the person to whom such notice or other document is so required or authorized to be given or sent at his last-known place of abode.

(c) When an Appellant or any other person authorized or required to give or send any notice of appeal or notice of any application for the purposes of the Act or of these Rules is unable to write he may affix his mark thereto in the presence of a witness who shall attest the same and thereupon such notice shall be deemed to be duly signed by such Appellant.

(d) Where, on the trial of a person entitled to appeal under the Act, it has been contended that he was not responsible according to law for his actions on the ground that he was insane at the time the act was done or the omission made by him, any notice required by these Rules to be given and signed by the Appellant himself may be given and signed by his Solicitor or other person authorized to act on his behalf.

(e) In the case of a body corporate where by the Act or these Rules any notice or other document is required to be signed by the Appellant himself, it shall be sufficient compliance therewith if such notice or other document is signed by the Secretary, Clerk, Manager, or Solicitor of such body corporate.

## SHORTHAND WRITERS AND TRANSCRIPT OF NOTES.

5. (a) In every case in which a licensed Shorthand Writer shall have made a shorthand note of any trial or proceeding, or of any part of such trial or proceeding which may be required for the purposes of the Act, he shall sign such note and certify the same to be a complete and correct shorthand note thereof, and shall retain the same unless and until he is directed by the Prothonotary to forward such shorthand note to him.

(b) The Shorthand Writer shall, on being directed by the Prothonotary, furnish to him for the use of the Full Court a transcript of the whole or of any part of the shorthand note taken by him of any trial or proceeding in reference to which an Appellant has appealed under the Act.

(c) The Shorthand Writer shall furnish to a party interested in a trial or other proceeding in relation to which a person may appeal under the Act, and to no other person, a transcript of the whole, or of any part of the shorthand note of any such trial or other proceedings, on payment by such party interested to such Shorthand Writer of his charges on such scale as the Attorney-General may fix.

(d) A party interested in an Appeal under the Act may obtain from the Prothonotary a copy of the transcript of the whole or of any part of such shorthand note as relates to the appeal subject to the provisions of Section 607 of the Act.

## Chapter VIII.—Crimes.

(e) For the purposes of this Rule, "a party interested" shall mean the prosecutor or the person convicted, or any other person named in, or immediately affected by, any order made by the Judge of the Court of Trial, or other person authorized to act on behalf of a party interested, as herein defined.

(f) Whenever under the Act or these Rules a transcript of the whole or of any part of such shorthand note is required for the use of the Full Court such transcript may be made by the Shorthand Writer who took and certified the shorthand note, or by such other competent person as the Prothonotary may direct.

(g) A transcript of the whole or any part of the shorthand note relating to the case of any Appellant which may be required for the use of the Full Court shall be typewritten and verified by the person making the same by a Statutory Declaration in the Form VIII. in the Schedule to these Rules that the same is a correct and complete transcript of the whole, or of such part, as the case may be, of the shorthand note purporting to have been taken, signed, and certified by the Shorthand Writer who took the same.

## CERTIFICATE OF JUDGE OF TRIAL.

6. (a) The certificate of the Judge of the Court of Trial under Section 593 (b) of the Act may be in the Form I. in the Schedule to these Rules.

(b) The Judge of the Court of Trial may, in any case in which he considers it desirable so to do, inform the person convicted before or sentenced by him that the case is in his opinion one fit for an appeal to the Full Court under Section 593 (b), and may give to such person a certificate to that effect in the Form I. in the Schedule to these Rules.

## APPEALS WHERE FINE ONLY IS INFLICTED.

7. (a) Where a person has, on his conviction, been sentenced to payment of a fine, and in default of payment to imprisonment, the person lawfully authorized to receive such fine shall, on receiving the same, retain it until the determination of any Appeal in relation thereto.

(b) If such person remains in custody in default of payment of the fine, he shall be deemed, for all purposes of the Act or these Rules, to be a person sentenced to imprisonment.

(c) Where any person has been convicted and is thereupon sentenced to the payment of a fine, and, in default of such payment, to imprisonment and he intimates to the Judge of the Court of Trial that he is desirous of appealing against his conviction to the Full Court, either upon grounds of law alone, or, with the Certificate of the Judge of the Court of Trial, upon any grounds mentioned in Section 593 (b) of the Act, such Judge may, if he thinks right so to do, order such person forthwith to enter into recognisances in such amount, and with or without sureties in such amount as such Judge may think right, to prosecute his appeal. And, subject thereto, may order that payment of the said fine shall be made at the final determination of his said appeal if the same be dismissed, to the Prothonotary, or as such Court may then order. The recognisance under this Rule shall be to the effect of the Forms X. and XI. in the Schedule hereto. A surety becoming duly bound by recognisance under this Rule shall be deemed to be, for all purposes, and shall have all the powers of a surety under the provisions of Rule 29.

## Chapter VIII.—Crimes.

The proper officer of the Court of Trial shall forward the recognisances of the Appellant and his surety or sureties to the Prothonotary.

(d) An Appellant who has been sentenced to the payment of a fine, and has paid the same in accordance with such sentence, shall, in the event of his Appeal being successful, be entitled, subject to any order of the Full Court, to the return of the sum or any part thereof so paid by him.

(e) If an Appellant to whom Rule 7 (c) applies, does not serve in accordance with these rules, a Notice of Appeal upon grounds of law alone, or with the Certificate of the Judge of the Court of Trial upon any grounds mentioned in Section 593 (b) of the Act, within ten days from the date of his conviction and sentence, the Prothonotary shall report such omission to the Full Court, who may, after notice in the Forms XXII. and XXIII. in the Schedule hereto has been given to the Appellant and his sureties, if any, order an estreat of the recognisances of the Appellant and his sureties in manner provided by Rule 29 (p) hereof, and may issue a warrant for the apprehension of the Appellant and may commit him to prison in default of payment of his fine, or may make such other order as it thinks right.

## CUSTODY OF EXHIBITS USED AT TRIAL.

8. (a) The Judge of the Court of Trial may make any Order he thinks fit for the custody, disposal, or production of any exhibits in the case, but, unless he makes any such order, exhibits shall be returned to the custody of the person producing the same or of the Solicitor for the prosecution or defence respectively. Such person or Solicitor shall retain the same pending any appeal and shall, on notice from the Prothonotary or Attorney-General, produce or forward the same as and when required so to do.

(b) The proper officer of the Court of Trial shall keep a record of any order or direction of the Judge thereof given under this Rule.

(c) Whenever a person is committed for trial, it shall be the duty of the Coroner or of the Clerk of Petty Sessions at the place where such person is committed for trial to make and forward to the proper officer with the depositions taken in relation to such person, a complete list of such exhibits as have been produced and used in evidence for or against him during any proceedings before such Coroner or Justice, such list shall be in the Form XXXII. in the Schedule to these Rules, subject to the necessary modifications, and shall be signed by such Coroner or Clerk. The exhibits appearing on such list shall be marked with consecutive numbers for the purpose of readily identifying the same.

Any exhibits put in for the first time at the trial shall be added to such list by the proper officer of the Court of Trial and marked as herein provided.

ORDER MADE AT TRIAL. CONSEQUENTIAL ORDERS AND  
SUSPENSION OF SAME PENDING APPEAL.

9. Where, upon the trial of a person entitled to appeal under the Act against his conviction, an order of restitution of any property to any person has been made by the Judge of the Court of Trial, the person in whose favour or against whom an order to which Rule 10 relates has been made, and, with the leave of the Full Court, any other person, shall, on the final hearing by the Full Court of an appeal against the conviction on which such order of restitution was

## Chapter VIII.—Crimes.

made, be entitled to be heard by the Full Court before any order under the provisions of Section 596, sub-section (2), of the Act, annulling or varying such order of restitution is made.

10. Where the Judge of the Court of Trial is of opinion that the title to any property the subject of an order of restitution made on a conviction of a person before him, or any property to which the provisions of sub-section 1 of Section 81 of the *Goods Act* 1928 apply, is not in dispute, he, if he shall be of opinion that such property or a sample or portion or *fac-simile* representation thereof is reasonably necessary to be produced for use at the hearing of any appeal, shall give such directions to or impose such terms upon the person in whose favour the order of restitution is made, or in whom such property reverts under such sub-section as he shall think right in order to secure the production of such property or of such sample, portion or *fac-simile* representation for use at the hearing of any such Appeal.

11. (a) Where, on the conviction of a person, the Judge of the Court of Trial makes an order condemning such person to the payment of the whole or of any part of the costs and expenses of the prosecution for the offence of which he shall be convicted out of any moneys taken from such person on his apprehension or otherwise, or where such Judge makes any order awarding to any person aggrieved any sum of money to be paid by such convicted person under the Crimes Acts, or where such Judge lawfully makes on the conviction of any person before him any order for the payment of money or the restoration of any property by such convicted person or by any other person or any order affecting the rights or property of such convicted person the operation of such orders shall in any of such cases be suspended until the expiration of ten days after the day on which any of such orders were made. And in cases where Notice of Appeal or Notice of Application for leave to appeal is given within ten days from and after the date of the verdict against such person, such orders shall be further suspended until the determination of the appeal against the conviction in relation to which they were made. The Full Court may, by order, annul any order to which this Rule refers on the determination of any appeal under the Act, or may vary such order, and such order, if annulled, shall not take effect, and, if varied, shall take effect as so varied.

The proper officer of the Court of Trial shall keep a record of any orders to which this Rule refers.

(b) Where the Judge of the Court of Trial makes any such Order on a person convicted before him, as in this Rule mentioned, he shall give such directions as he thinks right as to the retention by any person of any money or valuable securities belonging to the person so convicted and taken from such person on his apprehension or of any money or valuable securities at the date of his conviction in the possession of the prosecution for the period of ten days, or in the event of an appeal, until the determination thereof by the Full Court. The proper officer of the Court of Trial shall keep a record of any directions given under this Rule.

(c) Where upon conviction of any person of any offence any disqualification, forfeiture or disability attaches to such person by reason of such conviction, such disqualification, forfeiture or disability shall not attach for the period of ten days from the date of the verdict against such person nor in the event of an appeal under the Act to the Full Court, until the determination thereof.

## Chapter VIII.—Crimes.

(d) When the Judge of the Court of Trial on the conviction of a person before him makes any order for the payment of money by such person or by any other person upon such conviction, and, by reason of this Rule, such order would otherwise be suspended, such Judge may, if he thinks right so to do, direct that the operation of such order shall not be suspended unless the person on whom such order has been made shall in such manner and within such time as the said Judge shall direct, give security by way of undertaking or otherwise for the payment to the person in whose favour such order shall have been made of the amount therein named. Such security may be to the satisfaction of the person in whose favour the order for payment shall have been made or of any other person as such Judge shall direct.

(e) Where on a conviction any property, matters or things the subject of the prosecution or connected therewith are to be or may be ordered to be destroyed or forfeited under the provisions of any Statute, the destruction or forfeiture or order for destruction or forfeiture thereof shall be suspended for the period of ten days from and after the date on which the verdict on such indictment was returned, and in the event of an appeal under the Act shall be further suspended until the determination thereof by the Full Court.

(f) Where, upon conviction of any person of any offence, any claim may be made or any proceedings may be taken under any Statute against such person or any other person in consequence of such conviction, such proceedings shall not be taken until after the period of ten days from the date on which the verdict against such person was returned, nor in the event of an appeal under the Act to the Full Court until the determination thereof.

Any person affected by any orders which are suspended under this Rule may, with the leave of the Full Court, be heard on the final determination of any appeal, before any such orders are varied or annulled by the Full Court.

12. The time during which an Order of Restitution or the operation of sub-section 1 of Section 81 of the *Goods Act* 1928 is suspended under Section 596 of the Act, shall commence to run from the day on which the verdict of the jury was returned, and, in cases where Notice of Appeal or Notice of Application for leave to appeal is duly given within ten days after such day, the period of suspension of such order or of the operation of the sub-section shall continue until the determination of the appeal.

13. (a) The Clerk of the Court of Trial or other officer thereof having the custody of the Records of such Court, or the deputy of such Clerk or other officer, shall not issue, under any Statutes authorizing him so to do, a certificate of conviction of any person convicted on indictment in the Court to which he is such Clerk, officer, or deputy, for the period of ten days after the actual day on which such conviction took place, nor in the event of such Clerk, officer, or deputy receiving information from the Prothonotary of the Court within such ten days that a Notice of Appeal or Notice of Application for leave to appeal has been given under the Act, until the determination thereof.

(b) Where an application is made to such Clerk, officer, or deputy to issue such Certificate of conviction as in this rule mentioned after the expiration of the said period of ten days, he shall require, before issuing the same, to be satisfied that there is no appeal then pending in the Full Court against such conviction. A person desirous of obtaining a certificate of conviction from such Clerk, officer, or deputy shall be entitled to obtain from the Prothonotary a

## Chapter VIII.—Crimes.

certificate in such form as the said Prothonotary may think right for the purpose of satisfying, by the production thereof, such Clerk, officer, or deputy that no appeal against such conviction is then pending. After the expiration of two months from the date of the conviction a certificate thereof may be issued by such Clerk, officer, or deputy as heretofore, except in cases in which he has had notice of an appeal still undetermined.

For the purposes of this Rule the expression "conviction" shall mean the verdict or plea of guilty and any final judgment passed thereon.

## NOTES AND REPORT OF JUDGE OF THE COURT OF TRIAL.

14. The Prothonotary when he has received a Notice of Appeal, or a Notice of Application for leave to appeal under the Act, or a Notice of Application for extension of the time within which under the Act such notices shall be given, or when the Attorney-General shall exercise his powers under Section 610 of the Act, shall request the Judge of the Court of Trial to furnish him with the whole of or any part of his note of the trial or with a copy of such note or any part thereof, and such Judge of the Court of Trial shall thereupon furnish the same to the Prothonotary in accordance with such request.

15. (a) The Prothonotary when he has received a Notice of Appeal, or a Notice of Application for leave to appeal under the Act, or a Notice of Application for extension of time within which under the Act such notices shall be given, or when the Attorney-General shall exercise his powers under Section 610 of the Act, or whenever it appears to be necessary for the proper determination of any appeal or application, or for the due performance of the duties of the Full Court under the said Section may, and, whenever in relation to any appeal under the Act the Full Court or any Judge thereof directs him so to do, shall request the Judge of the Court of Trial to furnish him with a Report in writing, giving his opinion upon the case generally or upon any point arising upon the case of the Appellant, and the Judge of the Court of Trial shall furnish the same to the Prothonotary in accordance with such request.

(b) The Report of the Judge shall be made to the Full Court, and except by leave of the Court or a Judge thereof the Prothonotary shall not furnish to any person any part thereof.

16. When the Prothonotary shall request the Judge of the Court of Trial to furnish a Report under these Rules, he shall send to such Judge of the Court of Trial a copy of the Notice of Appeal or Notice of Application for leave to appeal or Notice of Application for extension of time within which under the Act such notice shall be given or any other document or information which he shall consider material, or which the Full Court at any time shall direct him to send, or with which such Judge may request to be furnished by the Prothonotary, to enable such Judge to deal in his Report with the Appellant's case generally or with any point arising thereon.

NOTICES OF APPEAL AND PERIOD FOR APPEALING;  
ABANDONMENT OF APPEALS.

17. A person desiring, under the provisions of the Act, to appeal to the Full Court against his conviction or sentence, shall commence his appeal by sending to the Prothonotary a Notice of Appeal or Notice of Application for



## Chapter VIII.—Crimes.

leave to appeal, or Notice of Application for extension of time within which such notice shall be given, as the case may be, in the form of such Notices respectively set forth in the Schedule to these Rules, and in the Notice or Notices so sent, shall answer the questions and comply with the requirements set forth thereon, subject to the provisions of Rule 43.

18. The time within which a person convicted shall give Notice of Appeal or Notice of his Application for leave to appeal to the Full Court against his conviction, shall commence to run from the day on which the verdict of the Jury was returned, whether the Judge of the Court of Trial shall have passed sentence or pronounced final judgment upon him on that day or not.

19. The time within which a person convicted and sentenced shall give Notice of Appeal or Notice of Application for leave to appeal against such sentence under the Act to the Full Court, shall commence to run from the day on which such sentence shall have been passed upon him by the Judge of the Court of Trial.

20. (a) When the Prothonotary has received a Notice of Appeal, or a Notice of Application for leave to appeal, or a Notice of Application for extension of time within which, under the Act, such notices shall be given, or where the Attorney-General shall exercise his powers under Section 610 of the Act, he shall forthwith apply to the proper officer of the Court of Trial for the particulars of the trial and conviction according to the Form II. in the Schedule hereto, and for the calendar supplied to the Judge of the Court of Trial or a copy thereof so far as the same refers to the Appellant, and such officer shall forthwith furnish the same to the Prothonotary.

(b) The Prothonotary may, if it appears to him to be necessary for the proper determination of any appeal or application or for the due performance of the duties of the Full Court under the said Section or whenever in any such cases he is directed by the Full Court so to do, shall require the proper officer of the Court of Trial to furnish him with the original depositions of witnesses examined before the committing Justice or Coroner, or with any exhibit retained by such officer, and with the indictment or indictments or inquisition against the Appellant, or with an abstract or copy thereof or any part thereof, or with any plea filed in the Court of Trial, and such officer shall forthwith furnish the same to the Prothonotary.

21. The proper officer of the Court of Trial shall ascertain and record in every case the name and address of the person, whether a private prosecutor or not, who is responsible for and is carrying on a prosecution in such Court, and the name and address of the solicitor, if any, for the prosecution.

22. Where the Full Court has, on a Notice of Application for leave to appeal duly served, and in the form provided under these Rules, given an Appellant leave to appeal, it shall not be necessary for such Appellant to give any Notice of Appeal, but the Notice of Application for leave to appeal shall in such case be deemed to be a Notice of Appeal.

23. An Appellant at any time after he has duly served Notice of Appeal or of application for leave to appeal, or of application for extension of time within which under the Act such notices shall be given, may abandon his appeal by giving notice of abandonment thereof in the Form III. in the Schedule to these Rules to the Prothonotary, and upon such notice being given the appeal shall be deemed to have been dismissed by the Full Court.

## Chapter VIII.—Crimes.

24. An application to the Court of Appeal for an extension of time within which Notices may be given, shall be in the Form IX. in the Schedule hereto. Every person making an application for such extension of time shall send to the Prothonotary, together with the proper form of such application, a form, duly filled up, of Notice of Appeal, or of Notice of Application for leave to appeal, appropriate to the ground or grounds upon which he desires to question his conviction or sentence, as the case may be.

## PROCEEDINGS BEFORE JUDGE OF SUPREME COURT UNDER SECTION 608.

25. (a) Notice of Application to a Judge of the Supreme Court for leave to appeal or for extension of time within which Notice of Appeal or Notice of Application for leave to appeal shall be given under the Act in the forms in the Schedule hereto, and the answers to the questions on Forms IV., V., VI., and VII., which an Appellant is, by these Rules, required to make, in reference to legal aid being assigned to him, or to leave being granted to him to be present at the hearing of his appeal, shall be deemed to be applications to the Full Court in such matters respectively.

(b) The Prothonotary when any application mentioned in this Rule has been dealt with by such Judge shall notify to the Appellant the decision in the Form XIII. in the Schedule hereto. In the event of such Judge refusing all or any of such applications, the Prothonotary on notifying such refusal to the Appellant shall forward to him Form XIV. in the Schedule hereto, which form the Appellant is hereby required to fill up and forthwith return to the Prothonotary. If the Appellant does not desire to have his said application or applications determined by the Full Court as duly constituted for the hearing of appeals under the Act, or does not return within five days to the Prothonotary Form XIV., duly filled up by him, the refusal of his application or applications by such Judge shall be final. If the Appellant desires that his said application or applications shall be determined by the Full Court as duly constituted for the hearing of appeals under the Act, and is not legally represented, he may, if the Full Court give him leave, be present at the hearing and determination by the Full Court of his said application: provided that an Appellant who is legally represented shall not be entitled to be present without special leave of the Full Court.

When an Appellant duly fills up and returns within the prescribed time to the Prothonotary Form XIV. expressing a desire to be present at the hearing and determination by the Full Court of the applications mentioned in this Rule, such form shall be deemed to be an application by the Appellant for leave to be so present. And the Prothonotary, on receiving the said form, shall take the necessary steps for placing the said application before the Full Court. If the said application to be present is refused by the Full Court, the Prothonotary shall notify the Appellant; and, if the said application is granted, the Prothonotary shall notify the Appellant and the Governor of the Prison wherein the Appellant is in custody, and the Inspector-General of Penal Establishments, as provided by these Rules. For the purpose of constituting a Full Court the Judge who has refused any such application may sit as a member of such Court, and take part in determining such application.

## Chapter VIII.—Crimes.

(c) A Judge of the Supreme Court sitting under the provisions of Section 608 of the Act may sit and act wherever convenient.

26. (a) Where a person is entitled to Appeal under the Act on grounds of appeal involving a question of law alone, and his Appeal is not dealt with under the provisions of Section 606, Sub-section (2), of the Act, an Application by him or by the Respondent may at any time be made to the Full Court that the questions of law raised in such appeal should be decided by the Full Court in accordance with the procedure under Part III., Division 1, of the *Crimes Act* 1928. And the Full Court may upon such application, or upon a report made to them by the Prothonotary that the procedure under Part III., Division 1, of the *Crimes Act* 1928 would, in his opinion, be a more convenient method of dealing with the points of law raised in such Appeal, make an order that the same shall be so dealt with.

(b) When an order has been made under this Rule, the Prothonotary shall notify the Judge of the Court of Trial thereof, and shall forward to him for the purpose of giving to him facilities in the Statement of the Case, a copy of the Notice of Appeal and any supplemental or explanatory statement furnished by the Appellant to the Prothonotary and any other information or material which the Prothonotary may think necessary or such Judge may require.

(c) The Judge of the Court of Trial shall forward a case stated by him in pursuance of this Rule to the Prothonotary, together with all documents or other material received from the Prothonotary, who shall on receiving the same send a copy of such case to the Appellant and Respondent respectively.

(d) Where under the provisions of Part III., Division 1, of the *Crimes Act* 1928, the Judge of the Court of Trial states a case for the consideration of the Court for Crown Cases Reserved, the person convicted shall for the purposes of these Rules be deemed to be an Appellant who has appealed under Section 593 (a) of the Act, provided that in such case Section 606, Sub-section (2), thereof shall not apply.

## DUTIES OF ATTORNEY-GENERAL.

27. (a) When the Prothonotary has received a Notice of Appeal or a Notice of Appeal on grounds of law alone which does not in his opinion fall within the provisions of Section 606, Sub-section (2), of the Act, or where leave to appeal is granted to any Appellant, he shall forthwith ascertain from the person specified in Form II. as the prosecutor, unless such person shall be the Attorney-General, or from the solicitor of such person, whether the prosecutor intends to undertake the defence of the appeal. And in the event of the prosecutor declining to undertake the defence of the appeal, notice to that effect shall be sent by the Prothonotary to the Attorney-General.

Where such prosecutor in the Court of Trial was the Attorney-General, the Prothonotary shall notify him of such appeal.

(b) It shall be the duty of a prosecutor who declines to undertake the defence of an appeal, and of his Solicitor, to furnish to the Prothonotary and the Attorney-General or either of them, any information, documents, matters, and things in his possession or under his control connected with the proceedings against the Appellant which the Prothonotary or Attorney-General may require for the purposes of their duties under the Act.

## Chapter VIII.—Crimes.

28. Where the defence of an appeal is undertaken by a private prosecutor the Full Court may, at any stage of the proceedings in such appeal, if it shall think right so to do, order that the Attorney-General shall take over the defence of the appeal and be responsible on behalf of the Crown for the further proceedings in the same.

PROCEDURE ON APPLICATIONS FOR BAIL: RIGHTS OF SURETIES:  
ESTREAT OF RECOGNISANCES.

29. (a) When the Full Court under the Act admits an Appellant to bail pending the determination of his appeal or pending the result of the new trial (in cases where the Court has directed a new trial) on an application by him duly made in compliance with these Rules, the Court shall specify the amounts in which the Appellant and his surety or sureties (if any be required) shall be bound by recognisance, and shall direct, if it thinks right so to do, before whom the recognisances of the Appellant and his surety or sureties (if any) may be taken.

(b) In the event of the Full Court not making any special order or giving special directions under this Rule, the recognisances of the Appellant may be taken before a Stipendiary Magistrate or the Governor of the prison in which he shall then be confined, and the recognisances of his surety or sureties (if any) may be taken before any Stipendiary Magistrate.

(c) The Prothonotary shall notify the Appellant and the Governor of the Prison within which he is confined the terms and conditions on which the Court admits the Appellant to bail under the Act.

(d) After the recognisance of a surety has been duly taken under these Rules by a Stipendiary Magistrate, the said Stipendiary Magistrate shall forward such recognisance to the Prothonotary, and the Governor of the Prison in which the Appellant is then confined shall, after the Appellant's recognisance has been duly taken in pursuance of this Rule, forward the same to the Prothonotary. The Stipendiary Magistrate shall after the recognisance of a surety is taken give to him a certificate in the Form XV. or XVA. (as the case may be) in the Schedule hereto, which such surety shall sign, and retain.

(e) The Prothonotary, on being satisfied that the recognisances of the Appellant and his surety or sureties (if any) are in due form and in compliance with the order of the Court admitting the Appellant to bail, shall send in the Form XII. in the Schedule to these Rules a notice to the Governor of the Prison in which the Appellant shall then be confined. This notice, when received by the said Governor, shall be a sufficient authority to release the Appellant from custody.

(f) The recognisances provided for in this Rule shall be in the Forms X., XA., XI., and XIA. (as the case may be) in the Schedule hereto.

(g) An Appellant who has been admitted to bail under the Act shall, by the order of the Full Court or a Judge of the Supreme Court under which he was so admitted to bail, be ordered to be and shall be personally present at each and every hearing of his appeal, and at the final determination thereof or at the new trial if a new trial have been directed. The Full Court may, in the event of such

## Chapter VIII.—Crimes.

Appellant not being present at any hearing of his appeal, if it thinks right so to do, decline to consider the appeal, and may proceed to summarily dismiss the same, and may issue a warrant for the apprehension of the Appellant in the Form XIX. in the Schedule hereto. Provided that the Full Court may consider the appeal in his absence, or make such other order as it thinks right. Where a new trial has been directed and the Appellant fails to be present thereat, the Judge of the Court at which such Appellant should be tried may issue a warrant for the apprehension of the Appellant in the Form XIXA. in the Schedule hereto.

(h) When an Appellant is present before the Full Court, such Court may on an application made by any person, or, if it thinks right so to do, without any application make any order admitting the Appellant to bail, or revoke or vary any such order previously made, or enlarge from time to time the recognisance of the Appellant or of his sureties or substitute any other surety for a surety previously bound as it thinks right.

(i) Where the surety or sureties, for an Appellant under the Act, upon whose recognisances such Appellant has been released on bail by the Full Court, suspect that the said Appellant is about to depart out of the State of Victoria, or in any manner to fail to observe the conditions of his recognisances on which he was so released, such surety or sureties may lay an information before any Justice of the Peace in the Form XVI. or XVIIA (as the case may be), in the Schedule hereto, and such Justice shall thereupon issue a Warrant in the Form XVII. or XVIIIA (as the case may be), in the Schedule hereto, for the apprehension of the said Appellant.

(j) The said Appellant shall, on being apprehended under the said Warrant, be brought before the Court of Petty Sessions most convenient to the place of the Appellant's arrest. The said Petty Sessions Court shall on verification of the said information by oath of the informant, by Warrant of Commitment in the Form XVIII. in the Schedule hereto, commit him to the prison to which persons charged with indictable offences before such Petty Sessions Court are ordinarily committed. The Governor of such Prison shall, unless such prison was the prison from which the Appellant was released on bail under these Rules, notify the Inspector-General of Penal Establishments of such commitment, as in this Rule mentioned.

Where the Appellant is by such Petty Sessions Court committed to a prison which was not the prison from which he was released on bail after his conviction, the Inspector-General of Penal Establishments subject to any order of the Full Court may transfer him to the prison from which he was so released.

(k) The Clerk of the said Petty Sessions Court on the commitment of any such Appellant shall forthwith notify the Prothonotary to that effect, and forward to him the said information and the deposition in verification thereof taken before such Petty Sessions Court together with a copy of the said Warrant of Commitment.

(l) At any time after an Appellant has been released on bail under the Act, the Full Court may, if satisfied that it is in the interest of justice so to do, revoke the order admitting him to bail, and issue a Warrant in the Form XIX. in the Schedule hereto for his apprehension and order him to be committed to prison.

## Chapter VIII.—Crimes.

(m) When an Appellant has been released on bail and has under a Warrant under these Rules or by his surety or sureties been apprehended and is in prison, the Governor thereof shall forthwith notify the Prothonotary who shall take steps to inform the Court thereof, and the Full Court may give to the Prothonotary such directions as to the appeal as it shall think right.

(n) When the Full Court has directed a new trial, it may, if it think fit, order the Appellant if he has not been released on bail, to be recommitted to the prison from which he was brought, or if released on bail pending his appeal, to be recommitted to the prison from which he was so released.

(o) Nothing in these Rules shall affect the lawful right of a surety to apprehend and surrender into custody the person for whose appearance he has become bound, and thereby to discharge himself of his suretyship.

(p) The Full Court or any Judge of the Supreme Court may on any breach of the recognisances of the Appellant, if it or he thinks right so to do, order such recognisances and those of his surety or sureties to be estreated, and the manner of such estreat shall be that provided for estreating recognisances under the provisions of Section 5 of the *Crown Remedies and Liability Act 1928* or the like provision of any Act amending the same.

Where a new trial has been directed and the Appellant has committed a breach of his recognisance, the Judge or Chairman of the Court at which the Appellant should have appeared for trial may order the estreat of the Appellant's recognisance and those of his sureties.

30. It shall be the duty of the Chief Officer of Police of the district in which the Appellant shall have resided before his conviction, or of the district from which he was committed, to inquire as to and to report to the Prothonotary, when applied to by him, upon the means and circumstances of any Appellant where a question as to his means and circumstances arises under the Act or these Rules.

31. An Appellant who is not in custody shall, whenever his case is called on before the Full Court, surrender himself to such persons as the Court shall from time to time direct, and thereupon shall be searched by them; and shall be deemed to be in their lawful custody until further released on bail or otherwise dealt with as the Court shall direct.

32. (a) The Prothonotary may, on an application made to him by the Appellant or Respondent in any appeal, or where he considers the same to be necessary for the proper determination of any appeal or application, or shall where directed by the Full Court so to do obtain and keep available for use by the Full Court any documents, exhibits, or other things relating to the proceedings before the Court, and pending the determination of the appeal such documents, exhibits, or other things shall be open as and when the Prothonotary may arrange, for the inspection of any party interested.

(b) The Full Court may, at any stage of an appeal, whenever it thinks it necessary or expedient in the interest of justice so to do, on the application of an Appellant or Respondent, order any document, exhibit, or other thing connected with the proceedings to be produced to the Prothonotary or before it, by any person having the custody or control thereof. Any order of the Full Court under this Rule may be served as in this Rule provided.

## Chapter VIII.—Crimes.

(c) Service of any order made under this Rule shall be personal service, unless the Court otherwise order, and for the purpose of effecting due service thereof the Prothonotary may require the assistance of the Police, and it shall be the duty of the Police to carry out the directions of the Prothonotary under this Rule.

## EXHIBITS IN COURT OF TRIAL: HOW DEALT WITH.

33. Exhibits, other than such documents as are usually kept by the proper officer of the Court of Trial shall, subject to any order which the Full Court may make, be returned to the person who originally produced the same, provided that any such exhibit to which the provisions of Section 596 of the Act relate shall not be so returned except under the direction of the Full Court.

## NOTIFYING RESULT OF APPEALS.

34. (a) On the final determination of any appeal under the Act or of any matter under Section 608 of the Act, the Prothonotary shall give to the Appellant, if he is in custody and has not been present at such final determination and to the Attorney-General, and to the Governor of the Prison in which the Appellant then is, or from which he has been released on bail or to which under such determination he is committed, and to the Inspector-General of Penal Establishments, notice of such determination in the Forms XXVIII., XXIX., XXX., and XXXI., respectively.

(b) In any case of an appeal in relation to a conviction involving sentence of death, the Prothonotary shall on receiving the Notice of Appeal or Notice of Application for leave to appeal, send a copy thereof to the Attorney-General, and on the final determination of any such appeal by the Full Court shall forthwith notify the Appellant, the Attorney-General, the Governor of the Prison in which the Appellant then is or to which he is committed under such determination, and the Inspector-General of Penal Establishments.

35. (a) The Prothonotary at the final determination of an appeal shall notify in such manner as he thinks most convenient to the proper officer of the Court of Trial the decision of the Full Court in relation thereto and also any orders or directions made or given by the Court under the Act, or these Rules, in relation to such appeal or any matter connected therewith.

Should the conviction or convictions, the subject of appeal, relate to offences of the character referred to in Section 146 of the *Constitution Act Amendment Act* 1928 and such conviction or convictions be set aside or quashed, the Prothonotary shall notify the Chief Electoral Officer of the decision of the Court.

(b) The proper officer of the Court of Trial shall on receiving the notification referred to in this Rule, enter the particulars thereof on the Records of the Court of which he is such officer.

36. Upon the final determination of an appeal for the purposes of which the Prothonotary has obtained from the proper officer of the Court of Trial any original depositions, exhibits, indictment, inquisition, plea, or other documents usually kept by the said officer, or forming part of the Record of the Court of Trial, the Prothonotary shall cause the same to be returned to such officer.

## Chapter VIII.—Crimes.

## COPIES OF DOCUMENTS FOR USE OF APPELLANTS.

37. (a) At any time after Notice of Appeal or Notice of Application for leave to appeal has been given under the Act or these Rules, an Appellant or Respondent, or the Solicitor or other person representing either of them, may obtain from the Prothonotary copies of any documents or exhibits in his possession under the Act or these Rules for the purposes of such appeals. Such copies shall be supplied by the Prothonotary at such charges as may be provided in that behalf under the Supreme Court Acts or any Order in Council made thereunder.

(b) Where Solicitor and Counsel, or Counsel only, are assigned to an Appellant under the Act, copies of any documents or exhibits which they or he may request the Prothonotary to supply shall without charge be supplied unless the Prothonotary thinks that they are not necessary for the purpose of the Appeal.

(c) A transcript of the Shorthand Notes taken of the proceedings at the trial of an Appellant shall not be supplied free of charge, except by an Order of the Full Court or a Judge of the Supreme Court, upon an application made by an Appellant or by his Counsel or Solicitor assigned to him under the Act.

(d) Where an Appellant, who is not legally represented, requires from the Prothonotary a copy of any document or exhibit in his custody for the purposes of his appeal, he may obtain it free of charge if the Prothonotary thinks, under all the circumstances, it is desirable or necessary to supply the same to him.

## PROCEDURE AS TO WITNESSES BEFORE FULL COURT, AND THEIR EXAMINATION BEFORE EXAMINER.

38. (a) Where the Full Court has ordered any witness to attend and be examined before the Court under Section 600 (b) of the Act, an order in the Form XXV. in the Schedule hereto shall be served upon such witness specifying the time and place at which to attend for such purpose.

(b) Such order may be made on the application at any time of the Appellant or Respondent, but if the Appellant is in custody and not legally represented the application shall be made by him in the Form XXVI. in the Schedule hereto.

(c) Where the Full Court orders the examination of any witness to be conducted otherwise than before the Court itself, such order shall specify the person appointed as examiner to take and the place of taking such examination and the witness or witnesses to be examined thereat.

(d) The Prothonotary shall furnish to the person appointed to take such examination any documents or exhibits and any other material relating to the said appeal as and when requested so to do. Such documents and exhibits and other material shall after the examination has been concluded be returned by the Examiner together with any depositions taken by him under this Rule to the Prothonotary.

(e) When the Examiner has appointed the day and time for the examination he shall request the Prothonotary to notify the Appellant or Respondent and their legal representatives, if any, and when the Appellant is in prison, the Governor of that Prison, thereof. The Prothonotary shall cause to be served on every witness to be so examined a notice in the Form XXVII. in the Schedule hereto.



## Chapter VIII.—Crimes.

(f) Every witness examined before an Examiner under this Rule shall give his evidence upon oath to be administered by such Examiner, except where any such witness if giving evidence as a witness on a trial on indictment need not be sworn.

(g) The examination of every such witness shall be taken in the form of a deposition in the same manner as is prescribed by Section 41 of the *Justices Act* 1928, and unless otherwise ordered shall be taken in private. The caption in the Form XXIV. in the Schedule hereto shall be attached to any such deposition.

(h) Where any witness shall receive an order or notice to attend before the Full Court or an Examiner, the Police Officer serving the same may, if it appears to him necessary so to do, pay to him a reasonable sum not exceeding the amount authorized by the scale for the payment of witnesses in the Supreme Court in its Criminal Jurisdiction for the travelling expenses of such witness from his place of residence to the place named in such notice or order, and the sum so paid shall be certified by such Officer to the Prothonotary. Any expenses certified by the Prothonotary under this Rule shall be paid as part of the expenses of a prosecution.

(i) Any order or notice required by this Rule to be given to any witness may be served as an order may be served under Rule 32 (c) hereof, and any such notice shall be deemed to be an order of the Full Court on such witness to attend at the time and place specified therein.

(j) The Appellant and Respondent, or Counsel or Solicitor on their behalf, shall be entitled to be present at and take part in any examination of any witness to which this Rule relates.

39. When an Order of Reference is made by the Full Court under Section 600 (d) of the Act, the question to be referred and the person to whom as Special Commissioner the same shall be referred shall be specified in such order. The Full Court may in such order or by giving directions as and when it from time to time shall think right, specify whether the Appellant or Respondent or any person on their behalf may be present at any examination or investigation or at any stage thereof as may be ordered under Section 600 (d) of the Act, and specify any and what powers of the Full Court under the Act or these Rules may be delegated to such Special Commissioner, and may require him from time to time to make interim reports to the Full Court upon the question referred to him under Section 600 (d) of the Act, and may, if the Appellant is in custody, give leave to him to be present at any stage of such examination or investigation and give the necessary directions to the Governor of the Prison in which such Appellant is, accordingly, and may give directions to the Prothonotary that copies of any Report made by such Special Commissioner shall be furnished to the Appellant and Respondent or to Counsel or Solicitor on their behalf.

## CAUSE LISTS.

40. (a) The Prothonotary shall keep a Register, in such form as he thinks right, of all cases in which he shall receive a Notice of Appeal, or Notice of Application for leave to appeal under the Act, which Register shall be open for public inspection in such place and at such hours as the Prothonotary, subject to the approval of the Chief Justice, shall consider convenient.

## Chapter VIII.—Crimes.

(b) The Prothonotary shall also take the necessary steps for preparing from time to time a general list of cases to be dealt with by the Full Court when fully constituted for hearing appeals under the Act or for considering applications which a Judge of the Court has, when sitting, under Section 608 of the Act, refused to grant, and shall cause such list to be published at such times in such a manner and at such places as subject to the approval of the Chief Justice he shall think convenient for giving due notice to any parties interested, of the hearing of such cases by the Full Court.

(c) The Prothonotary shall also prepare from such general list a list of appeals and applications which have been refused by a Judge of the Court when sitting under Section 608 of the Act, which the Full Court may consider on the days on which the Full Court as fully constituted shall sit, and shall cause such list to be published at such times, in such places, and in such a manner as he, subject to the approval of the Chief Justice, shall think convenient for giving due notice to any parties interested therein of the hearing of the cases in such list by the Full Court. Provided that, where an Appellant is in custody and has obtained leave or is entitled to be present at the hearing and determination of his application or appeal, the Prothonotary shall notify the Appellant, the Governor of the Prison in which the Appellant then is, and the Inspector-General of Penal Establishments, of the probable day on which his appeal or application will be heard. The Inspector-General of Penal Establishments shall take steps to transfer the Appellant to a prison convenient for his appearance before the Full Court, at such a reasonable time before the hearing as shall enable him to consult his legal adviser, if any.

## MISCELLANEOUS PROVISIONS.

41. Except where otherwise provided in these Rules, any application to the Full Court may be made by the Appellant or Respondent, or by Counsel on their behalf, orally or in writing, but in regard to such applications if the Appellant is unrepresented and is in custody and is not entitled or has not obtained leave to be present before the Court, he shall make any such application by forwarding the same in writing to the Prothonotary, who shall take the proper steps to obtain the decision of the Court thereon.

42. When the Full Court has heard and dealt with any application under the Act or these Rules, the Prothonotary shall (unless it appears to him unnecessary so to do) give to the Appellant (if he is in custody and has not been present at the hearing of such application), notice of the decision of the Full Court in relation to the said application.

43. Non-compliance on the part of an Appellant with these Rules or with any rule of practice for the time being in force under the Act, shall not prevent the further prosecution of his appeal if the Full Court or a Judge of the Supreme Court consider that such non-compliance was not wilful, and that the same may be waived or remedied by amendment or otherwise. The Full Court or a Judge of the Supreme Court may in such manner as it or he thinks right direct the Appellant to remedy such non-compliance, and thereupon the appeal shall proceed. The Prothonotary shall forthwith notify to the Appellant any directions given by the Court or the Judge under this Rule, where the Appellant was not present at the time when such directions were given.

## Chapter VIII.—Crimes.

44. The performance of any duty imposed upon any person under the Act or these Rules may be enforced by Order of the Full Court or any Judge of the Supreme Court.

45. When the Attorney-General exercises his powers under Section 610 (a) of the Act and refers the whole case to the Full Court, the petitioner whose case is so dealt with shall be deemed to be for all the purposes of the Act or these Rules a person who has obtained from the Full Court leave to appeal, and the Full Court may proceed to deal with his case accordingly.

46. Where the Attorney-General refers a point to the Full Court under Section 610 (b) of the Act, such Court shall, unless it otherwise determine, consider such point in private.

47. Every gaoler having at the time of conviction the custody of any person convicted on indictment shall forthwith inform such person that he has the right to appeal to the Full Court on any ground of appeal which involves a question of law alone and that if such person wishes to appeal on any other ground he may do so provided that he obtains the leave of the Full Court or a certificate from the Judge or Chairman of General Sessions before whom he was tried and also that if he desires to appeal or to obtain leave of the Full Court he should give notice of his application within ten days of the date of conviction and that any such certificate must be obtained within the said ten days and before giving such notice.

48. Such gaoler shall also inform such person that he may be present if he desires it on the hearing of his appeal except where the appeal is on some ground involving a question of law alone and whenever any such person so desires to be present at the hearing of the appeal any gaoler in whose custody such person then is shall inform the Prothonotary of such desire who shall thereupon obtain the necessary order.

49. Every gaoler in whose custody any Appellant may be shall furnish to such Appellant on request forms of notice and shall also inform such Appellant that he may present his case and his argument in writing instead of by oral argument if he so desires.

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Chapter VIII.—Crimes.

SCHEDULE.

Form I.

JUDGE'S CERTIFICATE.

In the Court of  
 Holden at  
 the  
 in and for the  
 day of  
 19  
*R. v.* of  
 Whereas the said  
 before me, the undersigned, in the said Court on the  
 on an indictment charging him with  
 sentenced by me to  
 [State shortly the offence, e.g., Larceny, Murder, Forgery, &c.]  
 I do hereby certify that the case is a fit case for an Appeal by the said  
 to the Full Court upon the following grounds:—  
 [Here specify in general terms the grounds on which Certificate granted.]  
 Dated this day of 19  
 (Signed) Judge.  
 Chairman of General Sessions.

Form II.

*R. v.*

PARTICULARS OF TRIAL.

1. Where tried ?
  2. When tried ?
  3. Name of Judge or Chairman who tried ?
  4. Verdict of Jury ?
  5. Sentence, and any orders made consequent thereon ?  
 (a) Restitution of property ;  
 (b) Orders made on or in connexion with a conviction with reference to the person convicted or any property or with reference to any moneys to be paid by him.
  6. Copy of the list of Exhibits directed by these Rules to be kept by the proper officer of the Court of Trial.
  7. Whether a Certificate was given ?
  8. Name and address of the Prosecutor ? State names of Counsel and/or Solicitor for prosecution, and address of Solicitor.
  9. Whether Appellant was defended by Counsel and Solicitor privately, or under the Regulations relative to defence of destitute persons charged with capital crimes, and of aborigines charged with indictable offences ? Give names of Counsel and/or Solicitor for Appellant, and address of Solicitor.
  10. Name and address of Shorthand Writer ?
  11. Whether Appellant bailed before trial, if so, in what amount, and whether with sureties, if so, in what amount ?
- Dated this day of 19  
 (Signed) Officer of the Court of Trial.

*N.B.*—Particulars from Judge's copy of the Calendar, referring to the above-named person, should be inserted here, or the Calendar forwarded with this form to the Prothonotary.

Form III.

*R. v.*

NOTICE OF ABANDONMENT.

having been convicted of  
 (at the General Sessions for the of )  
 and having been desirous of appealing and having duly sent notice to that effect to the Full Court against my said  
 conviction (or the sentence of passed upon me on my said conviction) do hereby  
 give you notice that I do not intend further to prosecute my Appeal, but that I hereby abandon all further  
 proceedings in regard thereto as from the date hereof.  
 (Signed)  
 (Witness)  
 19  
 Dated this day of  
 To the Prothonotary.

## Chapter VIII.—Crimes!

## Form IV.

NOTICE OF APPEAL.  
*Question of Law Only.*

To the Prothonotary.

I, \_\_\_\_\_ having been convicted of the offence of  
 [here state the offence, e.g., Larceny, Murder, Forgery, &c.] and being now a prisoner in His Majesty's Prison at  
 (or,\* now living at \_\_\_\_\_) do hereby give you Notice of Appeal against my conviction  
 (particulars of which hereinafter appear) to the Full Court on questions of law, that is to say :—[Here state as clearly  
 as you are able the question or questions of law on which you desire to appeal].

(Or Mark)

(Signed)

Appellant.

Signature and address of Witness attesting Mark.

Dated this \_\_\_\_\_

day of \_\_\_\_\_

19 \_\_\_\_\_

*Particulars of Trial and Conviction.*

(Fill in all these particulars.)

1. Date of Trial ?
2. In what Court tried ?
3. Sentence ?
4. Whether above questions of law were raised at the Trial ?

You are required to answer the following questions :—

1. If you desire to apply to the Full Court to assign you legal aid on your Appeal, state your position in life, and amount of wages or salary, &c., and any other facts which you submit show reasons for legal aid being assigned to you.
2. Do you desire to be present on the hearing of your Appeal by the Full Court ? If you do so desire, state the reasons upon which you submit the said Court should give you leave to be present.
3. The Full Court will, if you desire it, consider your case and argument if put into writing by you or on your behalf, instead of your case and argument being presented orally. If you desire to present your case and argument in writing, set out here as fully as you think right your case and argument in support of your Appeal.

\* Where Appellant for any reason not in custody.

## Form V.

## NOTICE OF APPEAL UPON CERTIFICATE OF THE JUDGE OF THE COURT OF TRIAL.

To the Prothonotary.

I, \_\_\_\_\_ having been convicted of the offence of [here  
 state the offence, e.g., Larceny, Murder, Forgery, &c.] and being now a prisoner in His Majesty's prison at (or,\* now  
 living at \_\_\_\_\_) and having duly obtained a Certificate which is hereto annexed from the  
 Judge before whom I was tried for the said offence that it is a fit case for appeal, do hereby give you Notice of  
 Appeal against my said conviction (particulars of which hereinafter appear) to the Full Court.

(Or Mark)

(Signed)

Appellant.

Signature and address of Witness attesting Mark.

Dated this \_\_\_\_\_

day of \_\_\_\_\_

19 \_\_\_\_\_

PARTICULARS OF TRIAL AND CONVICTION.

[Fill in all these particulars.]

1. Date of Trial ?
2. In what Court tried ?
3. Sentence ?

You are required to answer the following questions :—

1. If you desire to apply to the Full Court to assign you legal aid on your Appeal, state your position in life, amount of wages, or salary, &c., and any other facts which you submit show reasons for legal aid being assigned to you.
2. Do you desire to be present on the hearing of your Appeal by the Full Court ?
3. The Full Court will, if you desire it, consider your case and argument if put into writing by you or on your behalf, instead of your case and argument being presented orally. If you desire to present your case and argument in writing, set out here as fully as you think right, your case and argument in support of your Appeal.

You must send with this Notice to the Prothonotary the Certificate of the Judge who tried you.

\* Where Appellant for any reason not in custody.

Chapter VIII.—Crimes:

Form VI.

NOTICE OF APPLICATION FOR LEAVE TO APPEAL AGAINST A CONVICTION.

To the Prothonotary,

I, \_\_\_\_\_ having been convicted of the offence of [*here state the offence, e.g., Larceny, Murder, Forgery, &c.*] and being now a prisoner in His Majesty's prison at \_\_\_\_\_ (or, \* now living at \_\_\_\_\_) and being desirous of appealing against my said Conviction, do hereby give you Notice that I hereby apply to the Full Court for Leave to Appeal against my said conviction on the grounds hereinafter set forth.

Dated this \_\_\_\_\_ (Or Mark) \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ (Signed) \_\_\_\_\_ Applicant.

PARTICULARS OF TRIAL AND CONVICTION.

[*Fill in all these particulars.*]

1. Date of Trial ?
2. In what Court tried ?
3. Sentence ?

GROUND'S FOR APPLICATION.

[*Here state as clearly and concisely as possible the grounds on which you desire to Appeal against your Conviction.*]

You are required to answer the following questions :—

1. If you desire to apply to the Full Court to assign you legal aid on your Appeal, state your position in life, amount of wages or salary, &c., and any other facts which you submit show reasons for legal aid being assigned to you.
2. If you desire to be present when the Full Court considers your present application for leave to Appeal, state the grounds on which you submit that the Full Court should give you leave to be present thereat.
3. The Full Court will, if you desire it, consider your case and argument if put into writing by you or on your behalf, instead of your case and argument being presented orally. If you desire to present your case and argument in writing, set out here as fully as you think right, your case and argument in support of your Appeal.

State whether you desire to be present at the final hearing of your Appeal.

\* Where Applicant for any reason not in custody.

Form VII.

NOTICE OF APPLICATION FOR LEAVE TO APPEAL AGAINST SENTENCE.

To the Prothonotary,

I, \_\_\_\_\_ having been convicted of the offence of [*here state the offence, e.g., Larceny, Murder, Forgery, &c.*] and being now a prisoner in His Majesty's prison at \_\_\_\_\_ (or, \* now living at \_\_\_\_\_) do hereby give you Notice that I desire to apply to the Full Court for leave to Appeal to the said Court against the sentence of \_\_\_\_\_ passed upon me for the said offence, on the following grounds :—[*Here set forth the grounds on which you desire to question the sentence.*]

Dated this \_\_\_\_\_ (Or Mark) \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ (Signed) \_\_\_\_\_ Appellant.  
Signature and address of Witness attesting Mark—

PARTICULARS OF TRIAL AND CONVICTION.

[*Fill in all these particulars.*]

1. Date when sentence passed ?
2. In what Court tried ?

You are required to answer the following questions :—

1. If you desire to apply to the full Court to assign you legal aid on your Appeal, state your position in life, wages, salary, &c., and any other facts which you submit show reason for legal aid being assigned to you.
2. If you desire to be present when the Full Court considers your present application for leave to Appeal, state the grounds on which you submit that the Full Court should give you leave to be present thereat.

State whether you desire to be present at the final hearing of your Appeal.

3. The Full Court will, if you desire it, consider your case and argument if put into writing by you or on your behalf, instead of your case and argument being presented orally. If you desire to present your case and argument in writing, set out here, as fully as you think right, your case and argument in support of your Appeal.

\* Where Appellant for any reason not in custody.

## Chapter VIII.—Crimes.

## Form VIII.

## DECLARATION VERIFYING TRANSCRIPT OF SHORTHAND NOTES.

I, \_\_\_\_\_ of \_\_\_\_\_ do solemnly and sincerely declare that, having been required by the Prothonotary to furnish to him a transcript of the shorthand note relating to the trial (or other proceeding) in relation to which shorthand note is now produced and shown to me marked and purporting to have been signed and certified by \_\_\_\_\_ (or signed and certified by me), I have made a correct and complete transcript thereof to the best of my skill and ability in pursuance of the said requirement, which said transcript is now shown to me marked "B".

And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the provisions of the *Evidence Act 1928*.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
(Signed)

## Form IX.

## NOTICE OF APPLICATION FOR EXTENSION OF TIME WITHIN WHICH TO APPEAL.

To the Prothonotary.

I, \_\_\_\_\_ having been convicted of the offence of [here state the offence, e.g., Larceny, Murder, Forgery, etc.] at the Court of \_\_\_\_\_ held at \_\_\_\_\_ in this \_\_\_\_\_ of \_\_\_\_\_ A.D., 19\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ and being now a prisoner in His Majesty's prison at \_\_\_\_\_ (or,\* now living at \_\_\_\_\_) Give you Notice that I hereby apply to the Full Court for an extension of the time within which I may give Notice of Appeal (or Notice of Application for leave to Appeal), on the grounds following:—[Here set out clearly and concisely the reasons for the delay in giving such Notice, and the grounds on which you submit the Court should extend the time.]

(Signed or Mark) Appellant.

Signature and address of Witness attesting Mark—

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

You are required to send to the Prothonotary, duly filled up, and with the questions appearing thereon properly answered, Form IV., if your proposed Appeal involves a question of law alone; or Form V. if you have obtained the Certificate of the Judge of the Court of Trial; or Form VI., if you have not obtained such Certificate; or Form VII., if you desire to Appeal against your sentence only, together with this Notice.

\* Where Appellant for any reason not in custody.

## Form X.

## RECOGNISANCE OF BAIL OF APPELLANT.

Be it remembered that whereas \_\_\_\_\_ was convicted of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ (and was thereupon sentenced to \_\_\_\_\_ custody in His Majesty's prison at \_\_\_\_\_), and now is in lawful custody in His Majesty's prison at \_\_\_\_\_, and has duly appealed against his conviction (and sentence) to the Full Court, and has applied to the said Court for bail pending the determination of his Appeal, and the said Court has granted him bail on entering into his own recognisances in the sum of £ \_\_\_\_\_ and with \_\_\_\_\_ sureties each in the sum of £ \_\_\_\_\_, the said \_\_\_\_\_ personally cometh before me, the undersigned (a Stipendiary Magistrate for the State of Victoria or Governor of the said prison), and acknowledges himself to owe to our said Lord the King the said sum of £ \_\_\_\_\_, of good and lawful money of Great Britain, to be made and levied of his goods and chattels, lands, and tenements, to the use of our said Lord the King, his heirs and successors, if he the said \_\_\_\_\_ fail in the condition endorsed.

Taken and acknowledged this \_\_\_\_\_ day of \_\_\_\_\_ before me,  
19\_\_\_\_, at the prison at \_\_\_\_\_ Stipendiary Magistrate or Governor of the said prison.

## Condition.

The condition of the within written recognisance is such that if he the said \_\_\_\_\_ shall personally appear and surrender himself at and before the Full Court at each and every hearing of his Appeal to such Court and at the final determination thereof, and then and there abide by the Judgment of the said Court, and not depart or be absent from such Court at any such hearing without the leave of the said Court, and in the meantime not depart out of Victoria, then this recognisance to be void or else to stand in full force and effect.

The following to be filled up by the Appellant and signed by him:—

When released on bail my residence, to which any notices, &c., are to be addressed, will be as follows:—  
(Signed) Appellant.

## Chapter VIII.—Crimes.

## Form Xa.

## RECOGNISANCE OF BAIL OF APPELLANT WHERE NEW TRIAL DIRECTED.

Be it remembered that whereas \_\_\_\_\_ was convicted of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ (and was thereupon sentenced to \_\_\_\_\_), and now is in lawful custody in His Majesty's prison at \_\_\_\_\_, and has duly appealed against his conviction (and sentence) to the Full Court, upon which Appeal the Full Court has directed a new trial, and the said \_\_\_\_\_ has applied to the Court for bail pending the result of such new trial, and the said Court has granted him bail on entering into his own recognisances in the sum of £ \_\_\_\_\_ (and with \_\_\_\_\_ sureties each in the sum of £ \_\_\_\_\_), the said \_\_\_\_\_ personally cometh before me the undersigned, a Stipendiary Magistrate for the State of Victoria (or Governor of the said prison), and acknowledges himself to owe to our said Lord the King the said sum of £ \_\_\_\_\_ of good and lawful money of Great Britain, to be made and levied of his goods and chattels, lands and tenements, to the use of our said Lord the King, his heirs and successors, if he the said \_\_\_\_\_ fail in the condition endorsed.

Taken and acknowledged this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ at the prison at \_\_\_\_\_ before me, \_\_\_\_\_ Stipendiary Magistrate or Governor of the said prison.

*Condition.*

The condition of the within written recognisance is such that if he the said \_\_\_\_\_ shall personally appear and surrender himself at and before the next sitting of the \_\_\_\_\_ and plead to such presentment or presentments as now or hereafter may be filed against him for \_\_\_\_\_ and take his trial upon the same and not depart or be absent from such Court without the leave of the said Court, and in the meantime not depart out of Victoria, then this recognisance to be void or else to stand in full force and effect.

The following to be filled up by the Appellant and signed by him:—

When released on bail my residence, to which any notices, &c., are to be addressed, will be as follows:—

(Signed) \_\_\_\_\_ Appellant.

## Form XI.

## RECOGNISANCE OF APPELLANT'S SURETIES WHERE NEW TRIAL DIRECTED.

Be it remembered that on this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ of \_\_\_\_\_ [occupation], and \_\_\_\_\_ of \_\_\_\_\_ [occupation], personally came before me, a Stipendiary Magistrate for the State of Victoria, and severally acknowledged themselves to owe to our Lord the King the several sums following, that is to say, the said \_\_\_\_\_ the sum of £ \_\_\_\_\_, and the said \_\_\_\_\_ the sum of £ \_\_\_\_\_ of good and lawful money of Great Britain, to be made and levied of their goods and chattels, lands and tenements, respectively, to the use of said Lord the King, his heirs and successors, if \_\_\_\_\_ now in lawful custody in His Majesty's prison at \_\_\_\_\_, fail in the condition hereon endorsed.

Taken and acknowledged before me the undersigned, the day and year first above mentioned. \_\_\_\_\_ Stipendiary Magistrate.

*Condition.*

The condition of the within written Recognisance is such that whereas the said \_\_\_\_\_ having been convicted of \_\_\_\_\_, and now in such lawful custody as before mentioned (under a sentence of \_\_\_\_\_ for such offence), has duly appealed to the Full Court against his said conviction (and sentence), and whereas the Full Court upon such Appeal has directed a new trial, and granted bail to \_\_\_\_\_ pending the result of such new trial on his entering into a recognisance in the sum of £ \_\_\_\_\_, with \_\_\_\_\_ sureties, each in the sum of £ \_\_\_\_\_ if he the said \_\_\_\_\_ shall personally appear and surrender himself at the next sitting of the \_\_\_\_\_ and plead to such presentment or presentments as now or hereafter may be filed against him for \_\_\_\_\_ and take his trial upon the same and not depart or be absent from such Court without the leave of the said Court, and in the meantime not depart out of Victoria, then this recognisance to be void or else to stand in full force and effect.



## Chapter VIII.—Crimes.

## Form XIa.

## RECOGNISANCES OF APPELLANT'S SURETIES.

Be it remembered that on this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
of \_\_\_\_\_  
[*occupation*], and \_\_\_\_\_ of \_\_\_\_\_  
[*occupation*], personally came before me, a Stipendiary Magistrate for the State of Victoria, and severally acknowledged themselves to owe to our Lord the King the several sums following, that is to say, the said \_\_\_\_\_ the sum of £ \_\_\_\_\_, and the said \_\_\_\_\_ the sum of £ \_\_\_\_\_ of good and lawful money of Great Britain, to be made and levied of their goods and chattels, lands and tenements, respectively, to the use of said Lord the King, his heirs and successors, if \_\_\_\_\_ fail in the condition hereon now in lawful custody in His Majesty's prison at \_\_\_\_\_ indorsed.

Taken and acknowledged before me, the undersigned, the day and year first above mentioned.  
\_\_\_\_\_  
Stipendiary Magistrate.

*Condition.*

The condition of the within written Recognisance is such that whereas the said \_\_\_\_\_ having been convicted of \_\_\_\_\_ and now in such lawful custody as before mentioned (under a sentence of \_\_\_\_\_ for such offence), has duly appealed to the Full Court against his said conviction (and sentence), and having applied to the said Court for bail, pending the determination of his said Appeal, has been granted bail on his entering into recognisance in the sum of £ \_\_\_\_\_ with \_\_\_\_\_ sureties each in the sum of £ \_\_\_\_\_, if the said \_\_\_\_\_ shall personally appear and surrender himself at and before the said Court at each and every hearing of his said Appeal to such Court and at the final determination thereof, and there and then abide by the judgment of the said Court, and not depart or be absent from the said Court at any such hearing without the leave of the Court, and in the meantime not to depart out of Victoria, then this recognisance to be void or else to stand in full force and effect.

## Form XII.

## NOTICE TO GOVERNOR TO RELEASE APPELLANT ON BAIL.

R. v.

To the Governor of His Majesty's prison at \_\_\_\_\_  
Whereas \_\_\_\_\_ has duly appealed to the Full Court against his conviction for \_\_\_\_\_ (and sentence of \_\_\_\_\_), and having duly applied to the said Court has been granted bail by the said Court, pending the determination of his said appeal, on entering into recognisances himself in the sum of £ \_\_\_\_\_, (and with \_\_\_\_\_ sureties, each in the sum of £ \_\_\_\_\_), in the forms provided under the said Act, And whereas I, the Prothonotary, having been given to understand that the said \_\_\_\_\_ is now in your lawful custody in the said prison under the said conviction and sentence, And whereas I have received a recognisance of the said \_\_\_\_\_ from you (and recognisances from \_\_\_\_\_ sureties for the said \_\_\_\_\_), and the said recognisances are in due form and in compliance with the order of the said Court of Appeal, admitting the said \_\_\_\_\_ to bail.

Now I do give you notice that if the said \_\_\_\_\_ do remain in your custody under the said conviction (and sentence) and for no other cause, you shall on receipt of this Notice suffer him to go at large. And this Notice shall be your authority in that behalf.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
\_\_\_\_\_  
Prothonotary.

## Form XIII.

## NOTIFICATION TO APPELLANT OF JUDGE'S DECISION UNDER S. 608.

R. v.

I hereby give you notice that a Judge of the Supreme Court having considered your application for:—

[*Strike out any of them which have not been made or have been granted.*]

(a) leave to appeal;

(b) for extension of time within which Notice of Appeal or of Application for Leave to Appeal may be given;

(c) permission to you to be present at the hearing of any proceedings in relation to your Appeal;

has refused the applications marked \_\_\_\_\_ (and has granted your applications marked \_\_\_\_\_).

If you desire to have the above-mentioned applications which have been refused determined by the Full Court, you are required to fill up the enclosed form and return it to me forthwith.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
\_\_\_\_\_  
(Signed) \_\_\_\_\_ Prothonotary.

To the above-named \_\_\_\_\_

Chapter VIII.—Crimes.

Form XIII.

NOTICE TO GOVERNOR TO RELEASE APPELLANT ON BAIL, WHERE NEW TRIAL DIRECTED.

R. v.

To the Governor of His Majesty's Prison at  
 Whereas \_\_\_\_\_ has duly appealed to the Full Court against his conviction for  
 (and sentence of \_\_\_\_\_) and the Full Court upon such appeal having directed a new trial and granted  
 bail to the said appellant pending the result of such new trial on entering into recognisances himself in the sum of  
 £ \_\_\_\_\_ (and with \_\_\_\_\_ sureties each in the sum of £ \_\_\_\_\_), in the forms provided under the said Act. And  
 whereas I, the Prothonotary, having been given to understand that the said \_\_\_\_\_ is now in your lawful custody  
 in the said prison under the said conviction and sentence. And whereas I have received a recognisance of the said  
 \_\_\_\_\_ from you (and recognisances from \_\_\_\_\_ sureties for the said \_\_\_\_\_), and the said recognisances are  
 in due form and in compliance with the order of the said Court, admitting the said \_\_\_\_\_ to bail. Now I do  
 give you notice that if the said \_\_\_\_\_ do remain in your custody under the said conviction (and sentence)  
 and for no other cause you shall on receipt of this notice suffer him to go at large. And this notice shall be your  
 authority in that behalf.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ Prothonotary.

Form XIV.

NOTICE OF APPEAL BY APPELLANT FROM JUDGE UNDER SECTION 608.

R. v.

I, \_\_\_\_\_, having received your notification that my application for [strike out any of  
 those which have not been made or which have been granted]—  
 (a) leave to appeal;  
 (b) for extension of the time within which notice of appeal or application for leave to appeal may be  
 given;  
 (c) legal aid to be assigned to me;  
 (d) permission to me to be present at the hearing of any proceedings in relation to my appeal;  
 have been refused; do hereby give you notice that I desire that the said applications shall be considered and  
 determined by the Full Court (\*and that as I am not legally represented I desire to be present at the determination  
 of my applications).

(Signed) Appellant.

Witness attesting mark.

To the Prothonotary.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

If you desire to state any reasons in addition to those set out by you in your original notice upon which  
 you submit that the Full Court should grant your said Applications, you may do so in the space below.  
 (\* Strike out this if you do not desire to be present.)

Form XV.

CERTIFICATE TO SURETY IN CASE WHERE NEW TRIAL DIRECTED.

R. v.

This is to certify that you \_\_\_\_\_ [here fill Surety's name and address] of  
 whose signature is below, have been accepted by me, a Stipendiary Magistrate for the State of Victoria on this  
 day of \_\_\_\_\_ A.D. 19\_\_\_\_, as surety for the above-named \_\_\_\_\_ in the sum of £ \_\_\_\_\_  
 for the due appearance of the said \_\_\_\_\_ before the sitting of the Supreme Court (or Court of  
 General Sessions of the Peace as the case may be) to be held at \_\_\_\_\_ on the \_\_\_\_\_ day  
 of \_\_\_\_\_ 19\_\_\_\_, and to plead to such presentment or presentments as now or hereafter may be filed against  
 him for \_\_\_\_\_ and take his trial upon the same and not depart or be absent from such Court  
 without the leave of the said Court and in the meantime not to depart out of Victoria. And your said recognisance  
 will be forwarded by me to the Prothonotary.

(Signed) Stipendiary Magistrate.

I acknowledge that the above Certificate is correct.

(Signed) Surety.

Form XVI.

CERTIFICATE TO SURETY.

R. v.

This is to certify that you \_\_\_\_\_ [here fill Surety's name and address] of  
 whose signature is below, have been accepted by me, a Stipendiary Magistrate for the State of Victoria, on this  
 day of \_\_\_\_\_ A.D. 19\_\_\_\_, as surety for the above-named \_\_\_\_\_ in the sum of £ \_\_\_\_\_  
 for the due appearance of the said \_\_\_\_\_ before the Full Court at each and every hearing of his appeal  
 and at the final determination thereof, and that the said \_\_\_\_\_ shall then and there abide by the  
 judgment of the said Court and not depart or be absent from such Court at any such hearing without the leave  
 of the said Court, and in the meantime not depart out of Victoria. And that your said recognisance will be duly  
 forwarded by me to the Prothonotary.

(Signed) Stipendiary Magistrate.

I acknowledge that the above Certificate is correct.

(Signed) Surety.

Chapter VIII.—Crimes.

Form XVI.

INFORMATION OF SURETY FOR ARREST OF APPELLANT.

R. v.

(Appellant.)

( To Wit. )

The information of [*here fill in the name, address, and description of Surety*] of laid before me, the undersigned, one of His Majesty's Justices of the Peace, acting in and for the Bailiwick of the State of Victoria, upon an application for a Warrant for the apprehension of [*here state Appellant's name and address, if known*], and the deposition of the said in support thereof on the day of

The said [*here fill in the name, address, and description of Surety*] saith as follows:—

I, [*here fill in the name, address, and description of Surety*] do say that the above-named [*here fill in Appellant's name and address, if known*] having been granted bail by the Full Court, himself in the sum of £ , and with surety in the sum of £ , was released on such bail on condition that he should personally appear and be present at and before the Full Court at each and every hearing of his appeal and at the final determination thereof, and then and there abide by the Judgment of the said Court and not depart or be absent from such Court on any such hearing without the leave of the said Court, and in the meantime not depart out of Victoria.

And that I became surety for the performance of the said conditions by the said in the sum of £ , a Certificate whereof signed by a Stipendiary Magistrate and by me is now shown to me marked (a).

And that I suspect that the said is about to depart out of Victoria [*or state in what manner the Appellant is believed to be about to fail in the observance of his recognisance*], and I therefore desire to surrender the said into custody and thereby discharge myself from my said recognisances. I verily believe that the said is now in the State of Victoria.

(Signed) Surety.

Laid before me the day and year first above written.

(Signed) Justice of the Peace.

Form XVII.

INFORMATION OF SURETY FOR ARREST OF APPELLANT.

R. v.

(Appellant.)

( To Wit. )

The information of [*here fill in the name, address, and description of Surety*] of laid before me, the undersigned, one of His Majesty's Justices of the Peace, acting in and for the Bailiwick of the State of Victoria, upon an application for a Warrant for the apprehension of [*here state Appellant's name and address, if known*] and the deposition of the said in support thereof on the day of

The said [*here fill in the name, address, and description of Surety*] saith as follows:—

I, [*here fill in the name, address, and description of Surety*] do say the the above-named [*here fill in Appellant's name and address, if known*] having been granted bail by the Full Court, himself in the sum of £ , and with surety in the sum of £ , was released on such bail on condition that he should personally appear and be present at and plead to such presentment or presentments as may be filed against him for and take his trial upon the same and not depart or be absent from such Court without the leave of the said Court, and in the meantime not depart out of Victoria.

And that I became surety for the performance of the said conditions by the said in the sum of £ , a Certificate whereof signed by a Stipendiary Magistrate and by me is now shown to me marked (a).

And that I suspect that the said is about to depart out of Victoria [*or state in what manner the Appellant is believed to be about to fail in the observance of his recognisances*], and I therefore desire to surrender the said into custody and thereby discharge myself from my said recognisances. I verily believe that the said is now in the State of Victoria.

(Signed) Surety.

Laid before me the day and year first above written.

(Signed) Justice of the Peace.

Chapter VIII.—Crimes.

Form XVII.

WARRANT ON INFORMATION OF SURETY.

To \_\_\_\_\_ a member of the Police Force of the State of Victoria and to all other members of the  
said Force. ( To Wit.

Whereas Information hath been duly laid before me the undersigned by \_\_\_\_\_ of  
for that \_\_\_\_\_ having been released on bail by the Full Court on recognisances conditioned to  
appear and be present at and before the Full Court at each and every hearing of his appeal and at the final  
determination thereof and to then and there abide by the Judgment of the said Court and not to depart or be  
absent from such Court on any such hearing without the leave of the said Court and in the meantime not to  
depart out of Victoria. And that the said [here fill in Surety's name] doth suspect that the said \_\_\_\_\_ is about  
to depart out of Victoria. And that the said \_\_\_\_\_ is believed to be within the State of Victoria.  
These are, therefore, to authorize you the said Constables forthwith to apprehend the said \_\_\_\_\_ and to  
bring him before the Court of Petty Sessions most convenient to the place of arrest to the intent that he may  
be committed to His Majesty's Prison at \_\_\_\_\_ and there to be detained according to law.

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 19 \_\_\_\_\_  
(Signed)

Justice of the Peace.

(\* Here fill in the Appellant's name.)

Form XVIII.

WARRANT ON INFORMATION OF SURETY.

To \_\_\_\_\_ a member of the Police Force of the State of Victoria and to all other members of the  
said Force. ( To Wit.

Whereas Information hath been duly laid before me the undersigned by \_\_\_\_\_ of  
for that [here fill in the Appellant's name] having been released on bail by the Full Court on recognisances conditioned  
to appear and be present at and before \_\_\_\_\_ and plead to such presentment or presentments as may  
be filed against him for \_\_\_\_\_ and take his trial upon the same and not depart or be absent  
from such Court without the leave of such Court and in the meantime not to depart out of Victoria. And that the  
said [here fill in Surety's name] doth suspect that the said \_\_\_\_\_ is about to depart out of Victoria.  
And that the said \_\_\_\_\_ is believed to be within the State of Victoria. These  
are, therefore, to authorize you the said Constables forthwith to apprehend the said \_\_\_\_\_ and to  
bring him before the Court of Petty Sessions most convenient to the place of arrest to the intent that he may  
be committed to His Majesty's Prison at \_\_\_\_\_ and there to be detained according to law.

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 19 \_\_\_\_\_  
(Signed)

Justice of the Peace.

Form XIX.

COMMITMENT OF APPELLANT ON SURETY'S INFORMATION.

To \_\_\_\_\_ a member of the Police Force of the State of Victoria and to all other members of the  
said Force.

Whereas on the \_\_\_\_\_ day of \_\_\_\_\_ Information was laid before one  
of His Majesty's Justices of the Peace acting in and for the \_\_\_\_\_ Bailiwick upon an application for  
a warrant for the apprehension of \_\_\_\_\_ for that he being a prisoner released on bail by the Full  
Court was believed and suspected of being about to fail to observe the conditions of his recognisances by the said  
his surety. And that the said \_\_\_\_\_ was then desirous of surrendering  
the said \_\_\_\_\_

And whereas the said \_\_\_\_\_ (Appellant) being now before the Petty Sessions Court  
of \_\_\_\_\_ and surrendered by the said \_\_\_\_\_ in discharge of his recognisances  
you are, therefore, commanded forthwith to deliver him the said \_\_\_\_\_ to the Governor of His  
Majesty's Prison at \_\_\_\_\_ together with this Warrant of Commitment and you the said Governor are  
required to receive the said \_\_\_\_\_ into your custody in the said Prison and there safely to keep  
him according to law.

Given under our hands and seal this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 19 \_\_\_\_\_  
(Signed)

Justices of the Peace.

Chapter VIII.—Crimes.

Form XIX.

WARRANT FOR ARREST OF APPELLANT ON BAIL.

R. v.

To \_\_\_\_\_ a member of the Police Force of the State of Victoria and to all other members of the  
 said Force and to the Governor of His Majesty's Prison at  
 Whereas \_\_\_\_\_ an Appellant in the Full Court has been released by the said Court on bail,  
 and it has now been ordered by the said Court that a Warrant be issued for the apprehension of the said  
 These are therefore to command you the said Constables forthwith to apprehend the said  
 and to bring him to the Governor of the said Prison, and there deliver him with this Warrant into the custody  
 of the said Governor and you the said Governor are hereby required to receive the said \_\_\_\_\_ into  
 your custody in the said prison and there safely keep him until further order of the said Court.

(Signed)

Judge of the Supreme Court.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Form XIXA.

WARRANT FOR ARREST OF APPELLANT ON BAIL.

R. v.

To \_\_\_\_\_ a member of the Police Force of the State of Victoria and to all other members of the  
 said Force and to the Governor of His Majesty's Prison at  
 Whereas \_\_\_\_\_ an Appellant in the Full Court has been released by the said Court on bail,  
 and it has now been ordered by me a Judge of the Supreme Court (or Chairman of the Court of General Sessions  
 of the Peace holden at \_\_\_\_\_) that a warrant be issued for the apprehension of the said  
 and bring him to the Governor of the said Prison, and there deliver him with this Warrant into the custody of  
 the said Governor and you the said Governor are hereby required to receive the said \_\_\_\_\_ into your  
 custody in the said prison and there safely keep him until further order of the said Court.

(Signed)

Judge of the Supreme Court.  
 (Chairman of General Sessions).

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Form XX.

RECOGNISANCE OF APPELLANT SENTENCED TO PAYMENT OF A FINE.

( To Wit.  
 )  
 Be it remembered that whereas \_\_\_\_\_ of \_\_\_\_\_  
 was on the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 19 \_\_\_\_\_, convicted  
 of \_\_\_\_\_, and was thereupon sentenced to pay the sum of £ \_\_\_\_\_  
 as a fine for his said offence by the {*here fill in the Court of Trial*} and has intimated to the said Court that he  
 desires to appeal against his said conviction on a question of law alone (or upon a Certificate of the Judge of the  
 said Court that his is a fit case for appeal). And whereas the said Court considers that the said Appellant may in  
 lieu of payment at and upon his said conviction of the said sum, be ordered to enter into recognisance of bail,  
 himself in the sum of £ \_\_\_\_\_ and with \_\_\_\_\_ sureties, each in the sum of £ \_\_\_\_\_ to prosecute  
 his said Appeal before the Full Court.

The said \_\_\_\_\_ doth hereby acknowledge himself to owe to our Lord  
 the King the said sum of £ \_\_\_\_\_ of good and lawful money of Great Britain, to be made and levied of his  
 goods and chattels, lands and tenements, to the use of our said Lord the King, his heirs and successors, if he the  
 said \_\_\_\_\_ fail in the condition endorsed.

Taken and acknowledged this \_\_\_\_\_ day of \_\_\_\_\_  
 at the said Court, at and before the Judge of the said Court. (Signed) \_\_\_\_\_ Clerk of the Peace.

Condition.

The condition of the within recognisance is such that if the said \_\_\_\_\_ of \_\_\_\_\_  
 shall personally appear and be present at and before the Full Court at each and every hearing of his appeal to such  
 Court and at the final determination thereof, and then and there prosecute his said appeal and abide by the  
 Judgment of the said Court, and not depart or be absent from such Court at any such hearing without leave of  
 the said Court, and pay the said sum of £ \_\_\_\_\_, or such sum as the said Court may order to the Prothonotary  
 thereof, then this recognisance shall be void, otherwise of full force and effect.

## Chapter VIII.—Crimes.

## Form XXI.

## RECOGNISANCE OF SURETIES FOR APPELLANT SENTENCED TO A FINE.

( To Wit. )  
 Be it remembered that on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ of [occupation], and personally came before the Court of [here fill in name of Court of Trial] and severally acknowledged themselves to owe to our Lord the King the several sums following, that is to say, the said the sum of £ \_\_\_\_\_, and the said \_\_\_\_\_ the sum of £ \_\_\_\_\_ of good and lawful money of Great Britain, to be made and levied of their goods and chattels, lands and tenements respectively, to the use of our said Lord the King, his heirs and successors, if \_\_\_\_\_ now before the said Court fail in the condition hereon endorsed.  
 Taken and acknowledged before the said Court of \_\_\_\_\_ on the day and year first above mentioned.

(Signed) \_\_\_\_\_ Clerk of the Peace.

## Condition.

The condition of the within written recognisance is such that whereas the said \_\_\_\_\_ having been convicted of \_\_\_\_\_ and having been sentenced to pay a fine of £ \_\_\_\_\_ for his said offence, and having now intimated his desire to appeal on question of law alone (or with the Certificate of the Judge of this Court) to the Full Court against the said conviction, and having, in lieu of payment at and upon his said conviction of the said sum of £ \_\_\_\_\_, been ordered to enter into recognisance of bail himself in the sum of £ \_\_\_\_\_, and with \_\_\_\_\_ sureties in the sum of £ \_\_\_\_\_, if the said \_\_\_\_\_ shall personally appear and be present at and before the Full Court at each and every hearing of his appeal to such Court and at the final determination thereof, and then and there prosecute his said appeal and abide by the Judgment of the said Court, and not depart or be absent from such Court at any such hearing without the leave of the said Court, then this recognisance to be void, or else to stand in full force and effect.

## Form XXII.

## NOTICE TO APPELLANT SENTENCED TO FINE OF BREACH OF HIS RECOGNISANCES.

R. v.

To the above-named \_\_\_\_\_, Appellant.  
 Whereas you were convicted on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ of the offence of \_\_\_\_\_ and were sentenced to the payment of £ \_\_\_\_\_, and in default of such payment to imprisonment, and that under the Criminal Appeal Rules, you entered into recognisances in the sum of £ \_\_\_\_\_, with sureties in the sum of £ \_\_\_\_\_ each to prosecute your appeal, and whereas ten days have elapsed since your said conviction, and no Notice of Appeal has been served by you, Now, I hereby give you Notice that unless you attend at the sitting of the Full Court to be holden on \_\_\_\_\_ day, the day of \_\_\_\_\_ and then show good cause to the contrary, the Court may order an estreat of your recognisances and those of your sureties, or may otherwise deal with you according to law.  
 (Signed) \_\_\_\_\_

Prothonotary.

## Form XXIII.

## NOTICE TO SURETY FOR APPELLANT OF ESTREAT OF RECOGNISANCE.

R. v.

To [fill in here Surety's name and address], of \_\_\_\_\_  
 Whereas you, the above-named, became duly bound in recognisances as surety, for that the said \_\_\_\_\_ having been convicted of \_\_\_\_\_ and for his said offence fined the sum of £ \_\_\_\_\_ should duly prosecute an Appeal in relation to his said conviction before the Full Court, and whereas the said \_\_\_\_\_ has not so prosecuted his Appeal, now I hereby give you Notice that at the sitting of the Full Court on \_\_\_\_\_ next your recognisances may be ordered to be estreated, unless you show good cause to the contrary.  
 (Signed) \_\_\_\_\_

Prothonotary.

## Chapter VIII.—Crimes.

## Form XXIV.

## CAPTION FOR DEPOSITION OF WITNESS EXAMINED BEFORE EXAMINER.

R. v.

The depositions (on oath) taken before me the undersigned, being an Examiner duly appointed by the Full Court in that behalf, of \_\_\_\_\_, of \_\_\_\_\_, witnesses, examined before me and \_\_\_\_\_, of \_\_\_\_\_, witnesses, examined before me under an order of the said Court dated \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, in the presence of the said \_\_\_\_\_, Appellant (or of his Counsel and Solicitor), and the Respondent (or his Counsel and Solicitor) at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, which said Appellant and Respondent (personally, or by their Counsel and Solicitors respectively) had full opportunity of asking questions of the said witnesses, to whom the depositions following were read by me before being signed by them, the said witnesses respectively.

The deposition of \_\_\_\_\_ of \_\_\_\_\_, who (upon oath duly administered by me) saith as follows:—

[Here follows Depositions.]

Taken before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ (Signed) \_\_\_\_\_ Witness.  
Examiner.

## Form XXV.

## ORDER TO WITNESS TO ATTEND COURT FOR EXAMINATION.

R. v.

To \_\_\_\_\_ of [Name, etc., of witness]  
Whereas on good cause shown to the Full Court you have been ordered to attend and be examined as a witness before such Court upon the Appeal of the above-named \_\_\_\_\_ This is to give you Notice to attend before the said Court on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ at the [Supreme Court, Melbourne], at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon. You are also required to have with you at the said time and place any books, papers, or other things relating to the said Appeal which you may have had notice so to produce.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ Prothonotary.

## Form XXVI.

## APPELLANT'S APPLICATION FOR FURTHER WITNESSES.

R. v.

I, \_\_\_\_\_, having appealed to the Full Court, hereby request you to take notice that I desire that the said Court shall order the witness(es) hereinafter specified to attend the Court and be examined on my behalf.

(Signed) \_\_\_\_\_ Appellant.  
Or Mark

Signature of Witness attesting Mark—

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

You are required to fill up the following form and sign the same:—

1. Name and address of witness.
2. Whether such witness has been examined at Trial.
3. If not, state the reason why he was not so examined.
4. On what matters do you wish him to be examined on the Appeal. State shortly the evidence you think he can give.

## Form XXVII.

## NOTICE TO WITNESS TO ATTEND BEFORE EXAMINER.

R. v.

To \_\_\_\_\_ of [Name, etc., of witness]  
Whereas on good cause shown to the Full Court you have been ordered to be examined as a witness upon the appeal of the above-named, and your deposition to be taken for the use of the said Court. This is to give you notice to attend at [specify place of examination] on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before [fill in Examiner's name] at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon. You are also required to have with you at the said time and place any books, papers, or other things under your control or in your possession in any manner relating to the said appeal of which you may have had notice so to produce.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ Prothonotary.

Chapter VIII.—Crimes.

Form XXVIII.

NOTIFICATION TO APPELLANT OF RESULT OF HIS APPEAL.

R. v.

To the above-named Appellant.

This is to give you notice that the Full Court, having considered the matter of your Appeal, have finally determined the same, and have this day given judgment to the effect following [here shortly state the judgment of the Court, e.g., that your Appeal be dismissed or that the sentence against which you appealed be altered from to , or as the case may be].

Dated this                      day of                      , A.D. 19                      (Signed)                      Prothonotary.

Form XXIX.

NOTIFICATION TO APPELLANT OF RESULT OF APPLICATION TO FULL COURT.

R. v.

To the above-named Appellant.

This is to give you notice that the Full Court have considered the matter of your Application for—

- (a) leave to Appeal to the said Court;
  - (b) leave to extend the time within which you may give Notice of Appeal or of Application for leave to appeal;
  - (c) permission to be present during the proceedings in your Appeal;
- and have finally determined the same and have this day given judgment to the effect following [here set out decision of Full Court, e.g., that you have                      days from the                      day of                      within which you may give Notice of Appeal (or) that you may be admitted to bail in your own recognisances in the sum of £                      each, or as the case may be].

Dated this                      day of                      , A.D. 19                      (Signed)                      Prothonotary.

Form XXX.

R. v.

To the Attorney-General.  
To the Inspector-General of Penal Establishments.  
To the Governor of His Majesty's Prison at

This is to give you Notice that the above-mentioned having applied for—

- (a) leave to appeal to the said Court;
- (b) leave to extend the time within which he may give Notice of Appeal or of an Application for leave to appeal;
- (c) legal aid to be assigned to him;
- (d) permission to be present during the proceedings in his Appeal;
- (e) his admission to bail;

The Full Court has this day finally determined his said Applications and has given judgment to the effect following [here set out the decision of the Court].

Dated this                      day of                      , A.D. 19                      (Signed)                      Prothonotary.

Form XXXI.

R. v.

To the Attorney-General.  
To the Inspector-General of Penal Establishments.  
To the Governor of His Majesty's Prison at

This is to give you Notice that the above-named                      having appealed against his conviction of the offence of                      at the Court of                      (or, the sentence of                      passed upon him for the offence of                      at the Court of                      ) the Full Court has finally determined the said Appeal, and has this day given Judgment therein to the effect following [here set out the decision of the Court].

Dated this                      day of                      , A.D. 19                      (Signed)                      Prothonotary.



## Chapter VIII.—Crimes.

Form XXXII.

*R. v.*

LIST OF EXHIBITS.

Number or Other Identifying Mark on Exhibit.	Short Description of Exhibit.	Produced by Prosecution or Defence.	Directions of the Judge of the Court of Trial with Name and Address of Person Retaining Exhibit.

(Signed)

Coroner.  
Clerk of Courts.  
Officer of Court of Trial.

Dated this 21st day of December, 1950.

CHARLES J. LOWE, A.C.J.  
C. GAVAN DUFFY, J.  
NORMAN O'BRYAN, J.  
JOHN V. BARRY, J.  
ARTHUR DEAN, J.  
R. R. SHOLL, J.  
T. W. SMITH, J.  
E. G. COPPELL, A.J.  
E. H. HUDSON, A.J.

Judges' Chambers, Melbourne.

