

1852-53 (405) Aggravated assaults. A bill [as amended in committee, and on consideration of bill as amended,] for the better prevention and punishment of aggravated assaults upon women and children, and for preventing delay and expense in the administration of certain parts of the criminal law.

27 April 1853. 16 VICT.



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[AS AMENDED IN COMMITTEE, AND ON CONSIDERATION
OF BILL AS AMENDED,]

FOR

The better Prevention and Punishment of aggravated Assaults upon Women and Children, and for preventing Delay and Expense in the Administration of certain Parts of the Criminal Law.

[Note.—The Clauses A. to F. were added on Consideration of Bill as amended.]

WHEREAS the present Law has been found insufficient for the Protection of Women and Children from violent Assaults: 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. When any Person shall be charged before Two Justices of the Peace sitting at a Place where the Petty Sessions are usually held, or before any Magistrate of the Police Courts of the Metropolis sitting at any such Police Court, or before any Stipendiary Magistrate elsewhere, with an Assault upon any Female whatever, or upon any Male Child whose Age shall not in the Opinion of such Justices or Police or Stipendiary Magistrates exceed Fourteen Years, either upon the Complaint of the Party aggrieved or otherwise, it shall be lawful for the said Justices or Police or Stipendiary Magistrate, if the Assault is

Preamble.

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Power of punishing, on summary Conviction, Assaults committed on Females and Male Children under Fourteen Years of Age, and

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occasion-
ing actual
bodily Harm,
extended.

of such an aggravated Nature that it cannot in their or his Opinion be sufficiently punished under the Provisions of the Statute Ninth George the Fourth, Chapter Thirty-one, to proceed to hear and determine in a summary Way, and if they shall find the same to be proved, to convict the Person accused; and every Offender so convicted shall be liable to be imprisoned in the Common Gaol or House of Correction, with or without Hard Labour, for a Period not exceeding Six Calendar Months, or to pay a Fine not exceeding (together with Costs) the Sum of Twenty Pounds, and in default of Payment to be imprisoned as aforesaid, with or without Hard Labour, for a Period not exceeding Six Calendar Months unless such Fine and Costs be sooner paid, and if the Magistrate or Magistrates shall so think fit shall be bound to keep the Peace and be of good Behaviour for any Period not exceeding Six Calendar Months from the Expiration of such Sentence; and such Conviction shall be a Bar to all future Proceedings, civil or criminal, for or in respect of the same Assault; and no Person convicted under this Act shall be entitled to appeal against such Conviction to the General Quarter Sessions of the Peace, anything to the contrary in any Statute notwithstanding.

Court of
General or
Quarter Ses-
sions may,
upon Proof
of Conviction
and Notice
to Parties,
declare a
Recogni-
zance to keep
the Peace or
to be of good
Behaviour
to be for-
feited.

II. Where any Recognizance to keep the Peace or to be of good Behaviour is entered into by any Person, as Principal or Surety, before the Court of General or Quarter Sessions of the Peace of any County, Riding, Division, City, Borough, or Place, or before any Justice or Justices of the Peace of any County, Riding, Division, City, Borough, or Place, it shall be lawful for any such Court of General or Quarter Sessions of the Peace as aforesaid, upon Applications made to such Court, to declare such Recognizance to be forfeited, upon Proof of a Conviction of the Party bound by such Recognizance of any Offence which is in Law a Breach of the Condition of the same; and upon further Proof that a Notice in Writing, signed by the Person seeking to put such Recognizance in force, has, Seven clear Days before the Commencement of such Sessions, been personally served upon or left at the usual Place of Abode of the Party or each of the Parties, (if more than One) who entered into such Recognizances, that an Application will be made to the said General or Quarter Sessions, that the said Recognizance shall be declared forfeited, and if such Recognizance shall be declared forfeited all such Proceedings shall be had thereon as in the Case of a Recognizance forfeited at such Court of General or Quarter Sessions, and all the Provisions of the Act of the Third Year of King George the Fourth, Chapter Forty-six, and of the Act of the Fourth Year of the said King, Chapter Thirty-seven, applicable to a Recognizance so forfeited at such Court, shall apply to a Recognizance which shall, upon such Application and Proof as herein

herein-before mentioned, be declared to be forfeited ; and upon Notice in Writing of such intended Application to the said General or Quarter Sessions being given to any Justice or Justices, before whom any such Recognizance shall have been taken, Four clear Days before
 5 the Commencement of the said Sessions, the said Justice or Justices shall transmit the said Recognizance to the Clerk of the Peace of the County, Riding, Division, City, Borough, or Place within which the said Recognizance shall have been taken, with a Certificate that the said Recognizance is sent to him by reason of such last-mentioned Notice
 10 having been so given as aforesaid.

III. No Person committed to Prison under any Warrant or Order of One Justice of the Peace for or on account of not entering into Recognizances or finding Sureties to keep the Peace, or to be of good Behaviour, shall be detained under such Warrant or Order for more
 15 than Twelve Calendar Months from the Time of such Commitment.

CLAUSE A.
 No Person committed to Prison for not entering into Recognizance to be detained more than 12 Months.

IV. And whereas, by reason of the Establishment of a Court of Criminal Appeal, the Removal of Indictments by Writ of Certiorari is no longer necessary for the Decision of Questions of Law; but is nevertheless often resorted to for Purposes of Expense and Delay: Be
 20 it enacted, That no Indictment, except Indictments against Bodies Corporate not authorized to appear by Attorney in the Court in which the Indictment is preferred, shall be removed into the Court of Queen's Bench, or into the Central Criminal Court, by Writ of Certiorari, either at the Instance of the Prosecutor (other than the
 25 Attorney General acting on behalf of the Crown) or of the Defendant, unless it be made to appear to the Court from which the Writ is to issue, by the Party applying for the same, that a fair and impartial Trial of the Case cannot be had in the Court below, or that some
 30 Question of Law of more than usual Difficulty and Importance will arise upon the Trial.

CLAUSE B.
 Indictments for Misdemeanor not to be removed by Certiorari, except on Affidavit that a fair Trial cannot be had.

V. And whereas it is expedient to make further Provision for preventing the vexatious Removal of Indictments into the Court of Queen's Bench: Be it therefore enacted, That whenever any Writ of Certiorari to remove an Indictment into the said Court shall be
 35 awarded at the Instance of a Defendant or Defendants, the Recognizance now by Law required to be entered into before the Allowance of such Writ shall contain the further Provision following; that is to say, that the Defendant or Defendants, in case he or they shall be convicted, shall pay to the Prosecutor his Costs occasioned by the Re-
 40 moval of such Indictment; and whenever any such Writ of Certiorari shall be awarded at the Instance of the Prosecutor, the said Prosecutor shall enter into a Recognizance (to be acknowledged in like Manner

CLAUSE C.
 No Certiorari to issue to remove Indictment, unless Recognizance given for Costs.

as is now required in Cases of Writs of Certiorari awarded at the Instance of a Defendant,) with the Condition following; that is to say, that the said Prosecutor shall pay to the Defendant or Defendants, in case he or they shall be acquitted, his or their Costs occasioned by such Removal. 5

CLAUSE D.
How Costs to be taxed and recovered.

VI. The Costs herein-before respectively mentioned shall be taxed according to the Course of the Court of Queen's Bench; and for the Recovery thereof the Persons entitled thereto shall, at the Expiration of Ten Days after Demand made of the Person or Persons at whose Instance the Writ of Certiorari was awarded, and on Oath made of 10 such Demand and Refusal of Payment, have a Writ of Attachment granted against him or them by the Court of Queen's Bench for such Contempt; and the said Court shall and may also order the said Recognizance to be estreated into the Exchequer.

CLAUSE E.
If no Recognizance given, Court to try as if no Certiorari awarded.

VII. If the Person or Persons at whose Instance any Writ of Cer- 15 tiorari shall be awarded shall not, before the Allowance thereof, enter into such Recognizance as is herein-before provided, the Court to which such Writ may be directed shall and may proceed to the Trial of the Indictment, as if such Writ of Certiorari had not been awarded.

CLAUSE F.
Not to apply to Certioraris at the Instance of the Attorney General.

VIII. This Act shall not extend to any Writ of Certiorari awarded 20 at the Instance of Her Majesty's Attorney General.

Secretary of State may issue his Warrant for bringing up a Prisoner (not in Custody under Civil Process) to give Evidence.

IX. It shall be lawful for One of Her Majesty's Principal Secretaries of State, or any Judge of the Court of Queen's Bench or Common Pleas, or any Baron of the Exchequer, in any Case where he may see fit to do so, upon Application by Affidavit, to issue a Warrant or 25 Order under his Hand for bringing up any Prisoner or Person confined in any Gaol, Prison, or Place, under any Sentence or under Commitment for Trial or otherwise, (except under Process in any Civil Action, Suit, or Proceeding,) before any Court, Judge, Justice, or other Judicature, to be examined as a Witness in any Cause or Matter, 30 civil or criminal, depending or to be inquired of, or determined in or before such Court, Judge, Justice, or Judicature; and the Person required by any such Warrant or Order to be so brought before such Court, Judge, Justice, or other Judicature shall be so brought under the same Care and Custody, and be dealt with in like Manner in all 35 respects, as a Prisoner required by any Writ of Habeas corpus awarded by any of Her Majesty's Superior Courts of Law at Westminster to be brought before such Court to be examined as a Witness in any Cause or Matter depending before such Court is now by Law required to be dealt with. 40

Act not to extend to Scotland or Ireland.

X. This Act shall not extend to Scotland or Ireland.

Aggravated Assaults.

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[AS AMENDED IN COMMITTEE, AND ON CONSIDERATION
OF BILL AS AMENDED,]

For the better Prevention and Punishment of aggravated Assaults upon Women and Children, and for preventing Delay and Expense in the Administration of certain Parts of the Criminal Law.

*(Prepared and brought in by
Mr. FitzRoy and Viscount Palmerston.)*

*Ordered, by The House of Commons, to be Printed,
27 April 1853.*

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