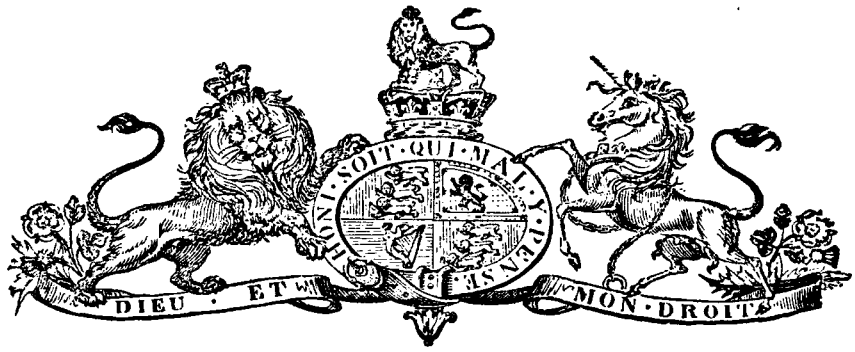


ANNO VICESIMO & VICESIMO PRIMO

VICTORIÆ REGINÆ.

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CAP. XLIII.

An Act to improve the Administration of the Law so far as respects summary Proceedings before Justices of the Peace. [17th *August* 1857.]

WHEREAS it is expedient that Provision should be made for obtaining the Opinion of a Superior Court on Questions of Law which arise in the Exercise of Summary Jurisdiction by Justices of the Peace: 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:

I. In the Interpretation and for the Purposes of this Act, the following Words shall have the Meaning herein-after assigned to them; that is to say, Interpretation of Terms.

"Superior Courts of Law" shall for *England* mean the Supreme Courts of Law at *Westminster*, and for *Ireland* the Supreme Courts at Law at *Dublin*:

"Court of Queen's Bench" shall mean for *England* the Court of Queen's Bench at *Westminster*, and for *Ireland* the Court of Queen's Bench at *Dublin*.

II. After

Justices on Application of a Party aggrieved to state a Case for the Opinion of Superior Court.

II. After the Hearing and Determination by a Justice or Justices of the Peace of any Information or Complaint which he or they have Power to determine in a summary Way, by any Law now in force or hereafter to be made, either Party to the Proceeding before the said Justice or Justices may, if dissatisfied with the said Determination as being erroneous in point of Law, apply in Writing within Three Days after the same to the said Justice or Justices, to state and sign a Case setting forth the Facts and the Grounds of such Determination, for the Opinion thereon of One of the Superior Courts of Law to be named by the Party applying; and such Party, herein-after called "the Appellant," shall, within Three Days after receiving such Case, transmit the same to the Court named in his Application, first giving Notice in Writing of such Appeal, with a Copy of the Case so stated and signed, to the other Party to the Proceeding in which the Determination was given herein-after called the Respondent.

Security and Notice to be given by the Appellant.

III. The Appellant, at the Time of making such Application, and before a Case shall be stated and delivered to him by the Justice or Justices, shall in every Instance enter into a Recognizance, before such Justice or Justices, or any One or more of them, or any other Justice exercising the same Jurisdiction, with or without Surety or Sureties, and in such Sum as to the Justice or Justices shall seem meet, conditioned to prosecute without Delay such Appeal, and to submit to the Judgment of the Superior Court, and pay such Costs as may be awarded by the same; and the Appellant shall at the same Time, and before he shall be entitled to have the Case delivered to him, pay to the Clerk to the said Justice or Justices his Fees for and in respect of the Case and Recognizances, and any other Fees to which such Clerk shall be entitled, which Fees, except such as are already provided for by Law, shall be according to the Schedule to this Act annexed marked (A), until the same shall be ascertained, appointed, and regulated in the Manner prescribed by the Statute Eleventh and Twelfth *Victoria*, Chapter Forty-three, Section Thirty; and the Appellant, if then in Custody, shall be liberated upon the Recognizance being further conditioned for his Appearance before the same Justice or Justices, or, if that is impracticable, before some other Justice or Justices exercising the same Jurisdiction who shall be then sitting, within Ten Days after the Judgment of the Superior Court shall have been given, to abide such Judgment, unless the Determination appealed against be reversed.

Justices may refuse a Case where they think

IV. If the Justice or Justices be of opinion that the Application is merely frivolous, but not otherwise, he or they may refuse to state a Case, and shall, on the Request of the Appellant, sign and deliver

deliver to him a Certificate of such Refusal; provided, that the Justice or Justices shall not refuse to state a Case where Application for that Purpose is made to them by or under the Direction of Her Majesty's Attorney General for *England* or *Ireland*, as the Case may be. the Application frivolous.

V. Where the Justice or Justices shall refuse to state a Case as aforesaid, it shall be lawful for the Appellant to apply to the Court of Queen's Bench upon an Affidavit of the Facts for a Rule calling upon such Justice or Justices, and also upon the Respondent, to show Cause why such Case should not be stated; and the said Court may make the same absolute or discharge it, with or without Payment of Costs, as to the Court shall seem meet, and the Justice or Justices, upon being served with such Rule Absolute, shall state a Case accordingly, upon the Appellant entering into such Recognizance as is herein-before provided. Where the Justices refuse, the Court of Queen's Bench may by Rule order a Case to be stated.

VI. The Court to which a Case is transmitted under this Act shall hear and determine the Question or Questions of Law arising thereon, and shall thereupon reverse, affirm, or amend the Determination in respect of which the Case has been stated, or remit the Matter to the Justice or Justices, with the Opinion of the Court thereon, or may make such other Order in relation to the Matter, and may make such Orders as to Costs, as to the Court may seem fit; and all such Orders shall be final and conclusive on all Parties: Provided always, that no Justice or Justices of the Peace who shall state and deliver a Case in pursuance of this Act shall be liable to any Costs in respect or by reason of such Appeal against his or their Determination. Superior Court to determine the Questions on the Case: Its Decisions to be final.

VII. The Court for the Opinion of which a Case is stated shall have Power, if they think fit, to cause the Case to be sent back for Amendment, and thereupon the same shall be amended accordingly, and Judgment shall be delivered after it shall have been amended. Case may be sent back for Amendment.

VIII. The Authority and Jurisdiction hereby vested in a Superior Court for the Opinion of which a Case is stated under this Act shall and may (subject to any Rules and Orders of such Court in relation thereto) be exercised by a Judge of such Court sitting in Chambers, and as well in Vacation as in Term Time. Powers of Superior Court may be exercised by a Judge at Chambers.

IX. After the Decision of the Superior Court in relation to any Case stated for their Opinion under this Act, the Justice or Justices in relation to whose Determination the Case has been stated, or any other Justice or Justices of the Peace exercising the same Jurisdiction, After the Decision of Superior Court, Justices may issue Warrants.

diction, shall have the same Authority to enforce any Conviction or Order, which may have been affirmed, amended, or made by such Superior Court, as the Justice or Justices who originally decided the Case would have had to enforce his or their Determination if the same had not been appealed against; and no Action or Proceeding whatsoever shall be commenced or had against the Justice or Justices for enforcing such Conviction or Order, by reason of any Defect in the same respectively.

Certiorari not to be required for Proceedings under this Act.

X. No Writ of Certiorari or other Writ shall be required for the Removal of any Conviction, Order, or other Determination in relation to which a Case is stated under this Act, or otherwise, for obtaining the Judgment or Determination of the Superior Court on such Case under this Act.

Superior Courts may make Rules for Proceedings.

XI. The Superior Courts of Law may from Time to Time, and as often as they shall see Occasion, make and alter Rules and Orders to regulate the Practice and Proceedings in reference to the Cases herein-before mentioned.

"Justices" to include a Stipendiary Magistrate.

XII. The Words "Justice or Justices" in this Act shall include a Magistrate of the Police Courts of the Metropolis and any Stipendiary Magistrate.

Recognizances how to be enforced.

XIII. In all Cases where the Conditions, or any of them, in the said Recognizance mentioned, shall not have been complied with, the Justice or Justices who shall have taken the same, or any other Justice or Justices, shall certify upon the Back of the Recognizance in what respect the Conditions thereof have not been observed, and transmit the same to the Clerk of the Peace of the County, Riding, Division, Liberty, City, Borough, or Place within which such Recognizance shall have been taken, to be proceeded upon in like Manner as other Recognizances forfeited at Quarter Sessions may now by Law be enforced, and such Certificate shall be deemed sufficient *primâ facie* Evidence of the said Recognizance having been forfeited: Provided, that where any such Recognizances shall have been taken in *England* before a Magistrate of the Police Courts of the Metropolis, or by any Stipendiary Magistrate, all Sums of Money in which any Person or Persons shall be therein bound may, if the said Magistrate shall think fit, be levied, upon such Recognizance being forfeited, and on Nonpayment thereof, together with the Costs of the Proceedings to enforce such Payment, in the same Manner as a Police Magistrate of the Metropolis is now empowered to recover any Penalty, Forfeiture, or Sum of Money, by Section Forty-five of an Act passed in the Second and Third Years of the Reign of Her present Majesty, intituled

intituled *An Act for regulating the Police Courts in the Metropolis*, and that all and every the Provisions and Enactments contained in the said Section Forty-five shall extend to and be applicable to this Act, in as ample a Manner as if they had been herein re-enacted and made Part of the same. 2 & 3 Vict. c. 71. s. 45.

XIV. Any Person who shall appeal under the Provisions of this Act against any Determination of a Justice or Justices of the Peace from which he is by Law entitled to appeal to the Quarter Sessions shall be taken to have abandoned such last-mentioned Right of Appeal, finally and conclusively, and to all Intents and Purposes. Appellants under this Act not allowed to appeal to Quarter Sessions.

XV. This Act shall not extend to *Scotland*. Extent of Act.

SCHEDULE (A.)

FEES to be taken by CLERKS to JUSTICES.

	s.	d.
For drawing Case and Copy, where the Case does not exceed Five Folios of Ninety Words each - -	10	0
Where the Case exceeds Five Folios, then for every additional Folio - - - - - -	1	0
For the Recognizance to be taken in pursuance of the Act -	5	0
For every Enlargement or Renewal thereof - - -	2	6
For Certificate of Refusal of Case - - -	2	0

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