

ANNO DUODECIMO & DECIMO TERTIO

VICTORIÆ REGINÆ.

****

CAP. XLV.

An Act to amend the Procedure in Courts of General and Quarter Sessions of the Peace in *England* and *Wales*, and for the better Advancement of Justice in Cases within the Jurisdiction of those Courts. [28th *July* 1849.]

WHEREAS, in Cases of Appeal to Courts of General or Quarter Sessions of the Peace, it is expedient that the Law should be more uniform: 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, That in every Case of Appeal (except as herein-after mentioned) to any Court of General or Quarter Sessions of the Peace Fourteen clear Days Notice of Appeal at least shall be given, and such shall be sufficient Notice, any Act or Acts, or any Rule or Practice of any Court or Courts, to the contrary notwithstanding; and such Notice of Appeal shall be in Writing, signed by the Person or Persons giving the same, or by his, her, or their Attorney on his, her, or their Behalf, and the Grounds of Appeal shall be specified in every such Notice: Provided always, that it shall not be lawful for the Appellant or Appellants, on the Trial of any such Appeal, to go into

Uniformity of Time for Notice of Appeal.

Notice of Appeal to be in Writing, and signed.

Grounds of Appeal to be stated.

or

or give Evidence of any other Ground of Appeal besides those set forth in such Notice.

Act not to affect Notices of Appeal against Orders of Removal, Orders of Bastardy, &c.

II. And be it enacted, That none of the Provisions herein-before contained relating to Notices of Appeal shall be construed to affect or alter the Law as to Notice of Appeal against a summary Conviction, or against an Order of Removal, or against an Order under any Statute relating to Pauper Lunatics, or against an Order in Bastardy, or against any Proceeding under or by virtue of any of the Statutes relating to Her Majesty's Revenue of Excise or Customs, Stamps, Taxes, or Post Office, but the Law with regard to Notices of all such Appeals shall be deemed and taken to be the same as if the Provisions herein-before contained had not been enacted.

Defects in Statement of Grounds of Appeal.

III. And whereas a Statement of the Grounds of Appeal, when required by this or any other Statute, is for the Purpose of enabling the Party receiving it to inquire into the Subject of such Statement, and, if need be, to prepare for Trial: Be it therefore enacted, That upon the Hearing of any Appeal to any Court of General or Quarter Sessions of the Peace no Objection on account of any Defect in the Form of setting forth any Ground of Appeal shall be allowed, and no Objection to the Reception of legal Evidence offered in support of any Ground of Appeal shall prevail, unless the Court shall be of opinion that such Ground of Appeal is so imperfectly or incorrectly set forth as to be insufficient to enable the Party receiving the same to inquire into the Subject of such Statement, and to prepare for Trial:

Amendment of Grounds of Appeal.

Provided always, that in all Cases where the Court shall be of opinion that any Objection to any Ground of Appeal, or to the Reception of Evidence in support thereof, ought to prevail, it shall be lawful for such Court, if it shall so think fit, to cause any such Ground of Appeal to be forthwith amended by some Officer of the Court, or otherwise, on such Terms as to Payment of Costs to the other Party, or postponing the Trial to another Day in the same Sessions or to the next subsequent Sessions, or both Payment of Costs and Postponement, as to such Court shall appear just and reasonable.

Frivolous Grounds of Appeal.

IV. And be it enacted, That if in any Notice of Appeal the Appellant or Appellants shall have included any Ground or Grounds of Appeal which shall in the Opinion of the Court determining the Appeal be frivolous or vexatious, such Appellant or Appellants shall be liable, if the Court shall so think fit, to pay the whole or any Part of the Costs incurred by the Respondent or Respondents in disputing any such Ground or Grounds of Appeal, such Costs to be recoverable in the Manner herein-after directed as to the other Costs incurred by reason of such Appeal.

V. And

Sessions to have a general Power to give Costs in all Cases of Appeal.

V. And be it enacted, That upon any Appeal to any Court of General or Quarter Sessions of the Peace the Court before whom the same shall be brought may, if it think fit, order and direct the Party or Parties against whom the same shall be decided to pay to the other Party or Parties such Costs and Charges as may to such Court appear just and reasonable, such Costs to be recoverable in the Manner provided for the Recovery of Costs upon an Appeal against an Order or Conviction by an Act passed in the Twelfth Year of Her Majesty's Reign, intituled *An Act to facilitate the Performance of the Duties of Justices of the Peace out of Sessions within* England *and* Wales *with respect to summary Convictions and Orders.*

11 & 12 Vict. c. 43.

Frivolous Appeals.

VI. And for the more effectual Prevention of frivolous Appeals, be it enacted, That any Court of General or Quarter Sessions of the Peace, upon Proof of Notice of any Appeal to the same Court having been given to the Party or Parties entitled to receive the same, though such Appeal was not afterwards prosecuted or entered, may, if it so think fit, at the same Sessions for which such Notice was given, order to the Party or Parties receiving the same such Costs and Charges as by the said Court shall be thought reasonable and just to be paid by the Party or Parties giving such Notice, such Costs to be recoverable in the Manner last aforesaid.

Amendment of Orders or Judgments of Justices on Appeal or Return to Certiorari.

VII. And whereas in many Cases, where Justices of the Peace are by Law empowered to make Orders or to give Judgments, great Expense and frequent Failures of Justice have been occasioned by reason that such Orders or Judgments have, on Appeal to the General or Quarter Sessions of the Peace, or on Removal by Certiorari into the Court of Queen's Bench, been quashed or set aside upon Exceptions or Objections to the Form of the Order or Judgment, irrespective of the Truth and Merits of the Matters in question: For Remedy thereof be it enacted, That if upon the Trial of any Appeal to any Court of General or Quarter Sessions of the Peace against any Order or Judgment made or given by any Justice or Justices of the Peace, or if upon the Return to any Writ of Certiorari any Objection shall be made on account of any Omission or Mistake in the drawing up of such Order or Judgment, and it shall be shown to the Satisfaction of the Court that sufficient Grounds were in Proof before the Justice or Justices making such Order or giving such Judgment to have authorized the drawing up thereof free from the said Omission or Mistake, it shall be lawful for the Court, upon such Terms as to Payment of Costs as it shall think fit, to amend such Order or Judgment, and to adjudicate thereupon as if no such Omission or Mistake

Rule for Certiorari to state Objections.

Mistake had existed: Provided always, that no Objection on account of any Omission or Mistake in any such Order or Judgment brought up upon a Return to a Writ of Certiorari shall be allowed unless such Omission or Mistake shall have been specified in the Rule for issuing such Certiorari.

Amendment of Recognizances.

VIII. And whereas the Statutes giving a Right of Appeal against Orders or summary Convictions frequently require a Recognizance or Recognizances to be entered into as a Condition of such Appeal, and Appellants are liable to be prevented from trying their Appeals upon the Merits, in consequence of Imperfections in the taking of such Recognizances: Be it enacted, That where any Recognizance or Recognizances which shall have been entered into within the Time by Law required before any Justice or Justices for the Purpose of complying with any such Condition of Appeal shall appear to the Court before which such Appeal is brought to have been insufficiently entered into, or to be otherwise defective or invalid, it shall be lawful for such Court, if it shall so think fit, to permit the Substitution of a new and sufficient Recognizance or new and sufficient Recognizances to be entered into before such Court in the Place of such insufficient, defective, or invalid Recognizance or Recognizances, and for that Purpose to allow such Time, and make such Examination, and impose such Terms as to Payment of Costs to the Respondent or Respondents, as to such Court shall appear just and reasonable; and such substituted Recognizance or Recognizances shall be as valid and effectual to all Intents and Purposes as if the same had been duly entered into at any earlier Time or Times as required by any Statute or Statutes for that Purpose.

Decisions of Sessions, when final.

IX. And be it enacted, That the Decisions of the Court of General or Quarter Sessions of the Peace upon the Hearing of any Appeal, as to the Sufficiency of the Statement of any Ground or Grounds of Appeal, and as to the amending or refusing to amend any Order or Judgment of a Justice or Justices appealed against, or the Statement of any Ground or Grounds of Appeal, and as to the Substitution of any new Recognizance or Recognizances as aforesaid, shall be final, and shall not be liable to be reviewed in any Court, by means of a Writ of Certiorari or Mandamus, or otherwise.

Amendment of Indictment.

X. And be it enacted, That every Court of General or Quarter Sessions of the Peace, on the Trial of any Offence within its Jurisdiction, whenever any Variance or Variances shall appear between any Matter in Writing or in Print produced in Evidence and the Recital or setting forth thereof in the Indictment, shall have

the same Power in all respects to cause the Indictment to be amended which is given to Courts of Oyer and Terminer and General Gaol Delivery with regard to Offences tried before such last-mentioned Courts by virtue of an Act of the Twelfth Year of Her Majesty's Reign, intituled *An Act for the Removal of Defects in the Administration of Criminal Justice;* and after such Amendment the Trial shall proceed in the same Manner in all respects, both with regard to the Liability of Witnesses to be indicted for Perjury and otherwise as if no such Variance or Variances had appeared. 11 & 12 Vict. c. 46.

XI. And be it enacted, That at any Time after Notice given of Appeal to any Court of General or Quarter Sessions of the Peace against any Judgment, Order, Rate, or other Matter, (except an Order in Bastardy, or a Proceeding under or by virtue of any of the Statutes relating to Her Majesty's Revenue of Excise or Customs, Stamps, Taxes, or Post Office,) for which the Remedy is by such Appeal, it shall be lawful for the Parties, by Consent, and by Order of any Judge of one of the Superior Courts of Common Law at *Westminster*, to state the Facts of the Case in the Form of a Special Case for the Opinion of such Superior Court, and to agree that a Judgment in conformity with the Decision of such Court, and for such Costs as such Court shall adjudge, may be entered on Motion by either Party at the Sessions next or next but one after such Decision shall have been given; and such Judgment shall and may be entered accordingly, and shall be of the same Effect in all respects as if the same had been given by the Court of General or Quarter Sessions upon an Appeal duly entered and continued. Power to state a Special Case without going to the Sessions previously.

XII. And whereas by a Statute passed in the Tenth Year of King *William* the Third, intituled *An Act for determining Differences by Arbitration*, Provision was made for rendering more effectual the Awards of Arbitrators in the Case of Controversies and Disputes for which there is no other Remedy but by personal Action or by Suit in Equity: And whereas it is expedient in like Manner to facilitate and render more effectual References to Arbitration of Controversies and Disputes for which the Remedy is by Appeal to a Court of General or Quarter Sessions of the Peace: Be it enacted, That at any Time after Notice given of Appeal to any Court of General or Quarter Sessions of the Peace against any Order, Rate, or other Matter, (except a summary Conviction, or an Order in Bastardy, or any Proceeding under or by virtue of any of the Statutes relating to Her Majesty's Revenue of Excise or Customs, Stamps, Taxes, or Post Office,) for which the Remedy is by such Appeal, it shall be lawful for the Parties, by themselves or their Attornies, and by Order of a Judge of Her References to Arbitration. 9 & 10 W. 3. c. 15.

Majesty's Court of Queen's Bench, to submit the Matter or Matters of such Appeal to the Award or Umpirage of any Person or Persons, and to agree that such Submission should be made a Rule of the said Court of Queen's Bench, and to insert such Agreement in their Submission or the Condition of the Bond or Promise whereby they oblige themselves respectively to submit to the Award or Umpirage of such Person or Persons; and thereupon such and the like Proceedings in all respects shall and may be taken with regard to Submissions under this Act, and to enforcing Awards or Umpirages thereupon, and to setting aside the same, as are authorized by the said Act of King *William* the Third with regard to the Cases therein provided for; and every Award or Umpirage duly made under this Act shall be as binding and effectual to all Intents as if the same had been a regular Judgment of the said Court of General or Quarter Sessions, and shall and may, on the Application of either Party, be enrolled among the Records of the said Court of Sessions.

References by Order of Court of Sessions.

XIII. And be it enacted, That it shall be lawful for any Court of General or Quarter Sessions of the Peace before which any Appeal (except against a summary Conviction, or an Order in Bastardy, or any Proceeding under or by virtue of any of the Statutes relating to Her Majesty's Revenue of Excise or Customs, Stamps, Taxes, or Post Office,) shall be brought, to order, with Consent of the Parties or their Attornies, that the Matter or Matters of such Appeal be referred to Arbitration to such Person or Persons and in such Manner and on such Terms as the said Court shall think reasonable and proper; and such Order may be made a Rule of the Court of Queen's Bench, on the Application of either Party; and the Award of the Arbitrator or Arbitrators, or Umpirage of the Umpire, may, on Motion by either Party at the Sessions next or next but one after such Award or Umpirage shall have been finally made and published, or after the Decision of the Court of Queen's Bench on any Motion for setting aside the same, be entered as the Judgment of the Court of General or Quarter Sessions in the Appeal, and shall be as binding and effectual to all Intents as if given by the said Court: Provided always, that the Court of Queen's Bench may, if it think fit, on Application within the Term next after the making and Publication of such Award or Umpirage, either refer the Case back again to the same Arbitrator, Arbitrators, or Umpire, or wholly set aside the Award or Umpirage already made, and may in the latter Event order the Court of General or Quarter Sessions to enter Continuances and hear the Appeal.

Where Reference abortive, Queen's

XIV. And be it enacted, That if upon any Reference to Arbitration under this Act it shall be made to appear to the Court of Queen's Bench that, either from the Death of the Arbitrator or Arbitrators

or

or Umpire, or from any other Cause, it has become impossible that an Award or Umpirage can be made, it shall be lawful for the said Court to order the Court of General or Quarter Sessions of the Peace to enter Continuances and hear the Appeal.

Bench may order Sessions to hear the Appeal.

XV. And be it enacted, That the several Provisions relating to Arbitrations contained in an Act of the Fourth Year of King *William* the Fourth, intituled *An Act for the further Amendment of the Law and the better Advancement of Justice*, shall be deemed and taken to be applicable to Arbitrations under this Act; and in every such Arbitration the Arbitrator or Arbitrators or Umpire shall have the same Powers of Amendment which the Court of General or Quarter Sessions of the Peace would have had on the Trial of the Appeal.

3 & 4 W. 4. c. 42. to be applicable to References under this Act.

Arbitrators to have Power of Amendment.

XVI. And be it enacted, That no Recognizance entered into pursuant to any Statute or Statutes for the Prosecution and Trial of any Appeal shall be deemed to be forfeited by such Agreement as aforesaid for the Statement of a Special Case without previously going to the Court of General or Quarter Sessions, or by any Submission to Arbitration under the Provisions of this Act.

Recognizances for Prosecution and Trial of Appeal.

XVII. And whereas by an Act passed in the Third Year of the Reign of King *George* the Fourth, intituled *An Act for the more speedy Return and levying of Fines, Penalties, and Forfeitures and Recognizances estreated*, Provision is made for authorizing the levying and Recovery of Fines, Issues, Amerciaments, and forfeited Recognizances set, imposed, lost, or forfeited by or before any Justice or Justices of the Peace in *England*: And whereas it is expedient that the subsequent Proceedings in such Cases should be uniform: Be it enacted, That the Proceedings subsequent to such Authority given for so levying and recovering as aforesaid shall and may be the same in all respects in the Case of such Fines, Issues, and Amerciaments as are by the said Act provided, permitted, and required in the Case of such forfeited Recognizances.

3 G. 4. c. 46. Levying and Recovery of Fines, Issues, and Amerciaments.

XVIII. And be it enacted, That in all Cases where any Order shall be made by any Court of General or Quarter Sessions of the Peace it shall be lawful for the Court of Queen's Bench, or for any Judge of that Court at Chambers, either in Term or Vacation, upon the Application of any Person entitled to enforce such Order, and upon the Production of a Copy of such Order under the Hand of the Clerk of the Peace or his Deputy, and upon Proof of Refusal or Neglect to obey such Order, to order and direct such Order of the Court of General or Quarter Sessions to be removed into the said Court

Enforcing Orders of Sessions.

Court of Queen's Bench, and thereupon such Order shall be of the same Force and Effect, and may be enforced in the same Manner, as a Rule made by the said Court of Queen's Bench; and all the reasonable Costs and Charges attendant upon such Application and Removal shall be recoverable in like Manner as if the same were Part of such Order.

Not to extend to Scotland or Ireland.

XIX. And be it enacted, That nothing in this Act contained shall extend to *Scotland* or *Ireland*.

Commencement of Act.

XX. And be it enacted, That this Act shall come into operation on the First Day of *November* One thousand eight hundred and forty-nine.

Act may be amended, &c.

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

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5