

ANNO QUINTO & SEXTO

VICTORIÆ REGINÆ.

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CAP. XXXVIII.

An Act to define the Jurisdiction of Justices in General and Quarter Sessions of the Peace.

[30th *June* 1842.]

WHEREAS it is expedient that the Powers of Justices in General and Quarter Sessions of the Peace with respect to the Trial of Offences be better defined; 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, That after the passing of this Act neither the Justices of the Peace acting in and for any County, Riding, Division, or Liberty, nor the Recorder of any Borough, shall, at any Session of the Peace, or at any Adjournment thereof, try any Person or Persons for any Treason, Murder, or Capital Felony, or for any Felony which, when committed by a Person not previously convicted of Felony, is punishable by Transportation beyond the Seas for Life, or for any of the following Offences; (that is to say,)

Justices in Sessions restrained from trying certain Offences.

1. Misprision of Treason:
2. Offences against the Queen's Title, Prerogative, Person, or Government, or against either House of Parliament:
3. Offences subject to the Penalties of Præmunire:

4. Blasphemy,

4. Blasphemy, and Offences against Religion:
5. Administering or taking unlawful Oaths:
6. Perjury and Subornation of Perjury:
7. Making or suborning any other Person to make a false Oath, Affirmation, or Declaration, punishable as Perjury or as a Misdemeanor:
8. Forgery:
9. Unlawfully and maliciously setting fire to Crops of Corn, Grain, or Pulse, or to any Part of a Wood, Coppice, or Plantation of Trees, or to any Heath, Gorse, Furze, or Fern:
10. Bigamy, and Offences against the Laws relating to Marriage:
11. Abduction of Women and Girls:
12. Endeavouring to conceal the Birth of a Child:
13. Offences against any Provision of the Laws relating to Bankrupts and Insolvents:
14. Composing, printing, or publishing blasphemous, seditious, or defamatory Libels:
15. Bribery:
16. Unlawful Combinations and Conspiracies, except Conspiracies or Combinations to commit any Offence which such Justices or Recorder respectively have or has Jurisdiction to try when committed by One Person:
17. Stealing or fraudulently taking, or injuring or destroying, Records or Documents belonging to any Court of Law or Equity, or relating to any Proceeding therein:
18. Stealing or fraudulently destroying or concealing Wills or Testamentary Papers, or any Document or written Instrument being or containing Evidence of the Title to any Real Estate or any Interest in Lands, Tenements, or Hereditaments:

Proviso as to Justices acting in London and the Environs.

Provided always, that nothing herein contained shall be construed to give Authority to the Justices of the Peace acting in and for the Cities of *London* and *Westminster*, the Liberty of the Tower of *London*, the Borough of *Southwark*, and the Counties of *Middlesex*, *Essex*, *Kent*, and *Surrey*, to try any Person or Persons for any Offence committed or alleged to be committed within the Jurisdiction of the Central Criminal Court, which such Justices are restrained from trying under the Provisions of an Act passed in the Fifth Year of the Reign of His late Majesty, intituled *An Act for establishing a new Court for the Trial of Offences committed in the Metropolis and Parts adjoining*.

4 & 5 W. 4. c. 36.

Indictments found at the Sessions of the Peace to be removed;

II. And be it enacted, That it shall be lawful for any Judge of one of Her Majesty's Superior Courts at *Westminster*, acting under any Commission of Oyer and Terminer and Gaol Delivery for any County, to issue, if he shall think fit, any Writ or Writs of Certiorari or other Process, directed to the Justices of the Peace acting in and for such County, Riding, Division, or Liberty, or to the Recorder of any Borough situated within the said County, commanding the said Justices and Recorder severally to certify and return, into the Court holden under the Authority of such Commission of Oyer and Terminer and Gaol Delivery, all Indictments or Presentments found or taken

taken before any of the said Justices of the Peace, or Recorder, of any Offences which, after the passing of this Act, such Justices or Recorder will not have Jurisdiction to try, and the several Recognizances, Examinations, and Depositions relative to such Indictments and Presentments; and also, if necessary, by Writ or Writs of Habeas Corpus, to cause any Person or Persons who may be in the Custody of any Gaol or Prison, charged with any such Offence, to be removed into the Custody of the Keeper of the Common Gaol of the County, so that the same Offences may be dealt with, tried, and determined according to Law, under the Authority of the said Commission.

and Prisoners may be removed by Habeas Corpus.

III. And be it enacted, That every Recognizance which shall have been entered into for the Prosecution of any Person at any Court of Sessions of the Peace, for any Offence which after the passing of this Act such Court will not have Jurisdiction to try, and every Recognizance for the Appearance, as well of any Witness to give Evidence upon any Bill of Indictment or Presentment for any such Offence, as of any Person to answer our Lady the Queen for or concerning any such Offence, or to answer generally before such Court, shall, in case any Writ of Certiorari or Habeas Corpus be issued for the Purpose of removing such Indictment or Presentment, or such Person so in Custody as aforesaid, be obligatory on the Parties bound by such Recognizance to prosecute and appear, and give Evidence, and do all other Things therein mentioned, with reference to the Indictment or Presentment or Person so removed as aforesaid, before the Justices of Oyer and Terminer and Gaol Delivery acting in and for that County, in like Manner as if such Recognizance had been originally entered into for prosecuting such Offence, appearing, or giving Evidence, or doing such other Things before the said Justices of Oyer and Terminer and Gaol Delivery: Provided always, that One Week's Notice shall have been given, either personally or by leaving the same at the Place of Residence as of which the Parties bound by such Recognizance are therein described, to appear before the Court of Oyer and Terminer and Gaol Delivery, instead of the said Court of Sessions of the Peace: Provided also, that the Judge who shall grant such Writ of Certiorari or Habeas Corpus shall cause the Party applying for such Writ or Writs, whether he be the Prosecutor or Party charged with such Offence, to enter into a Recognizance, in such Sum, and with or without Sureties, as the Judge may direct, conditioned to give such Notice as aforesaid to the Parties bound by such Recognizance to appear before the said Court of Oyer and Terminer and Gaol Delivery, instead of before the said Court of Sessions of the Peace respectively, and to do such other Things with reference to the Indictment, Presentment, or Person removed as such Court or Judge shall direct.

Recognizances to be obligatory to appear at Assizes.

IV. And whereas it is expedient to enlarge the Powers of Justices of the Peace for dividing their several Courts of Sessions of the Peace; be it enacted, That whenever any Court of General or Quarter Session or adjourned Session of the Peace shall be assembled for the Dispatch of Business thereunto belonging, and there shall be any Order of the Court in force for the Appointment of a permanent

Power to divide Courts of Sessions of the Peace.

permanent Chairman and Deputy Chairman of the said Court, it shall be lawful for the Justices then present, if it shall appear to them advisable, having regard to the Business to be disposed of, to appoint Two or more Justices, One of whom shall be such Deputy Chairman, to sit apart in some convenient Place in or near the Court, there to hear and determine such Business as shall be referred to them, whilst others of the Justices, One of whom shall be the said Chairman, are at the same Time proceeding in the Dispatch of the other Business of the same Court, and that the Proceedings so had by and before the Justices so sitting apart shall be as good and effectual in the Law as if the same were had before the Court assembled and sitting as usual in its ordinary Place of sitting, and shall be enrolled and recorded accordingly: and that the several Provisions of an Act of the Fifty-ninth Year of the Reign of King *George* the Third, intituled *An Act to empower Magistrates to divide the Court of Quarter Sessions*, shall, so far as may be, extend and be applicable to the Second Court so to be holden as aforesaid.

59 G. 3. c. 28.

Act may be amended this Session;

V. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

not to extend to Scotland or Ireland.

VI. And be it enacted, That this Act shall not extend to *Scotland* or *Ireland*.

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