CAP. CXXVI.

An Act for diminishing Expense and Delay in the Administration of Criminal Justice in certain Cases. [14th *August* 1855.]

BE it 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:

Power to Justices at Petty Sessions to punish Persons charged with Larceny, &c. summarily.

I. Where any Person is charged before any Justices of the Peace assembled at such Petty Sessions as herein-after provided with having committed Simple Larceny, and the Value of the whole of the Property alleged to have been stolen does not, in the Judgment of such Justices, exceed Five Shillings, or with having attempted to commit Larceny from the Person, or Simple Larceny, it shall be lawful for such Justices to hear and determine the Charge in a summary Way, and if the Person charged shall confess the same, or if such Justices, after hearing the whole Case for the Prosecution and for the Defence, shall find the Charge to be proved, then it shall be lawful for such Justices to convict the Person charged, and commit him to the Common Gaol or House of Correction, there to be imprisoned, with or without Hard Labour, for any Period not exceeding Three Calendar Months, and if they find the Offence not proved they shall dismiss the Charge, and make out and deliver to the Person charged a Certificate under their Hands, stating the Fact of such Dismissal; and every such Conviction and Certificate respectively may be in the Forms (A.) and (B.) in the Schedule to this Act, or to the like Effect: Provided always, that if the Person charged do not consent to have the Case heard and determined by such Justices, or if it appear to such Justices that the Offence is one which, owing to a previous Conviction of the Person charged, is punishable by Law with Transportation or Penal Servitude, or if such Justices be of opinion that the Charge is, from any other Circumstances, fit to be made the Subject of Prosecution by Indictment, rather than to be disposed of summarily, such Justices shall, instead of summarily adjudicating thereon, deal with the Case in all respects as if this Act had not been passed: Provided also, that if upon the Hearing of the Charge such Justices shall be of opinion that there are Circumstances in the Case which render it inexpedient to inflict any Punishment, they shall have Power to dismiss the Person charged, without proceeding to a Conviction.

If Parties accused do not consent, Justices to deal with Cases as if this Act had not passed.

Justices to ask the Accused whether he consents to the Charge being summarily determined.

II. Where the Justices before whom any Person is charged as aforesaid propose to dispose of the Case summarily under the foregoing Provisions, One of such Justices, after the Examinations of all the Witnesses for the Prosecution have been completed, and before calling upon the Person charged for any Statement which he may wish to make, shall state to such Person the Substance of the Charge against him, and shall then say to him these Words, or Words to the like Effect: "Do you consent that the Charge against you shall "be tried by us, or do you desire that it shall be sent for Trial by a Jury at the Sessions "or Assizes" (as the Case may be); and if the Person charged shall consent to the Charge being summarily tried and determined as aforesaid, then the Justices shall reduce the Charge into Writing, and read the same to such Person, and shall then ask him whether he is guilty or not of such Charge; and if such Person shall say that he is guilty, the Justices shall then proceed to pass such Sentence upon him as may by Law be passed, subject to the Provisions of this Act in respect to such Offence; but if the Person charged shall say that he is not guilty, the Justices shall then inquire of such Person whether he has any Defence to make to such Charge, and if he shall state that he has a Defence the Justices shall hear such Defence, and then proceed to dispose of the Case summarily.

Persons charged with Larceny, &c. may plead guilty before Justices in Petty Sessions, and be sentenced forthwith.

III. Where any Person is charged before any Justices at such Petty Sessions as aforesaid with Simple Larceny (the Property alleged to have been stolen exceeding in Value Five Shillings), or stealing from the Person, or Larceny as a Clerk or Servant, and the Evidence, when the Case on the Part of the Prosecution has been completed, is in the Opinion of such Justices sufficient to put the Person charged on his Trial for the Offence with which he is charged, such Justices, if the Case appear to them to be one which may properly be disposed of in a summary Way, and may be adequately punished by virtue of the Powers of this Act, shall reduce the Charge into Writing, and shall read it to the said Person,

Person, and shall then ask him whether he is guilty or not of the Charge; and if such Person shall say that he is guilty such Justices shall thereupon cause a Plea of guilty to be entered upon the Proceedings, and shall convict him of such Offence, and commit him to the Common Gaol or House of Correction, there to be imprisoned, with or without Hard Labour, for any Term not exceeding Six Calendar Months; and every such Conviction may be in the Form (C.) in the Schedule to this Act, or to the like Effect: Provided always, that the said Justices, before they ask such Person whether he is guilty or not, shall explain to him that he is not obliged to plead or answer before them at all, and that if he do not plead or answer before them he will be committed for Trial in the usual Course.

Justices to warn the Accused that he is not obliged to plead.

IV. In every Case of summary Proceeding under this Act the Person accused shall be allowed to make his full Answer and Defence, and to have all Witnesses examined and cross-examined by Counsel or Attorney.

Persons accused may have Assistance of Counsel, &c.

V. Where any Person is charged before any Justice or Justices with any Offence mentioned in this Act, and in the Opinion of such Justice or Justices the Case may be proper to be disposed of by Justices in Petty Sessions under this Act, the Justice or Justices before whom such Person is so charged may, if he or they see fit, remand such Person for further Examination to the next Petty Sessions, in like Manner in all respects as a Justice or Justices are authorized to remand a Party accused under the Act passed in the Session holden in the Eleventh and Twelfth Years of Her Majesty, Chapter Forty-two, Section Twenty-one, or under the Petty Sessions Act (*Ireland*), 1851, Section Fourteen.

Power to remand Persons charged to next Petty Sessions.

VI. If any Person suffered to go at large upon entering into such Recognizance as the Justice or Justices are authorized under the last-mentioned Act to take on the Remand of a Party accused do not afterwards appear pursuant to such Recognizance, then the Justices before whom he ought to have appeared shall certify (under the Hands of Two of them) on the Back of the Recognizance, to the Clerk of the Peace of the County or Place, the Fact of such Nonappearance, and such Recognizance shall be proceeded upon in like Manner as other Recognizances, and such Certificate shall be deemed sufficient *primâ facie* Evidence of such Nonappearance.

Forfeited Recognizances to be transmitted to the Clerk of the Peace.

VII. The Justices adjudicating under this Act shall transmit the Conviction, or a Duplicate of a Certificate of Dismissal, with the written Charge, the Depositions of the Witnesses for the Prosecution and for the Defence, and the Statement of the Accused, to the next Court of General or Quarter Sessions for the County or Place, there to be kept by the proper Officer among the Records of the Court; and a Copy of such Conviction, or of such Certificate of Dismissal, certified by the proper Officer of the Court, or proved to be a true Copy, shall be sufficient Evidence to prove a Conviction or Dismissal for the Offence mentioned therein in any legal Proceeding whatever.

Convictions and other Proceedings to be returned to the Quarter Sessions.

VIII. It shall be lawful for the Justices by whom any Person is convicted under this Act to order Restitution of the Property stolen, taken, or obtained by false Pretences, in those Cases in which the Court before whom the Person convicted would have been tried but for this Act may be by Law authorized to order Restitution.

Justices may order Restitution of Property.

IX. Every Petty Sessions for the Purposes of this Act shall be an open Public Court, and shall be the Petty Sessions holden for a Petty Sessional Division; and a written or printed Notice of the Days and Hours for holding such Petty Sessions shall be posted or affixed by the Clerk to the Justices of Petty Sessions upon the Outside of some conspicuous Part of the Building or Place where the same are held.

Petty Sessions to be an open Court, and held for Petty Sessional Division.

X. The Provisions of the Act of the Session holden in the Eleventh and Twelfth Years of Her Majesty, Chapter Forty-three, shall not be construed as applying to any Proceeding under this Act.

11 & 12 Vict. c. 43. not to apply to Proceedings under this Act.

XI. Every Conviction by Justices in Petty Sessions under this Act shall have the same Effect as a Conviction upon Indictment for the same Offence would have had, save that no Conviction under this Act shall be attended with any Forfeiture.

Effect of Conviction.

Proceedings under this Act a Bar to further Proceedings.

XII. Every Person who obtains a Certificate of Dismissal or is convicted under this Act shall be released from all further or other Criminal Proceedings for the same Cause.

No Conviction to be quashed for Want of Form.

XIII. No Conviction, Sentence, or Proceeding under this Act shall be quashed for Want of Form; and no Warrant of Commitment upon a Conviction shall be held void by reason of any Defect therein, if it be therein alleged that the Offender has been convicted, and there be a good and valid Conviction to sustain the same.

Justices may order Payment of Expenses.

XIV. Where any Charge is summarily adjudicated upon under this Act, or an Offender is under this Act convicted by Justices in Petty Sessions upon a Plea of "Guilty," it shall be lawful for the Justices by whom such Charge has been adjudicated upon or Offender convicted, upon the Request of any Person who has preferred the Charge or appeared to prosecute or give Evidence against the Person charged, if such Justices think fit so to do, to grant a Certificate to such Person of the Amount of the Compensation which such Justices may deem reasonable for his Expenses, Trouble, and Loss of Time therein, subject nevertheless to the Regulations made or to be made as herein-after mentioned; and every such Certificate shall, when granted in *England*, have the Effect of an Order of Court for the Payment of the Expenses of a Prosecution made under the Act of the Seventh Year of King *George* the Fourth, Chapter Sixty-four, and the Acts amending the same, and when granted in *Ireland* shall have the Effect of an Order of Court for the Payment of the Expenses of a Prosecution made under the Act of the Fifty-fifth Year of King *George* the Third, Chapter Ninety-one, and the Acts amending the same; and the Amount mentioned in such Certificate shall be paid in like Manner as the Money mentioned in such Order of Court; and all Certificates to be granted under this Act shall be subject to the like Regulations made or to be made in relation thereto as the Certificates mentioned in the said Act of the Seventh Year of King *George* the Fourth to be granted by examining Magistrates are or may be subject to under the Act of the Session holden in the Fourteenth and Fifteenth Years of Her Majesty, Chapter Fifty-five: Provided also, that the Amount of the Fees payable to the Clerks of the Magistrates in Petty Sessions, in respect of any Proceeding under this Act, and of the Fees payable to the Clerks of the Peace for filing the Depositions, Conviction, or Certificate of Dismissal aforesaid, and of all such Expenses of apprehending the Person charged, and detaining him in Custody, and of such other Expenses as are now by Law payable when incurred before a Commitment for Trial, may be added to the Certificate for Compensation aforesaid, and paid in the like Manner.

Town Hall, Court House, &c of County, City, or Borough may be used for Petty Sessions held under this Act.

XV. In every City, Borough, Town, or Place in *England* where any Petty Sessions shall be holden under this Act, the Town Hall, Court House, or other public Building therein belonging to any County, City, Borough, Town, or Place, or any Court House in such City, Borough, Town, or Place provided by the Commissioners of Her Majesty's Treasury, under the Act of the Session holden in the Ninth and Tenth Years of Her Majesty, Chapter Ninety-five, may be used for the Purpose of holding such Petty Sessions, without any Charge for Rent or other Payment, save and except the reasonable and necessary Charges for lighting, warming, and cleaning, when such public Building is used for the Purpose of holding such Courts of Petty Sessions, and for all other Expenses necessarily incidental to the Use of the said Building for the Purposes of the said Courts: Provided always, that the necessary Arrangements shall be made so that the Sittings of the said Courts of Petty Sessions shall not interfere with the Business of the County, City, Borough, Town, or Place or other Business usually transacted in such Town Hall, Court House, or other public Building, or any Purpose for which any such Town Hall, Court House, or other public Building may be used by virtue of any Act of Parliament in that Behalf.

Any Metropolitan Police Magistrate or Stipendiary Magistrate may act alone.

XVI. Any One of the Magistrates appointed to act at any of the Police Courts of the Metropolis, and sitting at a Police Court within the Metropolitan Police District, or any Magistrate appointed to act at the Police Courts of the *Dublin* Metropolitan District, and sitting at a Police Court within the said District, or any Stipendiary Magistrate appointed for any City, Town, Liberty, Borough, or District, and sitting at a Police Court or other Place appointed in that Behalf, may, in the Case of Persons charged before such Magistrate, do

do alone all Acts by this Act authorized to be done by Justices of the Peace in Petty Sessions, and all the Provisions of this Act referring to Justices in Petty Sessions shall be read and construed as referring also to such Magistrate.

Nothing to affect Provisions of 10 & 11 Vict. c. 82. and 13 & 14 Vict. c. 37.

XVII. Nothing in this Act shall affect the Provisions of the Act of the Session holden in the Tenth and Eleventh Years of Her Majesty, Chapter Eighty-two, "For the more speedy Trial and Punishment of Juvenile Offenders," or of the Act of the Session holden in the Thirteenth and Fourteenth Years of Her Majesty, Chapter Thirty-seven, "For the further Extension of Summary Jurisdiction in Cases of Larceny," or of the Summary Jurisdiction (*Ireland*) Act, 1851; and this Act shall not extend to Persons punishable under the said Acts, so far as regards Offences for which such Persons may be punished thereunder.

As to Compensation to Clerks of Peace and other Officers.

XVIII. 'And whereas the Fees and Emoluments of Clerks of the Peace for Counties and 'Boroughs, and of other Officers of the Courts of Quarter Sessions, in Criminal Proceedings, 'may be seriously diminished by the Operation and Effect of this Act, and it is just and 'reasonable that full Compensation for any such Loss should be made in respect thereof to 'such Clerks of the Peace and other Officers appointed before the passing of this Act:' Be it enacted, That immediately after the passing of this Act the Commissioners of Her Majesty's Treasury shall, upon the Application of any such Clerk of the Peace or other Officer, by such Means and in such Manner as they may think proper, inquire into and ascertain the annual Amount, to be computed upon an Average of Five Years immediately preceding the passing of this Act, or of such shorter Period as such Clerk of the Peace or other Officer shall have been in Office, of the Fees and Emoluments in Criminal Prosecutions received by such Clerk of the Peace or other Officer; and the said Commissioners shall, upon the like Application, also ascertain, in such Manner as they may think proper, the total Amount of Fees and Emoluments in Criminal Prosecutions received by such Clerk of the Peace or other Officer during any Year after the passing of this Act; and the said Commissioners are hereby authorized and empowered, by Warrant under their Hands, to award to such Clerk of the Peace or other Officer the Deficiency, when and so often as the same shall occur, between the last-mentioned Amount and the annual average Amount so ascertained as aforesaid, and the Sum so awarded shall be paid out of any Monies which may be provided by Parliament for that Purpose; provided, that in all Cases where any such Clerk of the Peace, by reason of his being paid by Salary, under an Order made by virtue of the Act of the Session holden in the Fourteenth and Fifteenth Years of Her Majesty, Chapter Fifty-five, shall pay such Fees and Emoluments as aforesaid to the Treasurer of the County or Borough for which he is Clerk of the Peace in aid of the County or Borough Rate, as the Case may be, such Deficiency, when so ascertained as aforesaid, shall be paid to the Treasurer of such County or Borough respectively.

Power to increase Salary of Chief Magistrate to a Sum not exceeding 1,500*l.*

XIX. 'And whereas by Section Nine of the Act of the Session holden in the Second and 'Third Years of Her Majesty, Chapter Seventy-one, Provision is made for Payment out of 'the Monies in the Hands of the Receiver of the Metropolitan Police District of such Salaries 'as Her Majesty shall direct to the Magistrates of the Police Courts of the Metropolis, the 'Salary to the Chief Magistrate not being more than One thousand two hundred Pounds, 'and to each of the other Magistrates not more than One thousand two hundred Pounds; 'And whereas after the passing of the said Act the Salary of the Chief Magistrate was fixed 'at One thousand two hundred Pounds, and the Salaries of the other Police Magistrates at 'One thousand Pounds: And whereas the Duties of the said Chief and other Magistrates 'have increased, and are subject under this Act to be further increased: And whereas the 'Salaries of such other Magistrates have, in consequence of such Increase of Duty, been 'increased from One thousand Pounds to the Limit permitted by the said Act, and it is 'expedient to authorize such Increase of the Salary of the said Chief Magistrate as herein-'after mentioned:' The Salary to be paid out of the Monies aforesaid to the said Chief Magistrate shall be such yearly Sum, not exceeding One thousand five hundred Pounds, as Her Majesty may direct.

Provisions of 15 & 16 Vict. c. 73. for Payment by

XX. 'And whereas by the Act of the Session holden in the Fifteenth and Sixteenth Years 'of Her Majesty, Chapter Seventy-three, certain Powers were granted and Provisions made 'for the Payment to the several Clerks of Assize of annual Sums for Salaries, and for the

Salary in lieu of Fees to Clerks of Assize for their Duties as Associates extended to the whole Office of Clerk of Assize, &c.

'Expenses of their Office, in respect of their Duties as Associates, in lieu of the Fees and 'Emoluments appertaining to those Duties: And whereas it is expedient that the Principle of 'Payment by Salary in lieu of Fees should be further provided for, and that the Clerks of 'Assize should be so paid for the Performance of all their other Duties:' Be it therefore enacted, That all Fees and Emoluments heretofore payable to the Clerks of Assize for the Performance of their Duties as Clerks of the Crown shall be and they are hereby abolished; and all the Powers and Provisions made by the before-mentioned Act, except as is herein-after provided, for the Payment of Clerks of Assize by Salary in lieu of Fees, in respect of their Duties as Associates, shall be and the same are hereby extended and made applicable to the Payment of Clerks of Assize by Salary, and the Expenses of their Offices, in lieu of Fees and Emoluments, for the Performance of their Duties as Clerks of the Crown and of all other Duties appertaining to the Office of Clerk of Assize: Provided always, That the Commissioners of Her Majesty's Treasury for the Time being shall fix and determine the Amount of Salary to be allowed to any subordinate Officer now employed or who shall hereafter be employed by any Clerk of Assize, and shall be empowered to order the Payment of such Salary to the said Officers in the first instance, and not through the Medium of the Clerk of Assize: Provided also, that the Salaries and Expenses of the Officers of the said Clerks of Assize for the whole of their Duties on the Criminal and Civil Sides of the Court shall be paid out of any Monies which may be provided by Parliament for that Purpose.

So much of 12 Ric. 2. c. 10. and 14 Ric. 2. c. 12., &c. as directs Payment of Wages to Justices and their Clerks repealed.

XXI. 'And whereas by Acts of the Twelfth and Fourteenth Years of King *Richard* the 'Second Payments are provided for Justices of the Peace and their Clerks in each County, 'as Wages by the Day for the Time of their Sessions, to be payable by the Sheriff, as therein 'mentioned, and in several Counties in *England* Sums are claimed from the Sheriffs and paid 'in respect of such statutory Wages, and it is expedient that such Payments should be dis-'continued:' Be it therefore enacted, That so much of the several Acts of the Twelfth Year of King *Richard* the Second, Chapter Ten, and of the Fourteenth Year of King *Richard* the Second, Chapter Twelve, or of any other Act now in force as directs or authorizes the Payment of Wages to Justices of the Peace and their Clerks for the Time of their Sessions, shall be repealed.

In Cases of Injuries to Property, Parties aggrieved may receive Compensation, though examined as Witnesses.

XXII. 'And whereas it is expedient to amend the Law as to Witnesses in Cases of wilful 'or malicious Injuries to Property:' Be it further enacted, That in all Cases where any Justice or Justices of the Peace have or shall hereafter have Power to order a Sum of Money to be forfeited and paid to the Party aggrieved, as Amends or Compensation for any Injury to Property, Real or Personal, the Right of such Party to receive the Money so ordered to be paid shall not be affected by such Party having been examined as a Witness in Proof of the Offence, any Law or Statute to the contrary notwithstanding.

Interpretation of Terms.

XXIII. In the Interpretation of this Act "County" shall be construed to include Riding, Parts, Liberty, and Division of a County; "Borough" to include City, County of a City or Town, and Town Corporate; "Property" to include everything included under the Words "Chattel, Money, or valuable Security," as used in the Act of the Session holden in the Seventh and Eighth Years of King *George* the Fourth, Chapter Twenty-nine; and in the Case of any "valuable Security" the Value of the Share, Interest, or Deposit to which the Security may relate, or of the Money due thereon or secured thereby, and remaining unsatisfied, or of the Goods or other valuable Thing mentioned in the Warrant or Order, shall be deemed to be the Value of such Security.

Extent of Act.

XXIV. This Act shall not extend to *Scotland*.

SCHEDULE.

FORM (A.)

Conviction.

} BE it remembered, That on the Day of in the Year of
to wit. } our Lord , at in the said [County] *A.B.*, being charged before us the undersigned of Her Majesty's Justices of the Peace for the said [County], and consenting to our deciding upon the Charge summarily, is convicted before us,

us, for that [he the said *A.B., &c., stating the Offence, and the Time and Place when and where committed*]; and we adjudge the said *A.B.* for his said Offence to be imprisoned in the [House of Correction] at in the said [County], [and there kept to Hard Labour] for the Space of .

Given under our Hands and Seals, the Day and Year first above mentioned, at in the [County] aforesaid.

J.S. (L.S.)
H.M. (L.S.)

FORM (B.)

Certificate of Dismissal.

} WE of of Her Majesty's Justices of the Peace for the [County]
to wit. } of certify, That on the Day of
in the Year of our Lord at in the said [County] *A.B.* being charged before us, and consenting to our deciding upon the Charge summarily, for that [he the said *A.B., stating the Offence charged, and the Time and Place when and where alleged to be committed*], we did, having summarily adjudicated thereon, dismiss the said Charge.

Given under our Hands and Seals, this Day of at in the [County] aforesaid.

J.S. (L.S.)
H.M. (L.S.)

FORM (C.)

Conviction upon a Plea of Guilty.

} BE it remembered, That on the Day of in
to wit. } the Year of our Lord at in the said [County], *A.B.*, being charged before us, the undersigned of Her Majesty's Justices of the Peace for the said [County], for that [he the said *A.B., &c., stating the Offence, and the Time and Place when and where committed*], and pleading Guilty to such Charge, he is thereupon convicted before us of the said Offence; and we adjudge the said *A.B.* for his said Offence to be imprisoned in the [House of Correction] at in the said [County], [and there kept to Hard Labour] for the Space of .

Given under our Hands and Seals, the Day and Year first above mentioned, at in the [County] aforesaid.

J.S. (L.S.)
H.M. (L.S.)

CAP. CXXVII.

An Act to make better Provision for the Union of contiguous Benefices, and to facilitate the building and endowing of new Churches in spiritually destitute Districts. [14th *August* 1855.]

'WHEREAS an Act was passed in the Second Year of Her Majesty's Reign, intituled 'An Act to abridge the holding of Benefices in Plurality, and to make better Provision 1 & 2 Vict. c. 106.
'for the Residence of the Clergy; and in such Act Provision is contained authorizing the
'Union, by Order of Her Majesty in Council, after such Inquiry and Notice, and with
'such Consent and upon such Certificate as is therein mentioned, of Two or more Benefices,
'or One or more Benefice or Benefices, and One or more Spiritual Sinecure Rectory or
'Rectories, Vicarage or Vicarages, in the same Parish or contiguous to each other, of which
'the aggregate Population should not exceed One thousand five hundred Persons, and the
'aggregate yearly Value should not exceed Five hundred Pounds: And whereas a nothe

'Act