CAP. XXXVII.

An Act for establishing the Validity of certain Proceedings in Her Majesty's Court of Vice-Admiralty in *Mauritius*. [10th *July* 1854.]

'WHEREAS *James Wilson* Esquire, Chief Judge of the Supreme Court in the *Mauritius*, has, since the Month of *October* One thousand eight hundred and thirty-five, acted as Judge in Her Majesty's Court of Vice-Admiralty in that Island: And whereas it has been discovered that on various Occasions between the said Month of *October* One thousand eight hundred and thirty-five and the Nineteenth Day of *May* One thousand eight hundred and fifty-two he was not duly authorized so to act:' 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:

Certain Acts, &c. done by James Wilson as Judge of Vice-Admiralty Court to be deemed valid.

I. All Acts, Proceedings, and Judgments heretofore done, taken, or given by the said *James Wilson* in the Capacity or assumed Capacity of Judge of the said Vice-Admiralty Court before the Nineteenth Day of *May* One thousand eight hundred and fifty-two aforesaid inclusively, and not set aside by any competent Authority before the passing of this Act, shall be deemed to be and to have been as valid and effectual for all Purposes whatever as if the said *James Wilson* had at the Time of such Acts, Proceedings, or Judgments respectively been legally and sufficiently authorized to officiate as such Judge.

James Wilson indemnified for such Acts, &c.

II. No Action, Prosecution, or other Proceeding shall be brought or taken in any Court against the said *James Wilson* by reason of the Illegality or Invalidity of any Act, Proceeding, or Judgment herein-before declared to be valid and effectual.

CAP. XXXVIII.

An Act for the Suppression of Gaming Houses. [24th *July* 1854.]

8 & 9 Vict. c. 109.

'WHEREAS divers Statutes have been made from Time to Time for the Prevention of unlawful Gaming; and particularly by the Act of the Session holden in the Eighth and Ninth Years of Her Majesty, Chapter One hundred and nine, Powers are given to Justices of the Peace in Places beyond the Metropolitan Police District to authorize Constables, and to either of the Commissioners of Police within such District to authorize Superintendents belonging to the Metropolitan Police Force, to enter Houses suspected to be kept as Common Gaming Houses, and to arrest all Persons found therein; and it is thereby enacted, that where any Cards, Dice, Balls, Counters, Tables or other Instruments of Gaming used in playing any unlawful Game shall be found in any House, Room, or Place suspected to be used as a Common Gaming House, and entered under a Warrant or Order issued under the Provisions of that Act, or about the Person of any of those who shall be found therein, it shall be Evidence until the contrary be made to appear, that such House, Room, or Place used as a Common Gaming House, and that the Persons found in the Room or Place where such Tables, or Instruments of Gaming shall have been found were playing therein: And whereas the Keepers of Common Gaming Houses contrive by fortifying the Entrances to such Houses, or by other Means to keep out the Officers authorized to enter the same until the Instruments of Gaming have been removed or destroyed, so that no sufficient Evidence can be obtained to convict the Offenders, who are thereby encouraged to persist in the Violation of the Law: And whereas it is expedient that the Law shall be made more efficient for the Suppression of Gaming Houses:' 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:

Penalty on Persons obstructing the Entry of Constables author-

I. Any Person who shall wilfully prevent any Constable or Officer authorized under the Provisions of the said Act of the Eighth and Ninth Years of Her Majesty to enter any House, Room, or Place, from entering the same or any Part thereof, or who shall obstruct or delay any such Constable or Officer in so entering, and any Person who, by any Bolt, Bar, Chain

Chain or other Contrivance, shall secure any external or internal Door of or Means of Access to any House, Room, or Place so authorized to be entered, or shall use any Means or Contrivance whatsoever for the Purpose of preventing, obstructing, or delaying the Entry of any Constable, or Officer authorized as aforesaid into any such House, Room, or Place, or any Part thereof, may for every such Offence, on a summary Conviction of the same before Two Justices of the Peace, be adjudged by such Justices to forfeit and pay any Penalty not exceeding One hundred Pounds, together with such Costs as the said Justices shall appear reasonable; and on the Nonpayment of such Penalty and Costs, or in the first instance, if to the said Justices it shall seem fit, may be committed to the Common Gaol or House of Correction, with or without Hard Labour, for any Period not exceeding Six Calendar Months.

ized to enter any House suspected to be a Common Gaming House.

II. Where any Constable or Officer authorized as aforesaid to enter any House, Room, or Place is wilfully prevented from or obstructed or delayed in entering the same or any Part thereof, or where any external or internal Door of or Means of Access to any such House, Room, or Place so authorized to be entered shall be found to be fitted or provided with any Bolt, Bar, Chain, or any Means or Contrivance for the Purpose of preventing, delaying or obstructing the Entry into the same or any Part thereof of any Constable or Officer authorized as aforesaid, or for giving an Alarm in case of such Entry, or if any such House, Room, or Place is found fitted or provided with any Means or Contrivance for unlawful Gaming, or with any Means or Contrivance for concealing, removing, or destroying any Instruments of Gaming, it shall be Evidence, until the contrary be made to appear, that such House, Room, or Place is used as a Common Gaming House within the Meaning of this Act and of the former Acts relating to Gaming, and that the Persons found therein were unlawfully playing therein.

Obstructing Entry of Constables to be Evidence of House being a Common Gaming House.

III. If any Person found in any House, Room, or Place entered by any Constable or Officer authorized as aforesaid to enter the same, upon being arrested by any such Constable or Officer, or upon being brought before any Justices, on being required by such Constable or Officer, or by such Justices, to give his Name and Address, shall refuse or neglect to give the same, or shall give any false Name or Address, he may, upon summary Conviction thereof before the same or any other Justices, be adjudged to pay any Penalty not exceeding Fifty Pounds, together with such Costs as to such Justices shall appear reasonable, and on the Nonpayment of such Penalty and Costs, or in the first instance, if to such Justices it shall seem fit, may be imprisoned in the Common Gaol or House of Correction for any Period not exceeding One Month.

Penalty on Persons apprehended for giving false Names or Addresses.

IV. Any Person, being the Owner or Occupier, or having the Use of any House, Room, or Place, who shall open, keep, or use the same for the Purpose of unlawful Gaming being carried on therein, and any Person who, being the Owner or Occupier of any House or Room, shall knowingly and wilfully permit the same to be opened, kept, or used by any other Person for the Purpose aforesaid, and any Person having the Care or Management of or in any Manner assisting in conducting the Business of any House, Room, or Place opened, kept or used for the Purpose aforesaid, and any Person who shall advance or furnish Money for the Purpose of Gaming with Persons, frequenting such House, Room, or Place, may, on summary Conviction thereof before any Two Justices of the Peace, be adjudged by such Justices to forfeit and pay such Penalty not exceeding Five hundred Pounds as to such Justices shall seem fit, and may be further adjudged by such Justices to pay such Costs attending such Conviction as to them shall seem reasonable; and on the Nonpayment of such Penalty and Costs, or in the first instance, if to the said Justices it shall seem fit, may be committed to the Common Gaol or House of Correction with or without Hard Labour, for any Time not exceeding Twelve Calendar Months.

Penalties on Persons keeping Gaming Houses.

V. It shall be lawful for the Justices before whom any Persons shall be brought who have been found in any House, Room, or Place entered in pursuance of any Authority granted under the Provisions of the said Act of the Eighth and Ninth Years of Her Majesty to require any of such Persons to be examined on Oath and give Evidence touching any unlawful Gaming in such House, Room, or Place, or touching any Act done for the Purpose of preventing, obstructing, or delaying the Entry into such House, Room, or Place or any Part thereof

Justices may require any of the Persons apprehended to be sworn and give Evidence.

thereof of any Constable or Officer authorized as aforesaid; and no Person so required to be examined as a Witness shall be excused from being so examined when brought before such Justices as aforesaid, or from being so examined at any subsequent Time, by or before the same or any other Justices, or by or before any Court, on any Proceeding, or the Trial of any Indictment, Information, Action or Suit in anywise relating to such unlawful Gaming or any such Acts as aforesaid, or from answering any Question put to him touching the Matters aforesaid, on the Ground that his Evidence will tend to criminate himself; and any such Person so required to be examined as a Witness who refuses to make Oath accordingly or to answer any such Question as aforesaid, shall be subject to be dealt with in all respects as any Person appearing as a Witness before any Justices or Court in obedience to a Summons or Subpœna, and refusing, without lawful Cause or Excuse, to be sworn or to give Evidence, may by Law be dealt with.

Penalty on refusing to be sworn.

Persons required to be examined as Witnesses, and making a full Discovery, to be freed from all Penalties, &c.

VI. Every Person so required to be examined as a Witness as aforesaid, who upon such Examination shall make true and faithful Discovery to the best of his Knowledge of all Things as to which he is so examined, shall receive from the Justices or Judge of the Court by whom he is examined, a Certificate in Writing to that Effect, and shall be freed from all Criminal Prosecutions, and Penal Actions, and from all Penalties, Forfeitures, and Punishments to which he may have become liable for anything done before that Time in respect of the Matters touching which he has been so examined; but such Witness shall not be indemnified under this Act unless he receive from such Justices or Judge a Certificate in Writing under their Hands, stating that such Witness has on his Examination made a true Disclosure touching all Things as to which he has been examined; and if any Action, Information, or Indictment be at any Time pending in any Court against any Person so examined in respect of any Act of Gaming touching which he was so examined, and if any Action, Information or Indictment be at any Time pending in any Court against any Person so examined as a Witness in manner before mentioned, for any such Matter or Thing, such Court shall on the Production and Proof of such Certificate, stay the Proceedings in any such Action, Information, or Indictment, and may, in its Discretion, award to such Person such Costs as he may have been put to by such Action, Information, or Indictment.

Penalties and Costs may be levied by Distress.

VII. If any Person convicted under this Act on Information before Justices shall be adjudged to pay any Penalty or any Costs and Charges attending the Conviction, and shall fail to pay such Penalty or Costs, the same may be levied by Distress and Sale of the Goods and Chattels of the Offender, by Warrant under the Hand and Seal of One of the convicting Justices: Provided always, that if any Person shall be committed to Prison for Default of Payment of any Penalty and Costs, then the Costs alone may be levied by Distress as aforesaid.

Applications of Penalties.

VIII. One Half of any pecuniary Penalty which shall be adjudged to be paid under this Act shall be paid to the Person laying the Information upon which the Conviction takes place, and the remaining Half shall be applied in aid of the Poor Rate of the Parish in which the Offence shall have been committed, and shall be paid for that Purpose to the Overseer or other Person authorized to receive Poor Rates in such Parish, or if the Place wherein the Offence shall have been committed shall be extra-parochial, then the Justices by whom such Penalty shall be adjudged to be paid shall direct such remaining Half thereof to be applied in aid of the Poor Rate of such extra-parochial Place, or if there shall not be any Poor Rate therein, in aid of the Poor Rate of any adjoining Poor Rate or District.

On Neglect to prosecute any Summons, Justices may authorize some other Person to proceed.

IX. In case any Person who shall have laid any Information in respect of any Offence against this Act shall not appear at the Time at which the Defendant shall have been summoned to appear, or at any Time to which the Hearing of the Summons may have been adjourned, or, if such Person, in the Opinion of any Justices having Authority to adjudicate with respect to the Offence charged in such Information as aforesaid, shall otherwise have neglected to proceed upon or prosecute such Information with due Diligence, it shall be lawful for such Justices to authorize any other Person to proceed on such Information and Summons instead of the Person to whom the same may have been granted, or such Justices may dismiss the first Information and Summons, and authorize any Person to lay a fresh Information in respect to the Offence charged in such first Information, in like Manner as if the previous Summons had not been granted.

X. Any

Appeal to Quarter Sessions.

X. Any Person who shall be summarily convicted under this Act may appeal to the next General or Quarter Session of the Peace to be holden for the County or Place wherein the Cause of Complaint shall have arisen, provided that such Person, at the Time of such Conviction, or within Forty-eight Hours thereafter, enter into a Recognizance, with Two sufficient Securities, conditioned personally to appear at the said Session to try such Appeal, and to abide the further Judgment of the Court at such Session, and to pay such Costs as shall be by the last-mentioned Court awarded; and it shall be lawful for the Magistrate or Justices by whom such Conviction shall have been made to bind over any Party who shall have made Information against the Party convicted, and any Witnesses who shall have been examined, in sufficient Recognizances, to attend and be examined at the Hearing of such Appeal; and every such Witness, on producing a Certificate of being so bound, under the Hand of the said Magistrate or Justices, shall be allowed Compensation for his or her Time, Trouble, and Expenses in attending the Appeal, which Compensation shall be paid in the first instance by the Treasurer of the County or Place, in like Manner as in Cases of Misdemeanor, under the Provisions of an Act passed in the Seventh Year of the Reign of King *George* the Fourth, intituled *An Act for improving the Administration of Criminal Justice in* England, and in case any such Appeal shall be dismissed, and the Order or Conviction affirmed, the reasonable Expenses of all such Witnesses attending as aforesaid, to be ascertained by the Court, shall be repaid to the said Treasurer by the Appellant.

7 & 8 G. 4. c. 28.

No Objection allowed in Matter of Form.

XI. On any such Appeal, no Objection shall be allowed to the Information whereon the Conviction has taken place, or to such Conviction, on any Matter of Form or on any Insufficiency of Statement, provided it shall appear to the Justices in Quarter Sessions that the Defendant has been sufficiently informed of the Charge intended to be made against him, and that such Conviction was proper on the Merits of the Case; and no Information, Conviction, or Judgment of the Justices in General or Quarter Sessions shall be removed by Certiorari into the Court of Queen's Bench.

Judgment not removable by Certiorari.

Distress not unlawful for Want of Form.

XII. When any Distress shall be made for any Money to be levied by virtue of the Warrant of any Justice under this Act, the Distress shall not be deemed unlawful, nor shall any Party making the same be deemed a Trespasser, on account of any Defect or Want of Form in the Information, Summons, Warrant of Apprehension, Conviction, Warrant of Distress, or other Proceeding relating thereto, nor shall such Party be deemed a Trespasser from the Beginning, on account of any Irregularity which shall be afterwards committed by him, but all Persons aggrieved by such Defect or Irregularity may recover full Satisfaction for the special Damage by an Action on the Case in any of Her Majesty's Courts of Record.

Tender of Amends.

XIII. No Plaintiff shall recover in any Action for any Irregularity, Trespass, or other wrongful Proceeding made or committed in the Execution of this Act, or in, under, or by virtue of any Authority hereby given, if Tender of sufficient Amends shall have been made by or on behalf of the Party who shall have committed such Irregularity, Trespass, or other wrongful Proceeding before such Action brought; and in case no Tender shall have been made it shall be lawful for the Defendant in any such Action, by Leave of the Court where such Action shall depend, at any Time before Issue joined to pay into Court such Sum of Money as he shall think fit, whereupon such Proceeding, Order, and Adjudication shall be had and made in and by such Court as in other Actions where Defendants are allowed to pay Money into Court.

Limitation of Actions.

XIV. No Action, Suit, or Information, or any other Proceeding, of what Nature soever, shall be brought against any Person for anything done or omitted to be done in pursuance of this Act, or in the Execution of the Authorities under this Act, unless Notice in Writing shall be given by the Party intending to prosecute such Suit, Information, or other Proceeding, to the intended Defendant, One Calendar Month at least before prosecuting the same, nor unless such Action, Suit, Information, or other Proceeding shall be brought or commenced within Three Calendar Months next after the Act or Omission complained of, or in Case there shall be a Continuation of Damage, then within Three Calendar Months next after the doing such Damage shall have ceased.

Commencement of Act.

XV. This Act shall commence and come into operation on the First Day of *August* One thousand eight hundred and fifty-four.