

CHAP. 89.

An Act to amend the Law relating to the office of Clerk of Assize and offices united thereto, and to certain Fees upon Orders for payment of witnesses in criminal proceedings. A.D. 1869.

[9th August 1869.]

WHEREAS it is expedient to amend the law relating to the office of clerk of assize and offices united thereto, and to remove doubts which have arisen respecting the taking of certain fees in pursuance of section five of the Act of the session of the thirtieth and thirty-first years of the reign of Her present Majesty, chapter thirty-five, "to remove some defects in the administration of the "criminal law:"

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

Preliminary.

1. This Act may be cited as The Clerks of Assize, &c. Act, 1869. Short title.

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

PART I.

Office of Clerk of Assize.

3. After the passing of this Act a person shall not be appointed to be clerk of assize unless he has during a period of not less than three years been either Qualification for clerk of assize.

(1.) A barrister-at-law in actual practice, or

(2.) A special pleader or conveyancer in actual practice, or

(3.) An attorney of one of the superior courts of law at Westminster in actual practice, or

(4.) A subordinate officer of a clerk of assize on circuit;

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and the appointment of any person to be clerk of assize who is not qualified as provided by this section shall be void, and another duly qualified person may be appointed in his place as if he were naturally dead.

Revision of salary of clerk of assize.

4. Whenever any vacancy takes place in the office of clerk of assize the Commissioners of Her Majesty's Treasury may revise the salary attached to such office and fix another salary in lieu of the former salary, having regard to the nature of the duties and responsibility of such office.

Taking of fees by clerks of assize.

5. A clerk of assize who is paid by salary shall not take any fee for his own use; and if he is authorized by any Act passed or hereafter to be passed to take any fee for any duty performed by him, he shall take (by stamps or otherwise) and account for and pay over such fee in such manner as may be directed by the Commissioners of Her Majesty's Treasury.

Persons hereafter appointed not to be entitled to compensation.

6. Every person who is appointed after the passing of this Act to be clerk of assize shall hold his office subject to such provisions and regulations as may thereafter be enacted by Parliament respecting the same, and shall not be entitled to any compensation in respect of the emoluments of his office in case any alteration is made in the duties thereof, or the same is abolished by authority of Parliament.

Removal of person employed by clerk of asssize.

7. Any person employed by any clerk of assize and paid any salary or allowance out of moneys provided by Parliament shall not be removed from his office or employment without the sanction of the Commissioners of Her Majesty's Treasury.

Definition of clerk of assize.

8. In this Act the term "clerk of assize" includes clerk of the Crown and associate on circuit, and any other office the duties of which are at the passing of this Act or may hereafter be performed by the clerk of assize.

PART II.

FEES ON ORDERS UNDER 30 & 31 VICT. C. 35. S. 5.

Construction of part of Act.

9. This part of this Act shall be construed as one with the recited Act of the thirtieth and thirty-first years of the reign of Her present Majesty, chapter thirty-five, which may be cited as The Criminal Law Amendment Act, 1867.

Amendment of sect. 5. of 30 & 31 Vict. c. 35. as to fees.

10. Where the officer of the court who in pursuance of section five of The Criminal Law Amendment Act, 1867, makes out an order for the payment of expenses and compensation to witnesses is paid

by salary, or is for the time being allowed under the table of fees relating to his office to take one fee only of fixed amount in respect of his several duties relating to the prosecution of an offender, such officer shall make out and deliver such order without taking any fee for the same, and the said section shall be construed as if all mention of the sum or fee of sixpence were omitted therefrom.

Fees under sect. 5. of 30 & 31 Vict. c. 35. to be included in the account of the clerk of the peace.

11. Where the fee of sixpence is, in pursuance of section five of The Criminal Law Amendment Act, 1867, as amended by this Act, taken by a clerk of the peace or other officer, the amount of such fees received by him during any year after the passing of this Act shall be included in the total amount of fees in criminal prosecutions received by him, which is to be ascertained under section eighteen of the Act of the session of the eighteenth and nineteenth years of the reign of Her present Majesty, chapter one hundred and twenty-six, "for diminishing expense and delay in "the administration of criminal justice in certain cases," and shall be included in every return or account of fees made or rendered by such clerk of the peace or other officer.

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